

EAST HERTS COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE – 15 OCTOBER 2014

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

DEED OF VARIATION ON A SHARED OWNERSHIP UNIT AT 4 LLOYD TAYLOR CLOSE, LITTLE HADHAM

WARD(S) AFFECTED: Little Hadham

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**Purpose/Summary of Report:**

- To seek approval for a Deed of Variation to the Section 106 agreement relating to planning permission ref: 3/1893/90OP, to remove the staircasing restriction on one shared ownership unit at 4 Lloyd Taylor Close, Little Hadham.

**RECOMMENDATION FOR DECISION:** that

<b>(A)</b>	A Deed of Variation to the Section 106 agreement relating to permission ref: 3/1893/90/OP to remove the staircasing restriction on one shared ownership unit at 4 Lloyd Taylor Close, Little Hadham, be approved.
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1.0 Background

1.1 Planning permission was granted in 1992 for the erection of 14 dwellings at Lloyd Taylor Close, Little Hadham (ref: 3/1893/90/OP). The permission granted was subject to a legal agreement under s.106 of the 1990 Town and Country Planning Act to provide 8 affordable dwellings of which 6 were for rent and 2 shared ownership.

1.2 The agreement also enabled 'staircasing' in respect of those shared ownership properties. Shared ownership properties are partly owned by a registered provider and partly by the occupant. An occupant can increase their share of ownership of the property by purchasing a further share of it from the registered provider; this is called 'staircasing'. In rural properties such as these, staircasing is restricted and the proportion of the ownership that can normally be purchased is capped at 80%. This is to retain the dwellings as shared ownership ones in perpetuity.

1.3 This report seeks authorisation for a Deed of Variation to that original agreement in order to remove the staircasing restriction on one of those shared ownership properties; that being number 4 Lloyd Taylor Close, Little Hadham.

## 2.0 Report

2.1 As mentioned above, 2 shared ownership units were built as part of the originally approved scheme and they were restricted by the legal agreement such that residents could only purchase (staircase) up to 80% of the property value

2.4 However, it has been brought to the Local Authority's attention that, despite the restriction, one of the shared ownership units has been staircased to 100% ownership and the freehold relinquished by the Registered Provider to the current occupier. This occurred in 2009 when the occupier sought to staircase and, in error, the legal team acting for the Registered Provider (Aldwyck) understood that this was the final (80%) staircasing element. This matter requires clarification for all parties.

2.5 Members sought clarification as to whether the original legal agreement placed restrictions on the occupancy of the units to local residents. The restriction in the agreement is such that there is a cascade of persons to whom the properties should be let for rent or for shared ownership. The cascade should be for First Priority for prescribed persons who either:

- (i) are residents of the Parish ('resident') or
- (ii) are the relatives of residents ('relative') or
- (iii) used to be a resident of the Parish or
- (iv) currently work in the Parish.

There is also a Second Priority, Third Priority and Fourth Priority of persons if the first cannot be met at the time.

2.6 However as ownership passed to the tenant 4 years ago. Legal advice is that enforcement of the S106 will now be very difficult in regard to this property.

2.7 Officers feel that this is an unusual and exception occurrence. It appears to be an historic administration error and needs to be clarified for all parties. Officers conclude that it is not in the interests of the Council to pursue the matter any further.

2.8 Conclusion

2.9 It is proposed that a Deed of Variation be agreed to remove the restriction on 4 Lloyd Taylor Close only.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

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