

# Tendring

## District Council



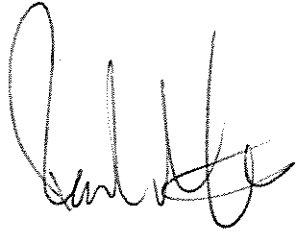
### Record of Officer's Decision

#### 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:	10 June 2016
Decision Maker (Officer):	Paul Price Corporate Director, Operational Services
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 Corporate Director has delegated authority to discharge executive functions within their respective service areas (Part 3.38). All delegations are subject to consultation where considered appropriate in the circumstances (paragraph 4.3 (4(ii)) – Part 3.39).  The Corporate Director of Operational Services, Paul Price has delegated operational matters relating to leasehold management.
Identify which Portfolio Holder(s)/Committee Chairman consulted?	None
Ward Member(s) consulted?	No
Is it a Key Decision?	No
Is it subject to call-in?	No
Decision Made:	To waive the contribution of leaseholders towards the next phase of the environmental improvement scheme at Churchill Court, subject to their agreement to a variation of their lease agreements.
Reason for Decision (if a report was produced to support the Decision, refer to or attach it):	Having considered the report
Highlight any associated	Outlined in accompanying report

risks/finance/legal/equality considerations:													
Details of any Alternative Options Considered and rejected (together with reasons):	None												
<p>Details of any declarations of interest (by Portfolio Holder/Committee Chairman who was consulted by the officer, which related to the decision)</p> <p>If relevant, a note of the dispensation granted by the Monitoring Officer:</p>	N/A												
<p>Reason Decision, or supporting Report, is not published:</p> <p><i>Tick one or more of the specific exemptions,</i></p> <p><b><u>and</u></b></p> <p><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></p>	<table border="1"> <tr> <td data-bbox="606 929 1372 1008">The report supporting the Decision contains confidential information</td> </tr> <tr> <td data-bbox="606 1008 1372 1120">The Report supporting the Decision falls within an exemption pursuant to Schedule 12A of the Local Government Act 1972 Information:</td> </tr> <tr> <td data-bbox="606 1120 1372 1164"> <ul style="list-style-type: none"> <li>• Relates to an individual</li> </ul> </td> </tr> <tr> <td data-bbox="606 1164 1372 1209"> <ul style="list-style-type: none"> <li>• Likely to reveal the identity of an individual</li> </ul> </td> </tr> <tr> <td data-bbox="606 1209 1372 1321"> <ul style="list-style-type: none"> <li>• Relating to financial or business affairs of a person or organisation</li> </ul> </td> </tr> <tr> <td data-bbox="606 1321 1372 1433"> <ul style="list-style-type: none"> <li>• Relates to a claim for legal professional privilege in legal proceedings</li> </ul> </td> </tr> <tr> <td data-bbox="606 1433 1372 1646"> <ul style="list-style-type: none"> <li>• 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</li> </ul> </td> </tr> <tr> <td data-bbox="606 1646 1372 1803"> <ul style="list-style-type: none"> <li>• Relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</li> </ul> </td> </tr> <tr> <td colspan="2" data-bbox="606 1803 1372 1982"> <p><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</p> </td> </tr> <tr> <td colspan="2" data-bbox="606 1982 1372 2016"> <p>Reasons:</p> </td> </tr> </table>	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:	<ul style="list-style-type: none"> <li>• Relates to an individual</li> </ul>	<ul style="list-style-type: none"> <li>• Likely to reveal the identity of an individual</li> </ul>	<ul style="list-style-type: none"> <li>• Relating to financial or business affairs of a person or organisation</li> </ul>	<ul style="list-style-type: none"> <li>• Relates to a claim for legal professional privilege in legal proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• 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</li> </ul>	<ul style="list-style-type: none"> <li>• Relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</li> </ul>	<p><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</p>		<p>Reasons:</p>	
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**Officers**



Signed:

Title: CORPORATE DIRECTOR

Signed:

Title:

**In consultation with:**

Signed:

**Portfolio Holder For Housing**

Signed:

**Section 151 Officer (if required)**

Signed:

**Monitoring Officer (if required)**

**Dated:**

<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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## **CORPORATE DIRECTOR OF OPERATIONAL SERVICES**

**JUNE 2016**

### **REPORT OF CUSTOMER AND SUPPORT MANAGER**

#### **A.1 ENVIRONMENTAL IMPROVEMENT SCHEME: CHURCHILL COURT, DOVERCOURT**

(Report prepared by Emma Norton)

#### **PART 1 – KEY INFORMATION**

##### **1.1 PURPOSE OF THE REPORT**

To obtain the authorisation of the Corporate Director of Operational Services to enter into negotiations with leaseholders at Churchill Court to waive their contribution towards elements of the proposed environmental improvement scheme, subject to agreement being reached on variations to their lease agreements.

##### **1.2 EXECUTIVE SUMMARY**

Plans are currently being prepared for the next phase of an environmental improvement scheme to Churchill Court in Dovercourt.

However, in order for the improvement scheme to be progressed, it will be necessary for each leaseholder to consent to a variation of their original lease agreement. This is due to the fact that the site layout and location of certain facilities, over which lessees have been granted legal rights, will be altered.

Since the estimated contribution from these leaseholders represents a relatively small part of the total anticipated cost of the overall scheme, it is proposed that these charges be waived, subject to their agreement to the required deed of variation.

##### **1.3 RECOMMENDATION(S)**

That the Customer and Support Manager, in consultation with the Head of Governance and Legal Services, be authorised to enter into negotiations with relevant leaseholders to waive their contribution to the works, subject to their agreement to a variation to the terms of their lease.

#### **PART 2 – IMPLICATIONS OF THE DECISION**

##### **2.1 DELIVERING PRIORITIES**

The undertaking of this scheme will contribute towards the following priorities in the Council's emerging Corporate Plan for the period 2016 to 2020:

Council and Community

High quality affordable services  
Engagement with the community

Health and Housing

Deliver a high quality living environment

## **2.2 FINANCE, OTHER RESOURCES AND RISK**

### **Finance and other resources**

Following earlier improvement works, a further two phases of an environmental improvement scheme have now been drawn up for Churchill Court and the full scheme cost, together with the cost of design and supervision can be met from the Housing Investment Programme by phasing it completion over a period of years. There is provision of £250,000 in the current year's programme, together with a further £50,000 for structural works and it is planned that, subject to the approval of the Housing Portfolio Holder, budgetary provision will be made available in 2017/18 and subsequent years, if required, to complete this scheme.

The elements of the next phase of the scheme that the leaseholders at Churchill Court would be liable to contribute towards are as follows:

- Creation of purpose designed storage
- Removal of dog leg in the soil and vent pipe
- Upgrading to the internal lighting
- Replacement of communal entrance doors

The cost per leaseholder is estimated to be in the region of £1,400, which would total £15,400 representing just over 5% of the anticipated cost of this phase of the works.

### **Risk**

Whilst previous phases of this environmental scheme have improved the external communal areas surrounding Churchill Court, works are now required to improve the exterior of the building and its internal communal areas and the amenities provided for residents.

The integral garages represent a derelict amenity that is not fit for purpose, as well as an attraction for vandalism and fly tipping.

The undertaking of this scheme will improve the visual appearance of the site and also the amenities for residents.

## **2.3 LEGAL**

The undertaking of a scheme of this nature is within the discretionary powers of the Council as a landlord.

In accordance with the Commonhold and Leasehold Reform Act 2002, the Council is able to recover relevant charges from its leaseholders providing there is provision in their lease agreement and there is compliance with the specified consultation requirements.

However, in order for the improvement scheme to be progressed, it will be necessary for each leaseholder to consent to a variation of their original lease agreement. This is due to the fact that the site layout and location of certain facilities, over which lessees have been granted legal rights, will be altered. These facilities include the individual storage sheds and circulation areas such as footpaths. It is anticipated that the leaseholders will not agree to a variation of their lease that will result in them being recharged a proportion of the cost of the improvement works.

As this scheme alters a number of the rights included in the individual lease agreements, it will be necessary to negotiate a deed of variation with each lessee to enable the works to be progressed.

Unless all parties agree to this, this would require an application to the First Tier Property Tribunal, which would impact upon the timescale for the commencement of the scheme and increase costs.

It is anticipated that the leaseholders will not agree to a variation of their lease that will result in them being recharged a proportion of the cost of the improvement works

Within the overall scheme, there are a number of elements that are outside of the provisions of the existing lease agreements, including the removal of integral garages and the creation of a new one bedroom flat, an office and dedicated mobility scooter storage. In view of this, the Council would not be able to recover any contributions from these leaseholders in respect of these costs.

Additionally over the course of time there have been variations in the extent of the rights granted to individual leaseholders, which if strictly interpreted would result in some inequities in the charges levied.

Taking these factors into account, a 'fair and proportionate' cost for each leaseholder is estimated to be in the region of £1,400 per property. The total for all eleven leaseholders is therefore relatively modest in relation to the total scheme value.

In its entirety, the next phases of the environmental improvement scheme that is proposed will provide a community benefit that exceeds the benefit to individual leaseholders and for which they would otherwise be required to financially contribute.

Since the estimated contribution from these leaseholders represents a relatively small part of the total anticipated cost of the overall scheme, it is proposed that the Customer and Support Manager, in consultation with the Head of Governance and Legal Services be authorised to enter into negotiations with each leaseholder to waive their contribution, subject to their agreement to the required deed of variation.

## **2.4 OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

### **Crime and Disorder**

The proposed works will reduce the level of anti social behaviour and vandalism experienced in this location and encourage community involvement and an environment where anti social behaviour is seen as unacceptable and where those responsible for it can be identified.

This scheme would also contribute towards the achievement of one of the priorities of the Housing Anti Social Behaviour Strategy to prevent and deter anti social behaviour and nuisance through the undertaking of an annual programme of improvement works.

### **Equality and Diversity**

The proposed improvements will be compliant with disability issues

### **Consultation**

The completion of these works will involve full prior consultation with residents to ensure the implementation of a scheme that meets their needs and priorities. In addition, and as with previous schemes of this nature, it is proposed to establish an Improvement Panel made up of residents who will have a detailed involvement in the scheme design and its implementation. It is also hoped that this may stimulate the formation of a residents association at Churchill Court.

### **Ward**

Harwich West Central

## **PART 3 – SUPPORTING INFORMATION**

### **3.1 BACKGROUND**

Churchill Court comprises 42 three bedroom flats, 11 of which have been sold under the Right to Buy and 31 flats remain in the Council's ownership.

In recent years, Churchill Court has benefitted from two phases of an environmental improvement scheme. These phases have involved the following works:

Phase One: Demolition of redundant garages to the rear of Churchill Court and the re profiling of the site.

Phase Two: Creation of a centralised refuse and recycling area, designated play area, refurbishment of the drying area

Window replacement works are also currently being undertaken at Churchill Court, which the leaseholders are liable to contribute towards at an average cost of £3,500 per leasehold property.

A further two phases of an environmental improvement scheme have now been agreed and these will include the following:

Phase 3: Removal of the unused lower ground floor integral garages and conversion of the space into a one bedroom flat and an office / meeting space, creation of purpose designed storage and mobility scooter storage, removal of dog leg in soil and vent pipe, upgrading to the internal lighting and decorations and replacement of communal entrance doors.

Phase 4: Colour treatment to external elevations, fencing and associated landscaping

To facilitate works proposed under phase 3, it will be necessary for the leaseholders to agree to a variation of the terms of their lease. There will not be any loss of facility but certain facilities, such as storage sheds, will be relocated.

This scheme represents an opportunity to carry out environmental improvements that will enhance the surroundings and amenities for tenants and leaseholders, whilst at the same time contributing to reducing anti social behaviour in the locality.

By waiving the leaseholders contributions towards the next phase of the works, the Council will be in an excellent position to obtain the lease variations that are required for the scheme to progress.

### **3.2 BACKGROUND PAPERS FOR DECISION**

None

### **3.3 APPENDICES**

None