

PART A	
Report of: DEVELOPMENT MANAGEMENT SECTION HEAD	
Date of Committee	10 December 2015
Site address:	14 Nascot Road, Watford WD17 4YE
Reference Number :	15/01456/DIS106
Description of Development:	Application to discharge Section 106 obligations pursuant to planning permission 07/00611/FUL
Applicant:	14 Nascot Road Limited
Date received:	2nd October 2015
Ward:	Nascot

SUMMARY

Planning permissions was granted in 2007 for the change of use of 14 Nascot Road to 7 residential flats. This planning permission had a Unilateral Undertaking which to date has not been paid. Between 2007 and 2011 the freehold of the property was sold without the new freeholder being aware of the Unilateral Undertaking as it was not registered as a Local Land Charge until 2011. The freeholder has now applied to have the Unilateral Undertaking discharged given the length of time and the delay in it being registered as a Local Land Charge.

The Development Management Section Head recommends that the Section 106 relating to Watford Borough Council be discharged as set out in the report.

BACKGROUND

Planning permission was granted on 6th July 2007 for the conversion of an existing dwelling into 3 x 2 bed flats, 1 x 2 bed flat, extension to dwelling including 2 x2 bed flats

and 1 x 1 bed flat and demolition of existing double garage with new parking. A Unilateral Undertaking was attached to this permission for the following contributions towards:

- the provision or improvement to open space (£14,832)
- the provision or improvement of Children's play space (£4,925)
- the implementation of the South West Hertfordshire Transport Strategy and sustainable transport measures in the Borough of Watford (£3,000)
- Variation of the Traffic Regulation Order (£1,000)
- Provision of Fire Hydrants
- Monitoring fee (£250)

The planning permission was fully implemented with conditions discharged in 2008 and 2009 but the monies associated with the Unilateral Undertaking were not paid.

Under Section 106A (3) of the Town and Country Act 1990 (as amended), where a Section 106 is more than 5 years old, a person whom the planning obligation is enforceable may apply to modify or discharge the obligation. If the application is refused then the applicant has the right to appeal.

Site and surroundings

The application site is a large two and three storey residential flat building in Nascot Road near the junction of Park Road and sits within the Nascot Conservation Area. The site has onsite parking at the front with a driveway to the side to access the car parking at the rear. The area is residential in character with a mix of Victorian and inter-war housing.

Proposal

Application under Section 106A of the Town & Country Planning Act 1990 to remove the monetary contributions set out in the Unilateral Undertaking for this site as part of the planning permission 07/00611/FUL.

Planning History

The building was formally the Paul Alex School of Dancing and planning permission was granted on 3 July 2007 for 7 residential flats a rear extension under planning reference 07/00611/FUL. There were a number of pre-commencement conditions relating to cycle storage, materials, sound insulation, refuse and recycling, surface water and window treatment which were discharged between October 2008 and March 2009. This would normally have been the time the contributions would have been paid. A copy of the Unilateral Undertaking is attached to this report.

CONSULTATION

A site notice was posted adjacent to the property on 9th October 2015. No comments were received.

APPRAISAL

Current application under section 106A

The Unilateral Undertaking is more than 5 years old, therefore the applicant is entitled to submit an application to renegotiate or discharge it. The applicant has requested that it be discharged as the contributions haven't been paid and the Council has not required payment, which demonstrates the contribution was not necessary.

It is not fully known why the contributions were not followed up at the time the conditions were being discharged or why the obligation was not registered as a local land charge immediately. It was only when the current land charges officer undertook a thorough investigation in 2011 when handling a request that it became evident that the local land charge had not been registered.

This situation should not arise again as the local land charges officer is provided with a copy of all decision notices including Unilateral Undertakings and Section 106 agreements, which are registered as a local land charge shortly after the decision is issued. Planning officers have also been reminded to check the full history of a site in their assessment of applications to discharge conditions on the planning permission.

Conclusion

Refusing the application to discharge this obligation would mean that the local land charge would remain on the property and the applicant could appeal to the Planning Inspectorate for a determination. The Planning Inspectorate would consider the delay in registering the Unilateral Undertaking as a local land charge and the amount of time that has passed since the development has been implemented.

Human rights implications

The Local Planning Authority is justified in interfering with the applicant's Human Rights in order to alleviate any adverse effect on adjoining properties and their occupiers and on general public amenity. With regard to any infringement of third party Human Rights, these are not considered to be of such a nature and degree as to override the Human Rights of the applicant and therefore warrant refusal of planning permission.

RECOMMENDATION

That the Unilateral Undertaking be discharged and removed as a local land charge.

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