



Kim Webber B.Sc. M.Sc.
Chief Executive
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

Tuesday 2 April 2019

**TO: COUNCILLORS I MORAN, Y GAGEN, C COOPER, J FORSHAW, K WILKIE,
K WRIGHT AND A YATES**

Dear Councillor,

A Special meeting of the **CABINET** will be held in the **CABINET/COMMITTEE ROOM, 52 DERBY STREET, ORMSKIRK L39 2DF** on **WEDNESDAY, 10 APRIL 2019** at **6.30 PM** at which your attendance is requested.

Yours faithfully

A handwritten signature in black ink, appearing to be "Kim Webber", written over a horizontal line.

Kim Webber
Chief Executive

AGENDA
(Open to the Public)

- 1. APOLOGIES**
- 2. SPECIAL URGENCY (RULE 16 ACCESS TO INFORMATION PROCEDURE RULES)/URGENT BUSINESS**

If, by virtue of the date by which a decision must be taken, it has not been possible to follow Rule 15 (i.e. a matter which is likely to be the subject of a key decision has not been included on the Forward Plan) then the decision may still be taken if:

- a) The Borough Solicitor, on behalf of the Leader, obtains the

agreement of the Chairman of the Executive Overview and Scrutiny Committee that the making of the decision cannot be reasonably deferred,

- b) The Borough Solicitor, on behalf of the Leader, makes available on the Council's website and at the offices of the Council, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

3. DECLARATIONS OF INTEREST

1827 -
1828

If a member requires advice on Declarations of Interest, he/she is advised to contact the Borough Solicitor in advance of the meeting. (For the assistance of members a checklist for use in considering their position on any particular item is included at the end of this agenda sheet.)

4. PUBLIC SPEAKING

1829 -
1832

Residents of West Lancashire, on giving notice, may address the meeting to make representations on any item on the agenda except where the public and press are to be excluded during consideration of the item. The deadline for submissions is 10.00am Friday 5 April 2019.

5. MATTER REQUIRING DECISION

- 5a Call In - Leaseholder Properties and the Planning Process
(Relevant Portfolio Holder: Councillor I Moran)

1833 -
1842

We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.

FIRE EVACUATION PROCEDURE: Please see attached sheet.

MOBILE PHONES: These should be switched off or to 'silent' at all meetings.

For further information, please contact:-
Sue Griffiths on 01695 585097
Or email susan.griffiths@westlancs.gov.uk

**FIRE EVACUATION PROCEDURE FOR:
COUNCIL MEETINGS WHERE OFFICERS ARE PRESENT
(52 DERBY STREET, ORMSKIRK)**

PERSON IN CHARGE: Most Senior Officer Present
ZONE WARDEN: Member Services Officer / Lawyer
DOOR WARDEN(S) Usher / Caretaker

IF YOU DISCOVER A FIRE

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

ON HEARING THE FIRE ALARM

1. Leave the building via the **NEAREST SAFE EXIT**. **Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE**.
3. **Do NOT** return to the premises until authorised to do so by the **PERSON IN CHARGE**.

NOTES:

Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.

The only persons not required to report to the Assembly Point are the Door Wardens.

CHECKLIST FOR PERSON IN CHARGE

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and inform any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and inform any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the zone warden and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to **HOME CARE LINK** in order to ensure that a back-up call is made to the **FIRE BRIGADE**.
4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.

5. Ensure that the **ZONE WARDEN** has reported to you on the results of his checks, **i.e.** that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL**.
7. Report the results of these checks to the Fire and Rescue Service on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE AND RESCUE SERVICE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

NOTE:

The Fire Alarm system will automatically call the Fire Brigade. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

CHECKLIST FOR ZONE WARDEN

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS**, both officers and members of the public are made aware of the **FIRE ALERT**.
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY**, in accordance with the **FIRE EVACUATION PROCEDURE**.
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **ZONE WARDEN** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

INSTRUCTIONS FOR DOOR WARDENS

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT**.
3. Ensure that **NO PERSON**, whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE**.
5. Do not leave the door **UNATTENDED**.

Agenda Item 3

MEMBERS INTERESTS 2012

A Member with a disclosable pecuniary interest in any matter considered at a meeting must disclose the interest to the meeting at which they are present, except where it has been entered on the Register.

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

Notes

General			Notes
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 below</i>
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	<i>You may speak and vote</i>
3.	I have a pecuniary interest because it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest or it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) and the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest	<input type="checkbox"/> <input type="checkbox"/>	<i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i> <i>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</i>
4.	I have a disclosable pecuniary interest (Dispensation 20/09/16) or a pecuniary interest but it relates to the functions of my Council in respect of: (i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease. (ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends. (iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay. (iv) An allowance, payment or indemnity given to Members (v) Any ceremonial honour given to Members (vi) Setting Council tax or a precept under the LGFA 1992	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i> <i>You may speak and vote</i>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/09/16 – 19/09/20)	<input type="checkbox"/>	<i>See the terms of the dispensation</i>
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	<i>You may speak but must leave the room once you have finished and cannot vote</i>

'disclosable pecuniary interest' (DPI) means an interest of a description specified below which is your interest, your spouse's or civil partner's or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

Interest

Employment, office, trade, profession or vocation

Sponsorship

Prescribed description

Any employment, office, trade, profession or vocation carried on for profit or gain.

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;

"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;

"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;

"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

'non pecuniary interest' means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

'a connected person' means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

'body exercising functions of a public nature' means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

NB Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.



REQUEST FOR PUBLIC SPEAKING AT MEETINGS

MEETING & DATE

NAME

ADDRESS

.....

Post Code

PHONE

Email

Please indicate if you will be in attendance at the meeting

<p>YES/NO*</p> <p>*delete as applicable</p>
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Note: This page will not be published.

(P.T.O.)

PLEASE PROVIDE DETAILS OF THE MATTER YOU WISH TO RAISE

Agenda Item Number

Title

Details

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Name Dated

Completed forms to be submitted by 10.00am on the Friday of the week preceding the meeting to:-

*Member Services, West Lancashire Borough Council, 52 Derby Street, Ormskirk, Lancashire, L39 2DF or
Email: member.services@westlancs.gov.uk*

If you require any assistance regarding your attendance at a meeting (including access) or if you have any queries regarding your submission please contact Member Services on 01695 585065.

Note: This page will be published.

PUBLIC SPEAKING – PROTOCOL

(For meetings of Cabinet, Overview & Scrutiny Committees, Audit & Governance Committee and Standards Committee)

1.0 Public Speaking

- 1.1 Residents of West Lancashire may, on giving notice, address any of the above meetings to make representations on any item on the agenda for those meetings, except where the public and press are to be excluded from the meeting during consideration of the item.
- 1.2 The form attached as an Appendix to this Protocol should be used for submitting requests.

2.0 Deadline for submission

- 2.1 The prescribed form should be received by Member Services by 10.00 am on the Friday of the week preceding the meeting. This can be submitted by e-mail to member.services@westlancs.gov.uk or by sending to:

Member Services
West Lancashire Borough Council
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

- 2.2 Completed forms will be collated by Member Services and circulated via e-mail to relevant Members and officers and published on the Council website via Modgov. Only the name of the resident and details of the issue to be raised will be published.
- 2.3 Groups of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking.

3.0 Scope

- 3.1 Any matters raised must be relevant to an item on the agenda for the meeting.
- 3.2 The Borough Solicitor may reject a submission if it:
- (i) is defamatory, frivolous or offensive;
 - (ii) is substantially the same as representations which have already been submitted at a previous meeting; or
 - (iii) discloses or requires the disclosure of confidential or exempt information.

4.0 Number of items

- 4.1 A maximum of one form per resident will be accepted for each Agenda Item.
- 4.2 There will be a maximum of 10 speakers per meeting. Where there are more than 10 forms submitted by residents, the Borough Solicitor will prioritise the list of those allowed to speak. This will be considered having regard to all relevant matters including:
- a. The order in which forms were received.
 - b. If one resident has asked to speak on a number of items, priority will be given to other residents who also wish to speak
 - c. Whether a request has been submitted in relation to the same issue.
- 4.3 All submissions will be circulated to Members of the relevant body and officers for information, although no amendments will be made to the list of speakers once it has been compiled (regardless of withdrawal of a request to speak).

5.0 At the Meeting

- 5.1 Speakers will be shown to their seats. At the commencement of consideration of each agenda item the Leader/Chairman will invite members of the public to make their representations. Residents will have up to 3 minutes to address the meeting. The address must reflect the issue included on the prescribed form submitted in advance.
- 5.2 Members may discuss what the speaker has said along with all other information, when all public speakers on that item have finished and will then make a decision. Speakers should not circulate any supporting documentation at the meeting and should not enter into a debate with Councillors.
- 5.4 If residents feel nervous or uncomfortable speaking in public, then they can ask someone else to do it for them. They can also bring an interpreter if they need one. They should be aware there may be others speaking as well.
- 5.5 Speakers may leave the meeting at any time, taking care not to disturb the meeting.

(Please see attached form.)



CABINET: 10 APRIL 2019

Report of: Borough Solicitor

Contact for further information: Sue Griffiths (Extn. 5097)
(E-mail:susan.griffiths@westlancs.gov.uk)

SUBJECT: CALL IN ITEM – LEASEHOLDER PROPERTIES AND THE PLANNING PROCESS

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To advise on the decision of the Executive Overview and Scrutiny Committee at its meeting on 28 March 2019 in relation to a called-in item referred back to Cabinet by the Executive Overview and Scrutiny Committee on Leaseholder Properties and the Planning Process.

2.0 RECOMMENDATION

2.1 That Cabinet give consideration to the resolution of the Executive Overview and Scrutiny Committee as detailed in paragraph 3.2 below in light of the comments of the Director of Development and Regeneration and Borough Solicitor contained within paragraph 4.0.

3.0 BACKGROUND

3.1 The Executive Overview and Scrutiny Committee at its meeting on 28 March 2019 considered a called in item from the Cabinet meeting of 12 March 2019 entitled "Leaseholder Properties and the Planning Process".

3.2 The resolution of the Executive Overview and Scrutiny Committee is set out below:-

"That Cabinet asks the Chief Executive, in consultation with the Leader, to examine potential for any further measures that might be invoked, within existing legislation, which might reduce the onerous terms of the kind of leaseholds which are of concern to members".

4.0 COMMENTS OF THE DIRECTOR OF DEVELOPMENT AND REGENERATION AND BOROUGH SOLICITOR

- 4.1 Existing legislation does not provide the Council with the power to intervene to reduce onerous leasehold terms. However, as noted in the Director of Development and Regeneration's report, the Secretary of State for Communities and Local Government has stated his intention to introduce new legislation to make the leasehold system in England fairer and more transparent. In addition, and as noted, the Law Commission's report on leasehold enfranchisement is awaited, as a change in the law will be required in order to afford better protection to leaseholders.
- 4.2 Following consideration of the report by Cabinet on 12 March 2019, the Housing, Communities and Local Government Select Committee has lent its weight to the call for urgent reform through the publication of its report, on 19 March 2019, recommending a series of measures to redress the balance of power towards leaseholders in order to avoid their exploitation by developers, freeholders and managing agents.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

1. Report of the Executive Overview and Scrutiny Committee Meeting held on 28 March 2019



APPENDIX 1

EXECUTIVE OVERVIEW & SCRUTINY COMMITTEE:

DATE: 28 March 2019

Report of: Borough Solicitor

Contact for further information: Mrs J Brown (Extn. 5065)
(E-mail: Julia.brown@westlancs.gov.uk)

SUBJECT: CALL IN ITEM – LEASEHOLDER PROPERTIES AND THE PLANNING PROCESS

Borough wide interest

1.0 PURPOSE OF THE REPORT

1.1 To advise the Executive Overview and Scrutiny Committee of the reason for the call in of the decision on the above item set out in Minute No.100 of the Cabinet Meeting held on 12 March 2019.

2.0 RECOMMENDATION TO EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE

- 2.1 That the Committee determines whether it wishes to ask for a different decision.
- 2.2 That if the Committee does wish to ask for a different decision, the Committee indicates which of the options set out at paragraph 6.1 below, it wishes to pursue.
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3.0 BACKGROUND

- 3.1 At its meeting on 12 March 2019 Cabinet received a report which advised on the Council's ability to restrict the development of further leasehold homes through the planning process.
- 3.2 The decision of Cabinet reads as follows:-

100 – LEASEHOLDER PROPERTIES AND THE PLANNING PROCESS

The Leader introduced the report of the Director of Development and Regeneration which advised upon the Council's ability to restrict the development of further leasehold homes through the planning process.

In reaching the decision below, Cabinet considered the details as set out in the

report before it and accepted the reasons contained therein.

RESOLVED That the report be noted.

- 3.3 A copy of the report of the Director of Development and Regeneration as submitted to Cabinet on 12 March 2019 is attached as Appendix 1.

4.0 DETAILS RELATING TO THE CALL IN

- 4.1 The following reason for call in was given in the requisition:-

"While the report notes that there is little that can be done within the planning process to influence whether new homes operate under leasehold basis, members are keen to explore the extent to which the council may be able to exert influence over the sometimes onerous lease terms, for both existing and future housing in the borough".

- 4.2 The requisition also provided a different decision which was:

"That Cabinet asks the Chief Executive, in consultation with the leader, to examine potential for any further measures that might be invoked, within existing legislation, which might reduce the onerous terms of the kind of leaseholds which are of concern to members".

- 4.3 The following Members of the Executive Overview & Scrutiny Committee signed the requisition for call-in in accordance with the provisions of Overview & Scrutiny Committee Procedure Rule 15:

Councillor P Cotterill
Councillor V Cummins
Councillor T Devine
Councillor S Evans
Councillor L Savage
Councillor C Wynn

5.0 COMMENTS OF THE DIRECTOR OF DEVELOPMENT AND REGENERATION AND BOROUGH SOLICITOR

- 5.1 Existing legislation does not provide the Council with the power to intervene to reduce onerous leasehold terms. However, as noted in the Director of Development and Regeneration's report, the Secretary of State for Communities and Local Government has stated his intention to introduce new legislation to make the leasehold system in England fairer and more transparent. In addition, and as noted, the Law Commission's report on leasehold enfranchisement is awaited, as a change in the law will be required in order to afford better protection to leaseholders.

- 5.2 Following consideration of the report by Cabinet, the Housing, Communities and Local Government Select Committee has lent its weight to the call for urgent reform through the publication of its report, on 19 March 2019, recommending a series of measures to redress the balance of power towards leaseholders in order to avoid their exploitation by developers, freeholders and managing agents.

6.0 CONCLUSION

- 6.1 Following consideration of the decision of Cabinet, the requisition for call in and the comments of the Director of Development and Regeneration, the Executive Overview and Scrutiny Committee can decide if it wishes to ask for a different decision. If the Committee does not wish to ask for a different decision then the decision of Cabinet takes immediate effect. If the Committee does wish to ask for a different decision, it may:
- a. refer the decision back to Cabinet (as the decision making body) for reconsideration, setting out the different decision:
- or
- b. refer the matter to Council. If the matter is referred to Council and Council does not object, then the decision of Cabinet will take effect immediately from that Council meeting date. If the Council does object, then the decision and the objection will be referred back to Cabinet (as the decision making body) for reconsideration.
- 6.2 The Secretary of State in his Guidance recommends that Overview & Scrutiny Committees should only use the power to refer matters to the full Council if they consider that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Appendices

1. Report of the Director of Development and Regeneration "Leaseholder Properties and the Planning Process" on 12 March 2019.



CABINET: 12 March 2019

Report of: Director Development and Regeneration

Relevant Portfolio Holder: Councillor J. Hodson

Contact for further information: Mrs C. Thomas (Extn. 5134)
(E-mail: catherine.thomas@westlancs.gov.uk)

SUBJECT: LEASEHOLDER PROPERTIES AND THE PLANNING PROCESS

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To advise Members with regard to the Council's ability to restrict the development of further leasehold homes through the planning process.

2.0 RECOMMENDATION

2.1 That the contents of the report be noted.

3.0 BACKGROUND

3.1 At full Council held on Wednesday 12th December 2018, Members debated a motion regarding leaseholder properties. In this country properties can either be owned as freehold or leasehold. Leasehold is a form of ownership where a person owns a property for a set number of years (typically, 99 or 125) on a lease from a landlord, who owns the freehold. Leaseholders pay ground rent to their freeholder and leasehold owners often do not have the same control over their homes as a freehold owner. Leaseholders may not be able to make alteration to their home without obtaining the permission of their landlord, and there are often fees payable to secure ground landlord's consent.

3.2 Residential leasehold, has for some time been the subject of increasingly prominent policy debate. The current system has been criticised as being too costly and difficult for leasehold owners. Last year the Government set out plans to end the current leasehold practices. The Secretary of State for Housing,

Communities and Local Government has stated his intention to introduce new legislation to make the leasehold system in England fairer and more transparent.

- 3.3 The Law Commission recently published a Consultation Paper on leasehold enfranchisement reform " Leasehold home ownership: buying your freehold or extending your lease". The consultation closed on 7th January and the report outlining the results of the consultation is awaited. The stated aim of the consultation is to provide a comprehensive review of leaseholders' rights with a view to improving the position.
- 3.4 At the December meeting of Council, Members expressed the view that the Government's failure to adequately regulate the sale of leasehold properties within the UK and tackle the onerous terms of existing leases is of considerable concern. Whilst pledges to address the matter are welcomed, Council remains frustrated regarding the extent of the Government's plans and its commitment to support those already affected by unfair practices and charges.
- 3.5 Council resolved that the Chief Executive be requested to write to the Secretary of State for Housing, Communities and Local Government, to express the Council's concern regarding the issues caused for residents of leaseholder properties, and request further, pressing action is taken not only to restrict the development of further leasehold homes, but to provide appropriate support and means of redress for existing leaseholders. Furthermore, officers were instructed to provide a report to Cabinet on the options available to this Council in controlling:
- i) The number of properties sold on leasehold in future housing developments and
 - ii) The terms under which these leaseholds are offered to prospective buyers
- 3.6 This report seeks to provide information regarding the Council's ability to use the planning process to restrict the number of new leasehold properties in future housing developments.

4.0 LEASEHOLDER PROPERTIES AND PLANNING RESTRICTIONS

- 4.1 When an application for planning permission is submitted, it is assessed in relation the Council's Local Plan, national planning policy and guidance and all other material planning considerations. Material planning considerations include matters such as impact on residential amenity, highway safety, ecology and landscape. Officers are not made aware of the applicant's intention with regard to leaseholder/freeholder ownership as this is not a material planning consideration and the owners' intention in this regard cannot be given any weight in the Council's consideration of a planning application.
- 4.2 Furthermore there would be no basis in law for the Council to impose a planning condition in relation to leasehold/freehold ownership on a residential development scheme. National Planning Policy is contained within the National Planning Policy Framework. The National Planning Policy Framework indicates

that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development being permitted, enforceable, precise and reasonable in all other aspects. It is my view that the imposition of such a condition would neither be relevant to planning or reasonable, and would therefore fail to meet the tests for planning conditions.

- 4.3 Therefore through the planning process there is no ability to control the number of properties sold on leasehold in future housing developments or the terms on which leaseholds are offered to perspective buyers.
- 4.4 Concern was expressed by Members that leasehold properties may create a problem for registered social landlords. Housing Associations who develop and acquire properties to be used as affordable housing are clearly subject to considering the matter of leaseholder arrangements. However, officers have been advised that such arrangements do not deter a housing association from acquiring leasehold properties provided that leasehold terms can be negotiated to meet requirements of housing association, for example social landlords generally prefer a 125 year lease.

5.0 CONCLUSION

- 5.1 Whilst Members concerns are recognised there is no ability to use the planning process to restrict the number of new leasehold properties within the Borough.
- 5.2 A response has been received from the Ministry of Housing, Communities and Local Government in reply to the letter sent by the Chief Executive. The response indicates that in addition to a legislative reform programme to help future leaseholders, the Government is committed to support existing leaseholders by putting pressure on developers who have onerous leases to provide support to leaseholders. The Government is also working with the Law Commission to make it easier and cheaper for leaseholders to buy their freehold or extend their lease.
- 5.3 In response to the specific points raised in the Council's resolution, the Minister for Housing and Homelessness indicates that the recent Consultation Paper does propose to abolish the rule that limits the enfranchisement rights to leaseholders of two years.
- 5.4 Furthermore the Minister indicates that the Government is also committed to improving the rights of freeholders who pay charges for the management and maintenance of communal areas and facilities.

6.0 SUSTAINABILITY IMPLICATIONS

- 6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no significant financial or resource implications arising from this report.

8.0 RISK ASSESSMENT

- 8.1 This item is for information only and makes no recommendations. It therefore does not require a formal risk assessment and no changes have been made to risk registers.
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Background Documents

Minutes of Full Council 12th December 2018

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.