

EAST HERTS COUNCIL

OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

OFFICER DECISION WRITTEN RECORD

Reference:	OD/(to be added by Democratic Services)
Subject Matter:	Grant Consent for the relaxation of a Covenant relating to a dwellinghouse at 5 Gladstone Road, Dane End
Date of Decision:	26 March 2026
Exempt/Confidential information (Yes/No):	No
If Exempt/Confidential – reason why:	N/A
Name of Officer taking decision under delegated authority:	Jonathan Geall, Director for Communities
Source of delegated authority (constitution/express delegation/etc):	Acting under authority delegated within section 10.14.33 of the council's Constitution <i>'Lettings of all properties including council offices; consents to assignments and sub-lettings; the granting of easements and licences; entering into leases, sub-leases, licences and easements on behalf of the council as lessee or lessor, sub-lessee, licensee or grantee as appropriate; consent to modification or release of restrictive covenants; rent reviews under existing and future leases, including the approval of terms,</i>

Reference:	OD/(to be added by Democratic Services)
	<i>subject to reporting transactions half-yearly to the Executive</i>
Exercise of delegated authority approved by: <i>(if different from Officer taking decision)</i>	
Decision:	To grant consent to the relaxation of a covenant contained in a conveyance dated 30 April 1984 of 5 Gladstone Road, Dane End.
Reason(s) for Decision:	<p>The property was sold under the right to Buy provision contained in the Housing Act 1980 in 1984. The current owner of the property has planning consent for a new dwelling in the garden of this property (3/25/0760/FUL) and has requested consent to relax the covenant restricting the use of the property for one dwelling house only.</p> <p>The owner will be able to realise development value because of the grant of planning consent and in other circumstances that do not involve a property previously sold under Right to Buy legislation the Council would expect a capital receipt reflecting a share in this uplift in value. However under the Court of Appeal case of R v Braintree District Council (2000) the Council are unable to restrict the purchaser's right to profit or to share in any of this development value. In these circumstances the covenant has no value to the Council but there is no good reason to refuse the request and an additional dwelling will</p>

Reference:	OD/(to be added by Democratic Services)
	contribute to housing supply in the area. A refusal to the request could also be challenged as unreasonable given the Council no longer retains any land ownership in the area and therefore could not argue that the release of the covenant would adversely affect any of its property assets. Due to the court ruling in the Braintree case the council cannot charge any consideration for the release of the covenant but can charge its reasonable costs. The resident has agreed to pay the Council's legal and surveyors costs totalling £1,122.16.
Reference:	OD/(to be added by Democratic Services)
Details of alternative options, if any considered and rejected:	Refuse the request but case law has established that this is considered an unreasonable action and so would put the Council at risk of legal action - NOT RECOMMENDED.
Name of Officer who has confirmed with all Members involved in taking this decision whether they have pecuniary or non-pecuniary interest:	<i>Note: if a Member has a pecuniary interest they should not take part in making this decision. If a Member has a non-pecuniary interest, a judgement should be made as to whether they can contribute to making this decision; if in doubt, check with a Democratic Services Officer.</i>
Name(s) of any Member who has removed himself/herself from contributing to this decision because of a conflict of interest:	N/A

Reference:	OD/(to be added by Democratic Services)
Signature of Decision Maker (where decision is taken in consultation with a Member):	Add electronic signature
Signature of Member consulted by Decision Maker (where decision is taken in consultation with a Member):	Add electronic signature

SIGNATURES TO BE REDACTED