
**BREACH OF PLANNING CONTROL ON THE PUBLIC
OPEN SPACE (LAND END), WHITE HART LANE,
HOCKLEY**

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services regarding the breach of planning control at the above site, where there has been non-compliance with Schedule 3 of a Section 106 Legal Agreement made under the Town and Country Planning Act 1990 (as amended) relating to planning permission reference DP/0497/96/ROC.
- 1.2 Members will need to consider whether it is expedient to serve enforcement notices, etc. and this function is discretionary. However, the mechanisms of such actions are statutorily controlled.

2 THE ENFORCEMENT CASE

- 2.1 This is an unusual case requiring enforcement action. Technically planning permission has not been implemented and therefore there can be no breach of conditions relating to the site or the manner in which it is used. Planning permission was granted for the change of use of a former nursery to public open space and associated works.
- 2.2 However, the S.106 legal agreement (signed on 27th March 1997) has not been complied with and therefore represents a breach of contract. In summary this legal agreement required a developer to lay out, plant and landscape the public open space and to complete other ancillary works, such as fencing and access. Such works were required within six months of signing the agreement and have never been undertaken.

3 CONCLUSIONS

- 3.1 The steps required to comply with the S.106 legal agreement have not been undertaken and therefore the public open space potential of the site has not been exploited. There is a clear breach of contract and action is required to remedy this. Authorisation is sought to ensure that the public open space is constructed and made usable.

4 LEGAL IMPLICATIONS

- 4.1 Any action considered necessary through the Courts to remedy the breach of contract.

5 RECOMMENDATION

5.1 It is proposed that the Committee RESOLVES

That the Corporate Director (Law, Planning and Administration) be authorised to take all necessary action, including action in the Courts, to secure the remedying of the breach of planning control now reported. (HPS)

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Head of Planning Services

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