

The Vale of Glamorgan Council

Cabinet Meeting: 21 January, 2019

Report of the Cabinet Member for Housing and Building Services

Land at St Lukes/Garmon Road, Cedar Way, Penarth

Purpose of the Report

1. To advise Cabinet of a situation which has arisen concerning land in the freehold ownership of the Council at Cedar Way/St Lukes Avenue, Penarth and to seek approval to enter into a fresh deed of variation to increase the extent of the land.

Recommendations

1. That Cabinet notes the position and agrees the execution of the deed of variation in line with Appendix 1 to this report.
2. That Cabinet authorises the Monitoring Officer/Head of Legal and Democratic Services to agree and execute the deed of variation.

Reasons for the Recommendations

1. To regularise matters so as to put into effect the deed of variation.
2. To complete the execution of the necessary document.

Background

2. The Council transferred the land shaded pink on the plan appended at Appendix 1 to Newydd Housing Association for a term of 125 years via a lease dated 27 June 1989. In 1991 it was agreed that the land edged blue on the plan at Appendix 1, would be included in the lease by way of variation. A copy of the deed of variation is shown at Appendix 1. This executed document should have been the subject of an application by Newydd Housing Association to register the same at the Land Registry, thereby amending Newydd's registered title and noting the increase in the area comprised in the lease.

Relevant Issues and Options

3. It transpires that Newydd failed to register the deed of variation at the Land Registry and accordingly Newydd's registered title does not reflect the correct position with regards to the deed of variation.

4. Officers have investigated the Council's deed pack and the pack does indeed contain a copy of the executed deed of variation together with completed Land Registry form which was at the time used to place the Land Certificate (Land Certificates are no longer issued) for the freehold title on deposit at the Land Registry, the system at that time being that the Land Registry would not complete applications without the freehold Land Certificate being produced. Had things proceeded correctly with Newydd making their application to the Land Registry to register the deed of variation at the time, the Land Registry would have issued and returned an amended Land Certificate to Newydd in relation to the leasehold title and also an amended Land Certificate for the Council's freehold title.
5. As Newydd failed to register the deed of variation the Land Certificate was ultimately returned unamended. As there is no trace of the original completed deed which would have been in Newydd's possession there remain only certified copies and it is not possible to register the deed now without a fresh deed of variation being entered into.
6. It is for this reason that authority is now sought for a fresh deed of variation in line with Appendix 1 which will allow Newydd to register the correct position with the Land Registry.

Resource Implications (Financial and Employment)

7. There will be legal officer time resources required to complete a new deed of variation though as this is considered minimal no recharge to Newydd is proposed. There are no other resource implications as a result of this report.

Sustainability and Climate Change Implications

8. No sustainability or climate change implications.

Legal Implications (to Include Human Rights Implications)

9. Legal implications as set out in the body of the report. It will be necessary for a fresh deed of variation to be executed by both parties.

Crime and Disorder Implications

10. There are no implications as a result of this report.

Equal Opportunities Implications (to include Welsh Language issues)

11. There are no equal opportunities implications as a result of this report.

Corporate/Service Objectives

12. As this is simply a matter of regularising a position that should have been implemented by Newydd some years ago, there are no specific corporate or service objectives related to this matter.

Policy Framework and Budget

13. This report is a matter for executive decision by Cabinet.

Consultation (including Ward Member Consultation)

14. No consultation has been carried out this report proposes the regularisation of a position that it was believed already existed.

Relevant Scrutiny Committee

15. Homes and Safer Communities.

Background Papers

None.

Contact Officer

Mike Ingram, Head of Housing and Building Services.

Officers Consulted

Victoria Davidson, Operational Manager Legal Services
Operational Manager, Property

Responsible Officer:

Miles Punter, Director of Environment and Housing

Dated 21st November 1991

BOROUGH COUNCIL OF VALE OF
GLAMORGAN

to

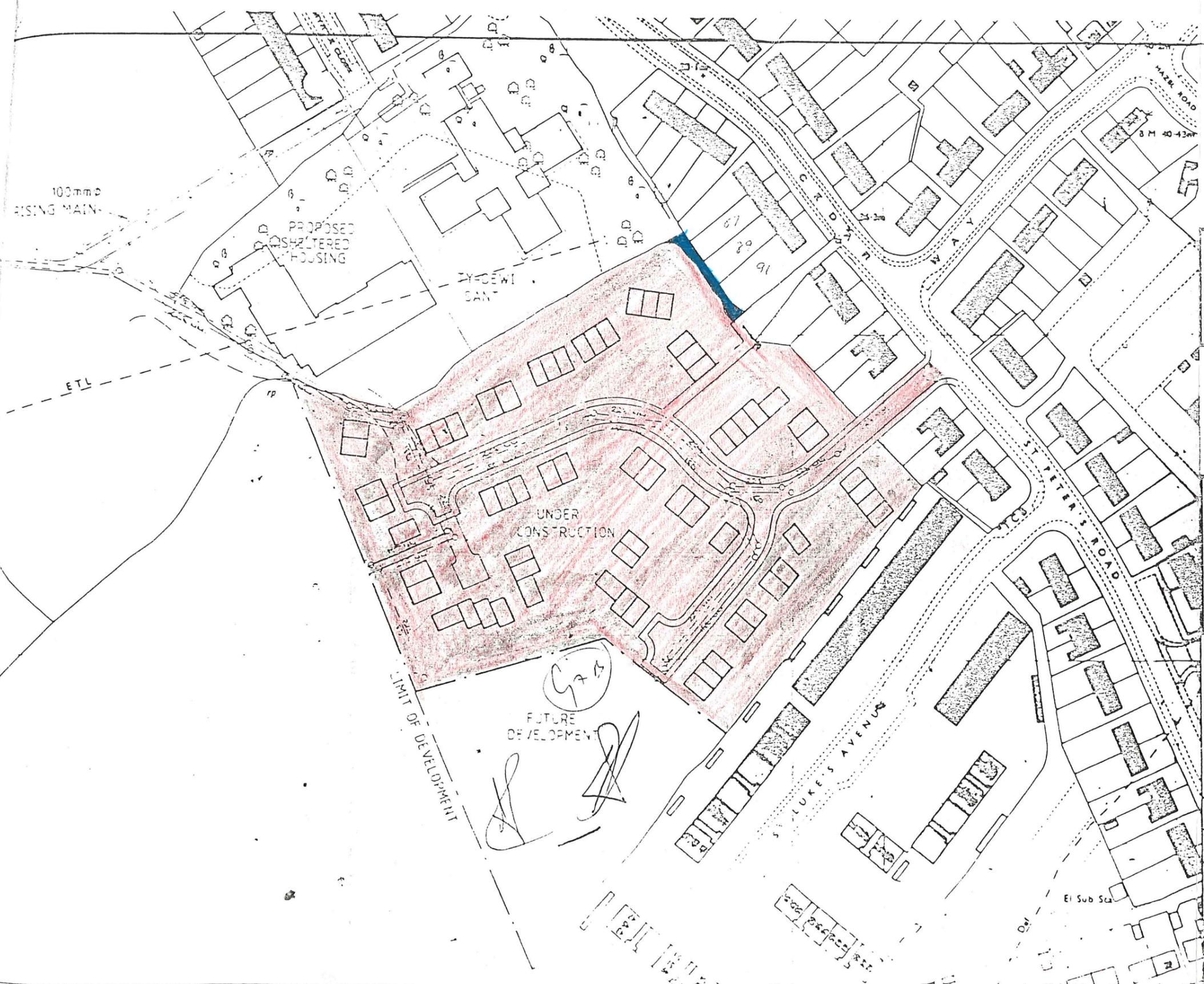
NEWYDD HOUSING ASSOCIATION
LIMITED

DEED

relating to land coloured pink on the
attached plan to the Tenant

TERM: 125 years from the 27th June
1989

A.J. Oliver Esq., Solicitor,
Director of Legal and Administrative
Services,
Civic Offices, Holton Road,
Barry, South Glamorgan CF6 6RU



**VALE OF GLAMORGAN
BOROUGH COUNCIL**

D.C. REES, M.B.E.
DIRECTOR OF ENGINEERING & BUILDING SERVICES
CIVIC OFFICES, 401, N. ROAD,
BARRY, S.W. GLAMORGAN (CF6 6PL)
TEL BARRY 70000 (ST) 0446

CONTRACT

Housing Development at
St. Luke's Ave., Penarth.

TITLE
*Land rear of Nos 87-91 CEDAR WAY
PENARTH.
(0.112 ha or thereabouts)*
LAND REFERRED TO COLOURED PINK

DRAWN: <i>NGD</i>	CHECKED:
DATE: <i>30/1/90</i>	SCALE: <i>1/1250</i>

DRAWING No.
H113/100 LAND.

THIS DEED made on the 21st day of November 1991 BETWEEN
BOROUGH COUNCIL OF VALE OF GLAMORGAN of Civic Offices
Holton Road Barry in the County of South Glamorgan (hereinafter
called "the Landlord") of the one part and NEWYDD HOUSING
ASSOCIATION LIMITED whose registered office is at 121 Broad
Street Barry in the County of South Glamorgan (hereinafter called
"the Tenant") of the other part

WITNESSETH as follows:-

1. By a Deed dated the Twenty-Seventh day of June One thousand
nine hundred and eighty nine the Landlord granted a Lease of
the land coloured pink on the attached plan to the Tenant for a
term of 125 years from the Twenty-Seventh day of June One
thousand nine hundred and eighty nine ("the Lease")
2. The Tenant is desirous of incorporating into the Lease the land
coloured blue on the attached plan for no further monetary
consideration
3. The Landlord HEREBY AGREES and declares that the land
coloured blue shall be deemed to have been leased to the Lessee
for a term of 125 years from the Twenty-Seventh day of June One
thousand nine hundred and eighty nine on the same terms and
conditions as the Lease save for a right of way over the said land
being reserved to the Landlord and the Owners of numbers 85 87
89 and 91 Cedar Way Penarth
4. The Lease shall continue in full force and effect except as
modified by the provisions of the Deed

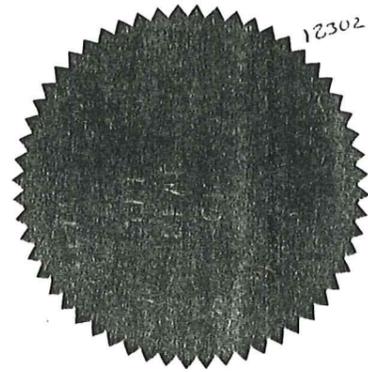
IN WITNESS whereof the Council and the Tenant have caused their
common seals to be hereunto affixed the day and year first before
written

15 M

12302 (G)

The Common Seal of the BOROUGH
COUNCIL OF VALE OF GLAMORGAN
was hereunto affixed in the
presence of:-

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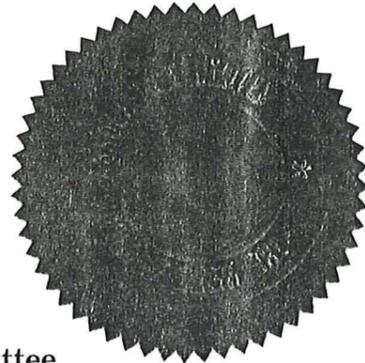


[Handwritten Signature]
Mayor

[Handwritten Signature]
Acting
Chief Executive

The Common Seal of NEWYDD
HOUSING ASSOCIATION LIMITED
was hereunto affixed in the
presence of:-

)
)
)
)



Member of the
Sealing Committee

[Handwritten Signature]

Member of the
Sealing Committee

[Handwritten Signature]

[Handwritten Signature]

Secretary