

EAST HERTS COUNCIL

EXECUTIVE – 5 APRIL 2016

REPORT BY EXECUTIVE MEMBER FOR HEALTH AND WELLBEING

REMOVAL OF RESTRICTIVE COVENANTS ON No 67-89 and 101 – 133 GLADSTONE ROAD AND 12-26 PRIORY STREET, WARE

WARD(S) AFFECTED:     WARE ST MARY'S

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**Purpose/Summary of Report**

- To seek the Executive's approval to remove restrictive covenants placed upon the title deeds by the Council on Nos. 67 – 89 & 101 – 113 Gladstone Road, and 12 – 26 Priory Street, Ware when they were transferred to Riversmead Housing Association Limited in 1999.

**RECOMMENDATION FOR DECISION: That:**

<b>(A)</b>	<b>the deletion of certain of the restrictive covenants placed upon the Transfer and Deed of Nomination Rights by the Council in the sale of Nos. 67 – 89 &amp; 101 – 113 Gladstone Road, and 12 – 26 Priory Street, Ware to Riversmead Housing Association in 1999, be approved.</b>
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1.0 Background

1.1 No 67s -89 and 101-113 Gladstone Road and 12-26 Priory Street, Ware was transferred to Riversmead in 1999. This land and development had restrictive covenants placed upon the title deed for this specific piece of land which was not unusual practice with individual land transfers at the time.

1.2 Within this transfer agreement of 1999 with Riversmead Housing Association there was a restrictive covenant placed on No 67-89 and 101-133 Gladstone Road and 12-26 Priory Street, Ware by East Herts Council. The Restrictive Covenants are listed from the document below:

- (a) not to use the Property or any part of it for any purpose other than as residential housing accommodation following completion of the Works;
  - (b) not to use the Property for any housing accommodation unless the Property is let on a periodic tenancy save that the provisions of this clause 3.1 (b) shall not bind any mortgagee of the Property exercising any of its powers by or pursuant to its mortgage or anyone deriving title from such a mortgagee
  - (c) not to use the Property or any part of it for any noxious or offensive activity or for any purpose which is or might be a nuisance or annoyance to the Transferor;
  - (d) not at any time to obstruct or impede in any way the surface water drainage from the Retained Land through the Property (whether through any existing drains under or across the Property or through any drains that are substituted for them within the Perpetuity Period);
- 1.3 Furthermore, within Schedule 5 of the transfer agreement, there was specific reference to the Nomination Rights to the 36 units at 67-69 and 101-113 Gladstone Road, and 12-26 Priory Street, Ware. The Nomination Rights listed would prevent Riversmead from introducing any Shared Ownership units on any future scheme.
- 1.4 The Officers understand that the covenants and specific nominations agreement may have been put in place as part of the transfer as the affordable housing scheme operating on the site at the time was for a specific client group for a specific time period of occupancy with a supporting move-on programme.
- 1.5 Gladstone Road has been decanted by Riversmead and they have desires to redevelop the site and intend to submit a scheme seeking planning permission.
- 1.6 Whilst the planning application is going through the planning process seeking a determination Riversmead have approached the Council to seek to amend and vary the restrictive covenant placed on the title deed for 67-69 and 101-113 Gladstone Road and 12-26 Priory Street, Ware.

## 2.0 Proposed Amendments

2.1 The proposed amendments will allow Riversmead the opportunity to produce a mixed tenure scheme which is fit for purpose for East Herts residents and the Housing Team supports the redevelopment of this vacant site.

2.2 The Executive is asked to consider the following amendments to the original transfer agreement of 1999 specifically for 67-69 and 101-113 Gladstone Road and 12-26 Priory Street, Ware.

(a) To remove the clause to only allow the housing to be let on a periodic tenancy.

(b) The removal of this clause would allow a mixed use tenure scheme to be developed, ie, the inclusion of shared ownership.

(c) To amend the nomination rights that are related specifically to this title deed and to replace with the District Wide Nomination Agreement in place with Riversmead.

(d) The nominations to this scheme were originally from specific client group referrals. The District Wide Nomination Agreement will allow for general needs housing which can be allocated through the Choice Based Letting System.

## 3.0 Summary

3.1 The Housing Team support Riversmead intentions to redevelop this currently vacant site for much needed affordable housing in the District.

3.2 The Housing Team understand that the restrictive covenants appear to be in place from a historical housing project which no longer operates on the site. The amendments/variation to these covenants on the title will provide the opportunity to redevelop the scheme into affordable housing fit for purpose.

## 4.0 Implications/Consultations

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

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