



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Development Services

Date: 24 March 2015

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 Recommendations

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

Recommendations:

That, in relation to the outstanding debt of £20,764.80 under Section 106,, Members endorse the recommendation to write of the outstanding debt

Background Papers:

Category of Report: OPEN

24 March 2015

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 and a full quarterly review of outstanding development subject of legal agreements and the involvement of Legal services in case reviews.

2.0 PLANNING PERMISSION 05/02961/FUL

- 2.1 Planning permission was granted on 1 December 2005 for the erection of 18 flats on a site at 260-262 Langsett Road. A legal agreement was signed that required:
 - 2.1.1 “The owners shall pay to the Council {on or before the commencement of any development within the meaning of clause 2.2} the sum of £20,764 to be used by the Council towards the provision of recreation space in the locality of the site. This shall be provided in accordance with the principles set out in the Council’s supplementary planning guidance “Open Space provision in new Housing Development”.
- 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 £20,764 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 £20,764 in relation to planning application 05/02961FUL and that the Director of Finance is advised accordingly.

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