



Meeting:	Development Control Committee
Date:	27th July 2005
Subject:	Variation of S106 Agreement, Heathfield School
Responsible Officers:	Director of Legal Services
Contact Officer:	Lisa Hayward
Portfolio Holder:	Planning, Development and Housing
Status:	Part 1
Key Decision:	No

Section 1 : Summary

This report refers to a request by the trustees of Heathfield School to complete a Deed of Variation relating to the use of the school facilities by third parties out of school hours pursuant to a resolution of the Development Control Committee of 28th July 2004.

Decision Required

Recommendation (for decision by the Development Control Committee)

The Committee instruct Officers to complete the Deed of Variation to allow the use of school facilities for the summer of 2005/06.

Reason for Report

To determine the request to complete the Deed of Variation

Benefits

N/A

Cost of Proposals

None. Legal fees have been paid.

Risks

None

Implications if recommendations rejected

The School will have no permission to use the school facilities for summer camps during summer 2005/06

Section 2 : Report

2.1. Brief History

Planning permission for the construction of a new swimming pool and sports hall at Heathfield School was granted by the Council in November 1998 (WEST/666/97/FUL) subject to a legal agreement to restrict the use of the sports hall and swimming pool.

The S.106 Agreement was completed on 12th November 1998. The primary purpose of the S.106 Agreement was to restrict the use of the swimming pool and sports hall outside of normal school hours in the interest of the amenities of neighbouring residents.

The School have since 2001 applied to vary the terms of the s 106 Agreement to permit third party use of the facilities and activity camps during the summer holidays.

At the Development Control Committee of 28th July 2004, the Committee resolved as follows:

“That the continued use of the facilities by third parties outside school hours between the hours of 16.30 and 21.00 on weekdays during term time, 09.00 and 21.00 weekdays during school holidays, and between 09.00 and 18.00 on Saturdays be agreed for a further one year period”.

Following the Committee's resolution, Legal Services commenced work on the Deed to vary the S.106 Agreement (the 2004 Deed). The 2004 Deed was sent to the School for their signature but they subsequently advised that they were pursuing a fresh application to amend permanently the provisions of the original S.106 Agreement pursuant to S 106A of the Town and Country Planning Act 1990.

More recently the school have indicated their desire to complete the 2004 Deed pending a decision on the S.106A application to ensure that they have permission for summer camps during summer 2005/6.

Legal Services have confirmed from the Trust's legal officer that the school have been using the facilities for the extended periods in reliance on the permission granted by the Committee on 28th July 2004 although the 2004 Deed was never formally completed.

Due to the fact that the school has acted upon the 28th July 2004 resolution, Legal Services have brought the matter before the Committee to decide if the 2004 Deed should be completed.

The Committee should note that the School would have 1 (one) year from the date the 2004 Deed is completed to use the school facilities as previously allowed.

2.2 Options Considered

None

2.3 Consultation

None

2.4 Financial Implications

None

2.5 Legal Implications

As contained in the body of the report

2.6 Equalities Impact

None

Section 3 : Supporting Information/Background Documents

None.