

Agenda Item 25

CABINET

06 March 2013

13/1305



Church Worker Accommodation, Cranbrook

Exempt Information

Para 3 Schedule 12A information relating to the finance or business affairs of any particular person

Summary

As part of the Cranbrook Section 106 agreement, a house which will form the church worker accommodation is to be transferred to East Devon District Council. In order to deliver the aims of the Section 106 agreement and to put the property to the use for which it was intended, it is proposed to transfer the building to the Diocese of Exeter.

Recommendation

That the freehold transfer of the property to the Diocese of Exeter be approved, subject to a condition that the property is to be offered back to the Council in the event that it is no longer required for the specified purpose or if the Diocese should cease to have a presence in Cranbrook.

a) Reasons for Recommendation

Transferring the property to the Diocese on a freehold basis will allow the aims of the Section 106 agreement for Cranbrook to be delivered while removing the ongoing administrative burden on the Council.

b) Alternative Options

The option of offering the property on a long leasehold was considered. However due to legislation covering long residential leases, it is considered that the Council's long term interests are best protected by a freehold transfer with suitable covenants in place.

c) Risk Considerations

There is not considered to be any significant risk arising from the proposal.

d) Policy and Budgetary Considerations

There is no budget in place to pay for the legal cost of the transfer

e) Date for Review of Decision

A future date for this decision possibly to be reviewed by the relevant Overview Committee.
June 2013

1 Main Body of the Report

- 1.1 The Section 106 Agreement relating to the development of Cranbrook provides for a number of property interests to be transferred to East Devon District Council during the development process. One of these interests is the church worker accommodation which comprises a house in part of the Persimmon development within Phase 1 of Cranbrook.
- 1.2 The property is to be transferred to the Council for £1, with a restriction that it is only to be used as accommodation for a church worker for Cranbrook. It is then proposed that the property be offered to the Diocese of Exeter for the same consideration, subject to the same restrictions on use and with a covenant requiring the Diocese to offer the property back to the Council for the same consideration should it no longer be required for this purpose or should the Diocese no longer have a presence in Cranbrook.
- 1.3 The option of offering a long leasehold interest of say 125 years was considered. However the advice of the Estates Department is that this could create a situation where the Diocese gain additional rights through Leasehold Reform legislation. Such rights could include a right to enfranchise, where the tenant can force the sale of the Freehold which would limit the Council's ability to control future use.
- 1.4 In addition to the above, the grant of a long leasehold would create an administrative burden for the Council in managing such an agreement with no rental income.
- 1.5 In order to minimise the Council's risk in holding the property, it is proposed that the transfers to the Council and then onto the Diocese, would be "back to back". This will mean that the property is not within the Council's ownership for any longer than necessary to complete the transfer to the Diocese so there should be no holding costs incurred.

Legal Implications

The Cranbrook Section 106 Agreement ("the Agreement") gives EDDC an **option to purchase** the freehold interest in churchworkers accommodation (subsequently identified as "Plot 80"), for £1. **This Report assumes that EDDC do wish to exercise this option.**

The proposal is that seconds after the freehold interest in Plot 80 is transferred to EDDC, EDDC transfers the freehold interest in Plot 80 to the Diocese of Exeter ("the Diocese"), for £1. Simultaneously with this transfer, the Diocese will grant EDDC an option. This will allow EDDC to call for the freehold interest in Plot 80 to be transferred back to EDDC, for £1. Currently the triggers for EDDC exercising this option are proposed to be as follows (the exact triggers and the drafting of the option agreement generally to be agreed by Legal Services in consultation with Estates Services):

1. The Diocese ceasing to use the house on Plot 80 as a house for church workers in its employ (as evidenced either by announcing it is ceasing such use, or the house not having been occupied by a church worker for three months'); or
2. The Diocese disposing of the house (still bound by the EDDC option); or
3. The Diocese grants a tenancy to someone who is not a church worker.

The possibility of Plot 80 being transferred directly to the Diocese (subject to the option in favour of EDDC referred to above), has been considered but ruled out as it is felt (by Planning Services), that this deviation from the strict terms of the Agreement should be formalized by way of a Deed of Variation to the Agreement (rather than a letter of waiver issued by EDDC on completion of the Transfer), which would cause delay and additional cost to EDDC.

A Vicar whose services are apparently contracted to the Diocese of Exeter is believed to now be in occupation of Plot 80, pursuant to an agreement between the developer and the Diocese direct.

Financial Implications

In this instance it has been agreed to pay for the legal costs from an existing budget within the Estates and Economic Development Team. However, in 2013/14 this budget has been removed and there is no other identified budget for the costs of similar transfers.

Consultation on Reports to the Executive

Background Papers

- Plan

Rob Harrison rharrison@eastdevon.gov.uk
Senior Estates Surveyor

Cabinet
6 March 2013