

CHESHIRE EAST COUNCIL

REPORT TO: PORTFOLIO HOLDER FOR ECONOMIC GROWTH AND PROSPERITY

Date of meeting:	22 April 2014
Report of:	Director of Economic Growth and Prosperity
Title:	Discharge of Section 52 Agreement at Primrose Hill Nursery, Warrington Road, Mere

1.0 Purpose of Report

1.1 To seek the approval of the Portfolio Holder for discharge of the Section 52 Agreement which restricts occupancy of the existing dwelling to an agricultural worker and ownership of the land so that it cannot be sold off separately at Primrose Hill Nursery, Warrington Road, Mere. The applicants now wish to be released from the obligation.

2.0 Decision Required

2.1 To discharge the Section 52 Agreement which restricts the occupancy to an agricultural worker and ownership of the land so that it cannot be sold off separately at Primrose Hill Nursery, Warrington Road, Mere.

3.0 Financial Implications for the Council

3.1 Costs for staff time to vary the Agreement. However charges for the legal costs will be payable to the Council by the applicant.

4.0 Legal Implications for the Council

4.1 None. There is an agricultural occupancy restriction on permissions 7246P and 5426P.

5.0 Risk Assessment

5.1 None.

6.0 Background and Report

6.1 Permission was granted under applications 7246P and 5426P for an agricultural workers dwelling subject to conditions (including a condition restricting occupancy) and a Section 52 Agreement (also restricting occupancy and re-sale/let/sub-letting of the dwellinghouse and the land).

6.3 The applicant now wishes to be released from the Section 52 Agreement which he entered into on 25th June 1976 when planning permission was granted for the construction of the dwelling at Primrose Hill Nursery as an agricultural worker's dwelling – specifically clause 1 which restrict sale of the land and dwellinghouse separately. It is inappropriate to retain such clauses which are similar to conditions restricting occupancy of the agricultural workers dwelling.

6.4 As the clauses within the Section 52 Agreement are no longer necessary, it would be unreasonable to retain them.

6.5 It is recommended that the Borough Solicitor discharge the 1976 Section 52 Agreement by Deed of Agreement with the current landowner (the same landowner who entered into the 1976 Agreement) under Section 111 of the Local Government Act 1972.

6.6 The Borough Solicitor has advised that this decision should be considered by Portfolio Holder because the discharge of s52 Agreements (which were entered into under the Town & Country Planning Act 1971- now revoked) is not one of the functions listed for decision by Council, committee or officer under the Local Government (Functions & Responsibilities) Regulations 2000. S13 Local Government Act 2000 provides that functions **NOT** listed in those Regulations should be taken by Executive Members and the Council's Constitution delegates Development Management decisions to the Portfolio Holder.

7.0 Reasons for Recommendation

7.1 The discharge of the Section 52 Agreement would be acceptable in planning policy terms as the conditions of the permission would continue to restrict the occupancy of the dwelling to agricultural workers. On this basis it is not considered reasonable or necessary to refuse to remove the Section 52 Agreement.

For further information:

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