

Requesting a Covenant Release, Variation or Approval on Ex-Council Properties

Frequently Asked Questions

Why do I have to request permission from the Council?

All properties and land (freehold and leasehold) sold by the Council will have covenants within the Conveyance or Lease which the owner must observe and adhere to. Covenants are essentially a promise to do or not to do something on or to land or property; they stay with the land and as such the responsibility of complying with the covenants is passed from one owner to another. The use of covenants is common place and is good Estate Management practice and/or promotes the wider duties of the Council as a land owner.

Approval to remove or vary a restrictive covenant is separate from planning permission and building regulations approval.

If you are in any doubt you should seek independent legal advice.

Step 1

Please read the relevant Policy and this frequently asked questions fact sheet.

Step 2

How do I request covenant release, variation or approval?

You should then complete the online form and include the following information:

- Confirm you are the current property owner
- The full postal address of the property concerned
- Details of the conveyance
- Details of the reason for your requests, i.e. the improvements or structural changes you wish to make
- Type of property
- E-mail address for correspondence
- Day time telephone number

Step 3

Once we receive your enquiry we will contact you by phone to discuss your application.

Step 4

If you then wish to proceed we will require a non-refundable payment for the administration of your request. See the table below for charges dependant on the type of request. Some additional information will also be required in order for us to proceed.

Charges

Processing request for deed of variation	£300 excluding VAT
Processing request for approval to carry out work covered by a restrictive covenant	£120 excluding VAT
Processing retrospective request for approval to carry out work covered by a restrictive covenant	£240 excluding VAT
Processing retrospective request for a deed of variation	£420 excluding VAT

Step 5.

Additional information required:

Provide a copy of the covenant for which you are seeking approval for, release from or variation to.
Any architectural plans or sketches for planned works
Photos if relevant
Proof of disability if relevant
Building or Planning consent – Applied for or granted

What happens once I have sent my request?

Once we have received all the relevant information and payment we will acknowledge your request within 5 working days.

What will happen next?

Your request will be considered in line with the Council's Policy. If we need additional information we will contact you to request this. Once we have all the information required the Housing Asset Manager will decide whether the Council will agree to your request or not. We aim to provide you with a decision within 8 weeks of receipt of your enquiry.

What happens once a decision is made?

We will notify you of the decision by letter. If your request does not meet the policy criteria and the decision is not to agree to your request we will explain why. Details of what you can do next can be found below.

If the Council's decision is to agree to your request we will write to you detailing the specifics of the approval. If there is a need for a 'Deed of Variation' the applicant assumes all responsibility for paying the Council's fees and to pay any charges associated with the change of use to the land. Fees will be determined by the Council's Estate Services in consultation with Strategic Housing.

Can I appeal?

Yes, you must make your appeal in writing within 28 days of the date of the decision letter giving specific grounds for your appeal and whether it is regarding the policy or the procedure. You should supply additional information/evidence to support your appeal, we are unable to accept an appeal without this.

We aim to acknowledge your appeal within 5 working days of receipt and to provide an appeal decision within 8 weeks of receipt of your appeal.

Where the appeal is in respect of how the policy and procedure have been applied a Senior Officer will investigate the case and respond. Appeals against decisions will be considered by the Head of Commercial Services. If you are not satisfied with the reply given by the Head of Commercial Services, the appeal will be referred to the Council's Executive Management Team who will review the handling of the case and respond in writing within 4 weeks with a final decision. There is no further internal appeal and the next stage would be the Local Government Ombudsman.

All this seems very complicated and to take a long time. Is there no easier way?

I'm afraid not. All land and property sold by the Council will be subject to restrictive covenants; the use of covenants is common place and is good Estate Management practice and/or promotes the wider duties of the Council as a land owner. The Council has to have a consistent and objective way of dealing with enquiries to ensure decisions are fair and transparent. We will endeavour to make decisions as quickly as possible within the timescales set out in the policy.