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TO	Licensing and Regulatory Committee
DATE	Wednesday 3 June 2020
EXECUTIVE MEMBER	Portfolio Holder for Neighbourhood Services

KEY DECISION REQUIRED	N
WARDS AFFECTED	(All Wards);

SUBJECT	Housing Assistance Policy - application for Exceptional Circumstances case
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RECOMMENDATIONS

- (i) That the Committee agree an application for assistance under the Exceptional Circumstances provisions of the Housing Assistance Policy, to fund provision of a vehicle crossover (dropped kerb).
- (ii) That the Committee allow their decision to be used as a precedent for future applications for the funding of crossovers, where these are integral to the provision of safe access to an applicant's property, as part of a mandatory DFG application.

REASONS FOR RECOMMENDATIONS

Agreeing this application will result in a child with disabilities having safer access to their home, allowing more independence and removing a serious concern for their safety. The Council is already funding a mandatory Disabled Facilities Grant (DFG) to provide a vehicle hardstanding, but this would be redundant without the associated crossover of the footpath. The application is in keeping with national and local policy objectives of helping to maintain independence for older and disabled residents. If a precedent can be set in this regard, there is potential for faster decision making for other applicants thus limiting the time they are suffering from sub-standard provisions.

EXECUTIVE SUMMARY

An application has been made under the Exceptional Circumstances section of the Council's Housing Assistance Policy to fund a vehicle crossover, or dropped kerb, to facilitate safe vehicle access onto a new hardstanding or driveway, which has been approved for a mandatory Disabled Facilities Grant (DFG). The application is made on behalf of a child with disabilities and his family, to facilitate safe access to the home, in line with the recommendations of an Occupational Therapist who has assessed the child's needs.

Crossovers are not included in the criteria for mandatory DFG's, as the legislation does not cover situations where the land on which works are proposed is not owned by either the applicant or their landlord i.e. the public pavement. While the legislation permits the use of considerable discretion in what can be funded as part of a DFG, this discretion must be set out in a published policy. The Council updated its Housing Assistance Policy in 2019 to clearly define the circumstances where discretionary funding would be available, however, this did not include crossovers.

The Committee is asked to consider this application and is recommended to agree it. The Committee is also asked if it will allow its decision to act as a precedent for future applications for the funding of crossovers, where these are integral to the provision of safe access to an applicant's property as part of a mandatory DFG.

The cost of works that this exception relates to is only £3,275. For context, an individual DFG may fund up to £45,000 of works and this function has an annual budget of over £1million, so there is sufficient budget to fund this application and to absorb the impact of potential future cases, if precedent were to be agreed.

A copy of the application for exceptional circumstances and the Occupational Therapy Report are include in the exempt report in Part 2 of the agenda (which is to follow).

Licensing and Regulatory Committee has authority to approve the above recommendations.

STATUTORY POWERS

1. The Housing Grants, Construction and Regeneration Act 1996 requires the local housing authority to administer grants to provide adaptations and facilities in the homes of disabled people. The terms under which these mandatory Disabled Facilities Grants (DFG's) may be given are set out in the legislation. This includes physical and financial eligibility criteria for applicants and criteria on what adaptations may be funded by the DFG.
2. The DFG is a means tested capital grant which can contribute towards the cost of adapting a home, for example by installing a stair lift, creating a level access shower room, widening doorways, providing ramps and hoists or creating a ground floor extension or vehicle hardstanding. The DFG is a mandatory grant, which means that it is a legal requirement for local authorities to provide help to people who meet the eligibility criteria. These criteria include ensuring that the works are necessary and appropriate to meet the needs of the disabled person, and that they are reasonable and practicable given the age and condition of the property.

3. The Regulatory Reform (Housing Assistance) (England And Wales) Order 2002 allows for greater discretion in the use of DFG's and requires local housing authorities to publish a scheme of assistance. The Council's Housing Assistance Policy ('The Policy') was updated in 2019, to reflect significant increases in Better Care Funds provided for housing assistance, as well as guidance on the use of the Regulatory Reform Order 2002.
4. The term 'discretion' is used to mean assistance that is outside of the mandatory DFG requirements. The 2019 Policy update introduced a number of defined uses of 'discretionary' funding. The Policy clearly defines the scope of this discretion to ensure consistent application of criteria to all clients, avoiding the potential for 'case by case' judgements to be required. Eligibility requirements for DFG's in terms of care and support needs as assessed by a registered Occupational Therapist were not changed, to ensure consistent application of criteria to all clients.
5. This application is for works that are not covered by the mandatory terms of DFG provision, as this requires the applicant to have either an owner's interest in the land on which the works will take place or to have their landlords' consent. The legislation does not cover situations where the land on which works are proposed is not owned by either the applicant or their landlord, in this case to the public pavement which is owned by Surrey County Council.
6. The work can be considered for discretionary funding, under the terms of the Regulatory Reform Order 2002. The work requested is not currently covered by the Policy, and as such is being considered as Exceptional Circumstances, under Section 7 of the Council's Policy.

BACKGROUND

7. The funding of crossovers, or dropped kerbs, was not included in the 2019 revision of The Housing Assistance Policy, as at the time of writing it was not considered to be a priority for inclusion. Although enquires about funding of crossovers have occasionally been received in the past, previously these have been able to apply for alternative funding via Social Care 'top up' budgets, that were available to assist where mandatory DFG funding was insufficient.
8. During 2019, Surrey County Council removed the top up budget due to budgetary pressures. With this alternative means of funding crossovers removed, this can present a difficulty for applicants who have been assessed as eligible for a mandatory DFG to facilitate safe access to their dwelling, in the form of a recommendation to provide a vehicle hardstanding or driveway. If a property does not already have a crossover or dropped kerb in place, and the applicant cannot afford the cost of having this element of the work done, the hardstanding becomes redundant if vehicles cannot safely drive onto it. This will defeat the point of the Occupational Therapist recommendation and leave the applicant without the necessary safe access to their home.
9. Discussion with other Surrey local authorities regarding the use of discretionary DFG funds for provision of vehicle crossovers has confirmed that many do include this

within their discretionary assistance policies. Others have confirmed the stance that a crossover on the public pavement cannot be covered by a mandatory DFG, as it is works on land which is not owned by either the applicant or their landlord.

10. It is important to note that most applicants for a DFG are on means tested benefits, or if not, will have been subject to a financial assessment to determine if they need to make a financial contribution to the works, so are unlikely to be in a position to fund the provision of a crossover themselves. The use of DFG discretionary funding will therefore be the 'last resort' for these cases.
11. Surrey County Council Highways control the process for crossover works and will not waive the charges associated with these works, even for DFG applications where the works have been recommended by their own Occupational Therapists. Only one or two hardstanding and crossover applications are received annually.

KEY INFORMATION

DFG Application Process

12. The application for Exceptional Circumstances has been made on behalf of the DFG recipient, who is a child with disabilities, by an Occupational Therapist from the Surrey Children with Disabilities Team. As with all DFG's, the Occupational Therapist has met and assessed the applicant and their needs and has written a report setting out the recommendations for adaptation works that will allow their needs to be met. A copy of the application for exceptional circumstances and the Occupational Therapy Report are include in the exempt report in Part 2 of the agenda (which is to follow).
13. This report is submitted to the Council's contracted Home Improvement Agency provider, Millbrook Healthcare Ltd ('Millbrook'), who assist the applicant and their family to complete the DFG application forms, carry out financial means testing if necessary (DFG's are not means tested for children's cases), and develop the recommendations into a scheme of works. Millbrook obtain quotes for the work from approved contractors and submit all the necessary information to the Council for approval as a DFG application.
14. Once the Council has approved the grant, Millbrook will organise and oversee construction or installation of the adaptation. The Council Home Improvements Officer will visit the applicant at the receipt of the application to confirm the works are 'reasonable and practical', as required by the legislation, and again at the conclusion, to check that they have been correctly built, and that payment to the contractors and agency can be authorised.

Exceptional Circumstances

15. The Exceptional Circumstances part of the Policy covers applications for funding assistance that fall outside the main provisions for DFG's. Where the value of such assistance does not exceed £1,000 the application shall be considered by the Head of Service in conjunction with the Portfolio Holder. Where the value of assistance exceeds £1,000 the application shall be considered by the Licensing and Regulatory Committee.

16. Applicants must set out why they would suffer hardship from the strict application of the Policy and demonstrate that funding by way of re-mortgaging the property is not an available option. They must also confirm that relocation to a different property has been considered and deemed impractical. These criteria have been met.

OPTIONS

17. The following options may be considered, and their rationale is set out in the paragraphs following:
- a) Agree the recommendation to grant the application for assistance under the Exceptional Circumstances provisions, and also agree the recommendation to allow the decision to be used as precedent for future applications for the funding of crossovers where these are integral to the provision of safe access to an applicant's property as part of a mandatory DFG. This is the **recommended option**.
 - b) Agree the recommendation to grant the application for assistance under the Exceptional Circumstances provisions, but do not agree the recommendation to allow the decision to be used as precedent for future applications for the funding of crossovers. This is **not recommended**.
 - c) Do not agree either of the recommendations. This is **not recommended**.

Rationale

18. **Agree the application** – this is the recommended option at 17a. The financial outlay for provision of a crossover is very small in the overall context of the DFG function. When set against the risk of serious harm to a vulnerable child with disabilities through not agreeing the funding, it is a good use of funds. Allowing the decision to be used as a precedent will also allow quicker decision making on any future crossover applications, allowing vulnerable and disabled clients to receive the adaptations they require more quickly and easily, without needing to take up the Committee's time for very small sums.
19. **Agree the application but not the use of the decision as precedent** - this would require any future crossover applications to be heard by the Committee and would add significantly to the time required to get a decision on a small amount of funding. This would add delays to the time taken to provide necessary adaptations and create additional stress for vulnerable applicants and expose them to risk of harm while the matter was determined by Committee.
20. **Do not agree** the application or use of precedent – this would deny a vulnerable child and his family the safe access to their home that has been recommended for them by the relevant professionals. It would also require any future applicants to

make individual applications under Exceptional Circumstances for crossover funding, adding delay and uncertainty to the process.

LEGAL IMPLICATIONS

21. The framework under which mandatory DFG's may be given is set out in the Housing Grants, Construction and Regeneration Act 1996 and this continues to be used to provide the core eligibility criteria for clients and works.
22. The Regulatory Reform (Housing Assistance) (England And Wales) Order 2002 allows for greater discretion in the use of DFG's and requires local housing authorities to publish a scheme of assistance. The Council's Housing Assistance Policy was updated in 2019, in response to significant increases in Better Care Funds provided for housing assistance and guidance on the use of the Regulatory Reform Order 2002.
23. This application falls outside of the scope of mandatory DFG provision but can be accommodated under the discretion afforded by The Regulatory Reform (Housing Assistance) (England And Wales) Order 2002.

FINANCIAL IMPLICATIONS

24. Disabled Facilities Grants are funded by an annual government capital allocation, as part of the Better Care Fund. The Better Care Fund has increased substantially since 2015 when it was £200m, to £505m national funding for DFG in 2020/21. Reigate & Banstead Borough Council received a Better Care Fund grant of £1,133,996 for 2019/20 and has had the same amount of money confirmed for 2020/21. This money is ring-fenced for DFG and related capital spending projects and if unspent has to date been carried forward. It is possible that the Government could in future require underspends to be repaid.
25. At the start of 2019-20 there was also a 'carry forward' of £1.7 million relating to previous years' unspent allocations, in addition to the in-year government grant allocation.
26. The annual DFG budget has been forecast at £1,134,000 from 2020-21 and each year until 2025. The £1.7 million from previous years will be held in capital reserves ring-fenced as being for DFG and can be drawn upon if the annual budget were to be exceeded, e.g. due to policy changes or significant increases in demand. Current expenditure for 2019-20 stands at around £880,000.
27. The financial implications of agreeing this application and also of allowing a precedent for funding of crossovers to be agreed will therefore have a negligible effect on the budget for this function.

EQUALITIES IMPLICATIONS

28. If accepted, the application will help this child and their family to access their home safely and for the child to be more independent. If the decision of the Committee can

be treated as precedent and applied to future crossover applications, this will promote the safety and independence of other vulnerable and disabled applicants.

29. This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

COMMUNICATION IMPLICATIONS

30. There are not thought to be any communications implications for this application or the application of precedent. The outcome of this application would be shared with the relevant professional colleagues in the occupational therapy teams and at Millbrook, who would take it into account when handling any cases involving the need for crossovers.
31. A decision not to allow the application could however attract negative publicity, if the applicant's family decided to publicise the situation.

RISK MANAGEMENT CONSIDERATIONS

32. There are no risk management implications identified.

OTHER IMPLICATIONS

33. There are no other implications identified.

CONSULTATION

34. No public consultation was deemed necessary for this application, but the matter has been highlighted to the Portfolio Holder and Head of Service, who have both indicated their support for the application and the application of precedent to future crossover cases.

POLICY FRAMEWORK

35. This application is well aligned with the themes and priorities of the Councils Five Year Plan, 'Reigate and Banstead 2025'. In particular our objective to provide targeted and proactive support for our most vulnerable residents, which states that we will assist vulnerable residents to remain in their homes through early assistance and the provision of advice, grants and other financial support.

BACKGROUND PAPERS

Please list any background papers here. A full definition of a Background Paper (with instructions) can be found in the [Report Writing Guide](#) on the Web Library.

1. Reigate and Banstead Borough Council Housing Assistance Policy - http://www.reigate-banstead.gov.uk/info/20072/private_sector_housing/175/adaptations
2. Reigate and Banstead 2025- <http://www.reigate-banstead.gov.uk/rbbc2025>

