

**Decision Session: Executive Leader
(incorporating Housing and Safer
Neighbourhoods)**

23 January 2017

Report of the Assistant Director for Housing and Community Safety

Affordable Housing Commuted Sum Dispute

Summary

1. The report provides an update on a legal matter between the council and a developer regarding the obligation to pay a commuted sum in lieu of onsite affordable housing. It seeks endorsement from the Executive Leader (incorporating Housing and Safer Neighbourhoods) to pursue legal action as appropriate, together with proposals for relevant officers to use their delegated powers to reach an appropriate final settlement for the Council. Attached to this report are 2 exempt annexes, setting out the legal issues and process involved and external independent advice received.

Recommendation

2. That the Executive Leader (incorporating Housing and Safer Neighbourhoods) endorses proposals to pursue legal action against the developer as necessary, including arrangements for the Assistant Director of Housing and Community Safety, in consultation with the Assistant Director of Legal & Governance to apply delegated powers to reach a final negotiation within the best interests of the Council.

Reason: To protect the authority's position in relation to developers honouring their obligations under Section 106 Agreements and ensure the authority maximises its position regarding commuted sums .

Consultation

3. Consultation in the form of negotiation has taken place and will continue with the developer.

Options

4. The Executive Leader's (incorporating Housing and Safer Neighbourhoods) endorsement is being sought to the way forward on this matter in order to achieve the best possible outcome for the Council under the circumstances. In the light of extensive negotiations to date, unless further and final negotiations achieve an appropriate settlement, it is suggested that legal action through the courts remains the only option.

Analysis

5. Full analysis of the legal position is set out in the exempt annexes attached, including Annex 2 which contains independent legal advice received from external specialists in the field.

Implications

Financial

6. Full financial implications arising from the situation are set out in the exempt annex 1 to this report.

Human Resources (HR)

7. None.

Equalities

8. None

Legal

9. As referred to above, full legal implications are covered in detail in the exempt annexes.

Crime and Disorder

10. None

Information Technology (IT)

11. None.

Property

12. None.

Other

13. None.

Risk Management

14. Due to their legal implications, the risks associated with the recommendation in this report are addressed in the exempt annexes to this report.

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21-12-16

Report Approved

Specialist Implications Officer(s) *See confidential report*

Wards Affected: Dringhouses and Woodthorpe Ward

For further information please contact the author of the report

Background Reports

None

Annexes

Exempt Annex 1
Exempt Annex 2