



Record of Officer's Decision

The Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Date of Decision:	13 January 2025
Decision Maker (Officer):	Ian Davidson, Chief Executive Officer
Authority for Delegated Decision (Cabinet/Committee Decision or Scheme of Delegation – provide reference):	Part 3, Schedule 3 – Responsibility for Executive Functions delegated to Officers paragraph 4.3 (1) – the Chief Executive has delegated authority to discharge executive functions within their respective service areas (Part 3.44 paragraphs 4.4.6 and 4.4.8). All delegations are subject to consultation where considered appropriate in the circumstances (paragraph 4.3 (4)(ii) – Part 3.39). The Chief Executive has delegated power to authorise to agree to other such terms as he considers appropriate with regards and completion of the transfer of affordable units/gifted units, namely, 5 Plots at Asterwood, School Road also known as 1, 2, 3, 4 and 6 Oak Close, Elmstead Colchester from Hills Residential Construction Limited ("developer") to Tendring District Council ("Council").
Identify which Portfolio Holder(s)/Committee Chairman consulted?	Portfolio Holder for Housing Report dated 16 December 2024 and Executive Decision dated 18 December 2024.
Ward Member(s) consulted?	No
Is it a Key Decision?	No
Is it subject to call-in?	No
Decision Made:	i) Acceptance to the transfer of the affordable units/gifted units - 5 Plots Asterwood, School Road also known as 1, 2, 3, 4 and 6 Oak Close, Elmstead Colchester based on the recommendation made by the Assistant Director of Planning. ii) Authorise the Assistant Director of Governance to complete the transfer of the affordable units/gifted units from the Developer.

	iii) Acquiring a shareholding in Asterwood School Road (Management Company) Limited (company number 14403988) with the official representative of the Council to be nominated by the Chief Executive.	
Reason for Decision (if a report was produced to support the Decision, refer to or attach it):	The transfer affordable units/gifted units to the Council is the subject of the Schedule 2 of the Section 106 Town and Country Planning Act 1990 Agreement dated 7 June 2017 made between Gary Clifton Hubert (1) Tendring District Council (2) and Essex County Council (3) which provides for dwellings to be constructed in accordance with an Affordable Housing Plan which was to be agreed with the Council. The dwellings must be constructed in accordance with the Specification approved by the Council, and capable of being occupied for their intended purpose.	
Highlight any associated risks/finance/legal/equality considerations:	Under the Local Government and Housing Act 1989, s.76, local housing authorities are under a duty to prevent a debit balance on the Housing Revenue Account. This requires an authority to set and implement their rent levels to avoid such a debit. While this exercise does not necessarily require the setting of individual rents, as opposed to a global figure for rental income, it will necessarily have an impact on the levels of rent. The requirement in s.76 (6) is to review rent levels and take reasonably practicable steps, if it becomes apparent that a debit will arise on the H.R.A. This may also require authorities to implement a rent increase.	
Details of any Alternative Options Considered and rejected (together with reasons):	Not to accept the affordable units/gifted units is not an option and if it were to be considered the Developer and the Council will need to vary the Section 106 Agreement to for the Developer to transfer the affordable units/gifted units to the Registered Provider approved by the Council.	
Details of any declarations of interest (by Portfolio Holder/Committee Chairman who was consulted by the officer, which related to the decision) If relevant, a note of the dispensation granted by the Monitoring Officer:	None.	
	<table border="1"> <tr> <td>Not applicable</td> </tr> </table> If Report is not to be published – tick one of the following boxes:	Not applicable
Not applicable		

Reason Decision, or supporting Report, is not published: <i>Tick one or more of the specific exemptions,</i> <u>and</u> <i>Give more information in the final box with regards to why the exemption applies and outweighs the public interest test (which is in favour of disclosure).</i>	X	The report supporting the Decision contains confidential information
		The Report supporting the Decision falls within an exemption pursuant to Schedule 12A of the Local Government Act 1972 Information:
		• Relates to an individual
		• Likely to reveal the identity of an individual
	X	• Relating to financial or business affairs of a person or organisation
		• Relates to a claim for legal professional privilege in legal proceedings
		• Reveals that the Council proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment
		• Relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime
<u>And</u> is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information Reasons: Report contains confidential information		

Officer

Ian Davidson

Signed:

Title: Chief Executive Officer

Dated: 21 January 2025

