

**COUNCIL – 4 APRIL 2019  
QUESTIONS FROM COUNCILLORS**

Agenda item 7 refers

**1. Councillor David Carter to Councillor Mark Ingall, Leader of the Council**

During the Cabinet Overview Working Group meeting on 14 March, it was said that although Harlow had inherited covenants stating that homes can only be used for one family, we cannot use these regarding Houses of Multiple Occupation as the legal advice is that we would not be able to uphold the. Are these covenants now not enforceable for any use?

**Response from Councillor Mark Ingall, Leader of the Council**

Thank you for the question, I was present at the recent Cabinet Overview Working Group when the matter of HMO's was discussed and I was able to answer member's questions on the matter.

That Working Group has asked for further work by Officers to look at further planning regulation over HMO's within areas which will take some time to bring back to Cabinet for a view.

The Housing Act 1985 introduced the statutory scheme for Right to Buy, section 609 of that Act enables the Council to enforce restrict covenants even if we no longer have an interest in the land.

The covenant in question formed part of the transfer from the Corporation to the Council and pre-dates the Right To Buy (RTB) legislation (HA 1985), it also predates the statutory regulation of HMOs. The covenant would have formed part of the transfers under the first statutory RTB scheme in 1980. The covenant is in Schedule 3 to the Transfer and is worded as follows:

“(a)(iv) not to use any dwelling erected on the property hereby transferred for the purposes other than that of a single private dwelling house in one occupation only....”

Applications can be made to vary or modify the covenant. In these cases the Council has discretion whether or not to enforce or administer covenants. Each application to modify, vary or enforce a covenant will need to be decided on a case by case basis. The Council could not, for instance, have a blanket policy to refuse all applications.

Any enforcement via the Courts or Tribunal would need to be looked at on the merits in each case. This includes the cost of the action to be taken, the chance of success and public interest.

The legal advice given consistently has been that a decision to enforce a covenant would need to take into account all the evidence, the HMO's compliance with the regulatory framework and the cost to the public purse if the landowner successfully appealed the matter. Decisions on the enforceability would need to be on a case by case basis. I am happy that the covenant enforcement issue is added to the review by Officers.

**Supplementary Question by Councillor David Carter to Councillor Mark Ingall, Leader of the Council**

What is the legal status of the other covenants?

**Supplementary Response from Councillor Mark Ingall, Leader of the Council**

I will arrange for a written response to be provided to you.

**2. Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

How many of the 100+ homes completed to date at Atelier, the joint venture between Harlow Council, Home and Countryside, are affordable and in which categories: social rent, affordable rent and shared ownership?

**Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

As at 31 March 2019, a total of 137 homes have been completed and handed over by Countryside. This covers properties in Phase 1 and Phase 2. The split is as follows:

- a) Private sale – 69
- b) Social rent – 17
- c) Affordable rent – 27
- d) Shared ownership – 24

The total scheme will deliver 343 properties over three phases. The split for these will be:

- a) Private sale – 143
- b) Social rent – 92

- c) Affordable rent – 73
- d) Shared ownership - 35

**Supplementary Question by Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

How many of the houses provided on the site will be for existing residents of Harlow?

**Supplementary Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

I will arrange for a written response to be provided to you.

**3. Councillor Michael Hardware to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

Is the Council aware of the issue of service charges on the Atelier development? They have increased many fold only months after residents have moved in – residents appear to have been given misleading information when they were considering the properties. As a partner, what is the Council doing about it?

**Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

The Council is aware of the issue that Home Group is having with its service charges on the Atelier estate over the last few months and, as soon as the Council became aware, contacted Home Group about this in order to express its concerns. The Council has been informed that the high increases in service charges have affected the Home Group's service charges for leaseholds and affects approximately 70 households.

Home Group have undertaken their own internal investigation to establish what has happened and why, and are looking at how they will resolve the issue. The issue has been escalated up to their Chief Executive level and they are communicating directly with the householders affected. The Council will continue to liaise with Home Group on this matter to ensure it is resolved.

**Supplementary Question by Councillor Michael Hardware to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

Have the marketing materials been amended to reflect this?

**Supplementary Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

I share your concerns about the increase in service charges. Unfortunately, as the development is privately owned the Council does not have any direct control over the charges.

**4. Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

The Council has planning consent to build a block of flats on the former Lister House site. What percentage of these will be social rent, affordable rent and shared ownership, and so how many will be sold on the open market?

**Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

As set out in the planning application the scheme is currently due to provide:

- a) Thirty-two open market homes, comprising 15, one bedroom apartments and 17, two bedroom apartments. These equate to 69.5 per cent of the development.
- b) Fourteen social rented homes, comprising seven, one bedroom apartments and seven, two bedroom apartments. These equate to 30.5 per cent of the development.

As part of the viability process, the Council is looking at how it can provide additional affordable housing on the site.

**Supplementary Question by Councillor Andrew Johnson to Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

Given that the Council currently holds £14 million in reserves, will you guarantee that there will more affordable housing on the site?

**Supplementary Response from Councillor Mark Wilkinson, Deputy Leader and Portfolio Holder for Housing**

The Administration's policy is to always look to provide as much affordable housing as possible on all of its developments, including on the Lister House site.

**5. Councillor Michael Hardware to Councillor Mark Ingall, Leader of the Council**

Why did you refuse the offer from Essex County Council last year to match fund highways improvements when last week you announced some small scale parking schemes for Harlow. Do you not agree that the town has missed out on some vital additional cash, in effect doubling what you are going to spend, just because of your political dogma?

**Response from Councillor Mark Ingall, Leader of the Council**

The offer from Essex Highways arose from the Government disbursing additional funds to county councils specifically to address potholes. It was given to Essex County Council without strings attached. The decision to only give it to those councils who could match fund it was made on a whim from Councillor Kevin Bentley and this offer was made without consultation and after budgets had been settled.

My response was more measured than your question suggests. I wrote to Councillor Bentley urging him to meet with me to discuss the matter and to seek a way forward. Councillor Bentley declined to discuss the matter further. Harlow Council was not the only Council to feel that adding strings to a Government grant was unreasonable and that requesting a further £100,000 from Harlow Council for Essex County Council to honour its legal requirements to fix our roads was unfair. Other Councils also declined to participate in what could colourfully be described as an Essex Highways Robbery. These councils were Basildon (Conservative) Braintree (Conservative) and Maldon (Conservative).

In conclusion, your question is based on so many false premises, it is difficult to answer, but I'll try. I did not refuse the money on behalf of the Council, in fact I urged Councillor Bentley to give it to us, but without strings as the Government had intended. The County Council never had any intention to double the money Harlow Council intends to spend, they wanted us to double the money they had been given by the Government to spend. My decision was not due to political dogma, as shown by the three other Conservative Leaders who reached the same conclusion that I did.

**Supplementary Question from Councillor Michael Hardware to Councillor Mark Ingall, Leader of the Council**

There was an additional offer on a separate budget for the match funding. How many times has this offer been accepted previously?

**Supplementary Response from Councillor Mark Ingall, Leader of the Council**

Essex County Council currently receives 85 per cent of all Council Tax collected in Harlow, but keeps asking Harlow Council to pay for services the County Council should be providing. These includes street lighting and providing PCSOs.