



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of Regeneration & Development
Services

Date: 01 April 2014

Subject: Enforcement Report

Author of Report: John Williamson

Summary:

To provide an update and recommendation to Members on an outstanding debt under Section 106 of the Town and Country Planning Act 1990 (as amended)

Reasons for Recommendation

Following exhaustive but unsuccessful debt recovery actions, legal advice has been received relating to the possibility of success of any further action.

Recommendation:

That in relation to the outstanding debt of £6,050 under Section 106, Members endorse the recommendation to write off the outstanding debt.

Background Papers:

Category of Report: OPEN

01 APRIL 2014

ENFORCEMENT REPORT ON AN OUTSTANDING DEBT UNDER
SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990

1.0 INTRODUCTION

Members will recall that reports were presented to the previous Area Planning and Highways Committees in December 2010 explaining what measures were being put in place to try to recover developer contributions secured through the signing of Section 106 legal agreements, but where the developer had gone into liquidation or there were complications in the legal agreement that resulted in the contributions being unpaid beyond the trigger point inserted into the agreement.

1.1 The reports highlighted the fact that where all avenues available to the Council to recover the outstanding contributions had been exhausted, the debt may have to be written off, but the individual cases would be reported to the Committee for a final decision. This report relates to such a case.

1.2 Members will be aware that a complete review of Section 106 procedures has taken place that resulted in revised processes being adopted in an attempt to prevent instances such as this occurring in the future. This includes a requirement for land ownership to be proven at the time of signing the agreement to a level accepted by civil courts, a full quarterly review of outstanding development subject to legal agreements and the involvement of Legal services in case reviews.

2.0 PLANNING PERMISSION 02/03814/FUL

2.1 Planning permission was granted on 10 June 2004 for the erection of 22 flats on a site at the junction of Herries Road and Wordsworth Avenue. A legal agreement was signed that required:

2.1.1 "within 28 days of the date on which the planning permission (granted pursuant to the written application set out above) is implemented (being the date of commencement of the Development as set out in clause 6 of the agreement) the owner will pay to the Council the sum of £6,050.00 (the "Open Space Contribution")"

2.2 The development has been completed and occupied for a considerable time but the agreed contribution has not been paid. The original

developer went into liquidation and the current owner has been pursued but has not cleared the debt. Discussions have taken place with the Council's Debt Recovery team and Legal Services and on examination of the legal agreement, it was found that it had not been properly executed and, as a result, the liability did not pass with the land as the deed had not been validly entered into. This means that the current owners are not responsible for the debt.

2.3 Based on the evidence and legal advice received it is recommended that no further enforcement action is taken and that the debt is written off as there are no other options available to recover the sum owed.

3.0 EQUAL OPPORTUNITIES IMPLICATIONS

3.1 There are no equal opportunities implications arising from the report

4.0 FINANCIAL IMPLICATIONS

4.1 The financial implications relate to the loss of a £6,050 contribution towards the enhancement of open space in the locality of the development. No specific site or project had been identified for this contribution. There is no implication for the core funding of the Council.

5.0 RECOMMENDATION

5.1 That Members endorse the writing off of the outstanding Section 106 debt of £6.050 in relation to planning application 02/03814/FUL and that the Director of Finance is advised accordingly.

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