

**Committee:** Planning Applications Sub Committee  
**Date:** 25 July 2006

**Report of:** Interim Director of Environmental Services

**Contact Officer:** Paul Tomkins  
**Designation:** Head Of Development Control (North) **Tel:** 020 8489 5167

**Report Title:** Supplementary report re Legal Agreement money for residential development on site between 72 – 74 Twyford Avenue N2 (reference HGY/2006/0829).

**1. PURPOSE:** To agree to enter into a revised Section 106 Legal Agreement relating to planning application reference HGY/2006/0829.

**2. SUMMARY:** To agree financial contributions towards Education provision and administration costs, a management agreement to secure a block of woodland to the east of the tennis court and the provision of a tennis court available for public use.

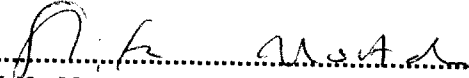
**3. RECOMMENDATIONS:** To agree the attached report.

**4. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

With reference to the above Act the background papers in respect of the following reports summaries comprise the planning application case file.

The planning staff and case files are located at 639 High Road N17. Anyone wishing to inspect the background papers in respect of any of the following reports should contact Development Technical Support on 020 8489 5508.

**Report Authorised by:**

  
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**Shifa Mustafa**

**Assistant Director Planning, Environmental Policy  
& Performance.**

**RESIDENTIAL DEVELOPMENT ON  
SITE BETWEEN 72-74 TWYFORD AVENUE N2  
(Reference: HGY/2006/0829)**

**SECTION 106 AGREEMENT**

At the Committee Meeting of 26 June 2006 Members considered and agreed a Report recommending that Planning Permission be granted for the development of former tennis courts at Twyford Avenue N2, by the erection of nine detached dwellings plus one tennis court.

The approval was subject to a number of conditions and to a Section 106 Legal Agreement covering (a) Educational contribution. (b) provision and Management of the Tennis Court.

The written Report stated that the educational contribution was to be £165,594.49 towards educational facilities within the Borough (£78049.05 for primary; £87545.45 for Secondary). However in introducing the report the Head of Development Control advised Members that the applicants had said they were not keen to contribute this amount, for the reason that there was already a valid planning permission still in force, granted in 2004, which involved payment of £58,741.00. for Educational contribution. (The reason for the wide difference in the two figures is that the Council is now working to a new SPG12 on Educational contribution, based on a different formula, which is more demanding than the old).

The applicants have said they are prepared to pay an amount between the two figures, and would contribute £100,000 towards the Educational contribution.

It is very important to recognise the existence of the previous permission as one that could still be implemented, and as a material consideration. A recent appeal decision in Buckinghamshire, where a Council had sought to apply new provisions for affordable housing in judging a revised scheme on a site which was only a modest change to a previous permission (where there was an already agreed affordable housing provision), led to a finding against the Council, the appeal being allowed with partial costs awarded.

Given that the 'fall-back' position would be for the developers to construct the original scheme, which had very similar footprint and bulk but an inferior design in terms of elevational appearance, it is recommended that the Committee **agrees** the figure of £100,000 as Educational Contribution in respect of this Twyford Avenue development.

## **RECOMMENDATION**

That the Planning Applications Sub-Committee notes this Report and agrees to enter into a Section 106 Agreement in respect of the development of the site between 72-74 Twyford Avenue N2, (under Planning Permission HGY/2006/0829) , to include:

1. A contribution of £100,000 towards Education provision within the Borough.
2. A management agreement to secure the block of woodland to the east of the tennis court is retained and thereafter permanently maintained and managed for the benefit of wildlife and as an amenity area in perpetuity.
3. Prior to the first occupation of the development hereby approved, a tennis court is completed with an enclosure that meets minimum Lawn Tennis Association requirements and is made available for public use and is thereafter so maintained; and that a Management Company or Committee is set up to enable such use by local residents.
4. That a contribution of 5% (£5,000) is made towards the administration of the Legal Agreement.