Decision Session
(Cabinet Member for City Strategy) **8 March 2012**

Report of the Director of City Strategy

Open Space land at Mayfield Grove York

Summary

1. The purpose of this report is to summarise the background and history relating to this site and to set out for agreement the actions required, and the process to be followed to secure long-term management of this land for public benefit as per the section 106 agreement signed and dated 2 June 1997.

2. The City Strategy cabinet member is asked to note the history and background and agree the following :

3. The actions required and the process to be followed, as set out in this report, to secure appropriate management arrangements for the land designated as open space at Mayfield Grove York to ensure public benefit is realised for the long-term.

Background

4. The subject area of land comprises part of the former railway sidings off Nelson Lane York. A planning application was made in July 1996 by Hassall Homes for residential development on part of the site with the remainder given over as open space.

5. The development of 123 houses was formally approved by committee (Planning and Transport) on 21 Nov 1996. The resolution required the signing of a Section 106 agreement.

6. The land formally referred to as land at Mayfield Grove York (Mayfields) was designated as open space in a Section 106 agreement dated 2 June 1997 attached to the planning approval for the adjacent residential development.

7. The open space is in 2 parts with the southern section including the pond to the north of Mayfield Grove and to the south of Nelsons Lane, bounded by Ainsty Avenue to the east and Aintree Court / Lingfield Crescent to the west. The northern section lies to the north of Nelsons Lane with Hob Moor Terrace to the east and Goodwood Grove to the west and linking to Hobs Stone at the northern end.

8. A map of the area designated as open space is attached at annex 1.

9. A copy of the Section 106 agreement is attached at annex 2.

10. The area of open space is part of a wider green corridor linking with Hob Moor and there is considerable interest in the future management of this area. The land includes a former clay pit (which was part of the Hob Moor brickworks in the late C19th) and which had become a popular fishing pond managed by Rail sport angling club at the time of the planning application in 1996.

11. The land has significant interest and value for nature conservation with a number of different character areas across the site including meadow, scrub, woodland, rides and the pond, as described in the management framework (see annex 4).

12. When the planning application was being considered York Natural Environment Trust (YNET) expressed an interest in taking on the long term management of the land (following the model at Danesmead, Fulford where they had recently reached a similar agreement).

13. The value of the site today for nature conservation needs to be recognised where this is its most important characteristic, one which is especially important within York's built up area. Green public open space is available elsewhere in the locality at Hobmoor and the Knavesmire.

14. The committee report of 21 Nov 1996 on the Mayfield Grove development acknowledged this approach and it was intended that YNET would become the owner of the land designated as open space and that they would manage the land in perpetuity.

15. As the development progressed YNET discussed revisions to the proposed landscape treatment (clay capping) offering an alternative solution which achieved improved outcomes (reduced costs and better prospects for biodiversity) and which was agreed by committee 11 Sept 1997.

16. The development proceeded and the houses at the Chases were completed. Correspondence on the planning file indicates that the completion of the play area and the open space together with some necessary remedial work was effectively managed by the planning officer through 2001/02/03 and a letter dated 23 July 2003 confirms the formal completion of the scheme. This triggered the payment of the commuted sums set out in the s106 agreement regarding the play area and open space.

17. The payments were made to the council and the sum for the open space was paid to YNET in March 2004. By this time the land had passed to Taylor Wimpey.

18. Limited interim management of the land was undertaken by YNET pending transfer of title by developer. YNET also took on as agreed the collection of fishing fees and the management of the pond. However, YNET's ability to invest through fundraising / attracting grant was hampered because they did not have a formal lease arrangement and the land title has still not transferred 8 years later.

19. Between 2004 and 2010 both the council and YNET tried to resolve the matter. The lack of resolution is unacceptable, but is partly explained by staff changes (including the planning officer) at the council. Formal requests were, however, made to Taylor Wimpey on 4 separate occasions in 2007 and 2008 and received no reply.

20. YNET also made efforts to secure the land and continued to manage the land informally by agreement with Taylor Wimpey.

21. In September 2010 a meeting was held with Taylor Wimpey / YNET and CYC, including the Neighbourhood Management unit, to try and resolve the matter and it was agreed that on completion of certain works (tree safety works and demolition of a derelict structure) that the land would be transferred.

22. The works were subsequently completed in 2011, but the land transfer was not made.

Recent history 2011 to date

23. In February 2011, however, it was reported that a fence was being erected to enclose an area of the Mayfield Grove open space land to the rear of Hobmoor Terrace. See annex 3.

24. Council officers followed up the report with a site visit on 3 February 2011 and spoke to the fencing contractor who advised that his client had bought the land.

25. This was confirmed by inquires made both of Woodhead investments who had purchased the land and Taylor Wimpey who had sold the land.

26. The land is however part of the land designated public open space in the 1997 Section 106 agreement and Taylor Wimpey have conceded this point. See annex 3.

27. This event acted as a trigger for significant local interest in the council's management of the site. FOI requests were received from local residents anxious to discover who was responsible for managing the land and to establish where responsibility lay. Further inquiries and representations were made seeking to address concerns about its state and future use.

28. The facts of the matter are certainly unsatisfactory and the council has apologised both to individuals and more publicly in a statement to the local ward committee on 26 January 2012.

29. Since February 2011 legal dialogue has been ongoing between the council, Taylor Wimpey, and Woodhead Investments to try and reverse the land sale - and remains ongoing.

30. Although this unsatisfactory situation remains YNET have continued to informally manage the land on a limited basis working with Taylor Wimpey and the council. However, it is clear that a formal resolution is now urgently required.

Current situation 2012 and proposed resolution

31. The legal process necessary to secure the transfer of the title to the land identified on the 1997 Section 106 agreement as public open space continues. This includes negotiations with Taylor Wimpey and with Woodhead Investments to recover that part of the land sold to it by Taylor Wimpey. If these negotiations are unsuccessful, it may be necessary to institute court proceedings as a last resort.

32. The legal process needed to secure the transfer of the title to the land identified on the 1997 Section 106 agreement as public open space continues. This includes

33. The Section 106 agreement states that the transfer shall be to the council or other approved body – it has now been agreed that in the first instance the land will be transferred to the council and that the council will seek to secure the long term management of the open space for public benefit.

34. To secure the long term management of the land the process suggested here is that the council seeks expressions of interest from suitably constituted community groups who can demonstrate that they have the appropriate capacity / capability / expertise / resources available to manage the land over the long term, in accordance with an agreed management plan.

35. The council has prepared a management framework - see annex 4 - which essentially describes the site and sets out the minimum requirements necessary for successful management of the area, also articulating some of the aspiration we believe is necessary for achieving wider public benefit. It is informed by the ongoing informal management arrangements and dialogue with York Natural Environment Trust (YNET) and Chase Residents Association (CRA) over recent months.

36. This management framework has been prepared specifically to offer a format for structuring a developed management plan which will be the primary submission requirement requires as a response from interested community groups.

37. If this approach is agreed the following timetable would apply:

38. The opportunity for community groups to submit expressions of interest will be formally advertised in April 2012, by public notice in York Press and by letter to YNET / Chase Residents Association / Wildlife Trust / Askham Bryan College.

39. Expressions of interest should be registered by 30 April 2012 and details of the submission requirements and the council's assessment methodology would be sent out to interested parties by return. The assessment criteria will be clearly set out in the form of the checklist that will be used to assess all responses submitted. This will focus on the developed management plan, but will also require the organisational detail highlighted below, necessary to satisfy the council.

40. 30 June 2012 - Deadline for submission of bids demonstrating organisational constitution / capacity / capability / expertise / resources available to manage the land for public benefit in accordance with a developed management plan, broadly based on the management framework.

41. July 2012 assessment of bids by officers against the criteria set out in the assessment checklist.

42. August 2012 preparation of report for City Strategy cabinet member decision session in September.

43. September 2012 – decision on future management arrangements with effect from a given date which is expected to be 1 October 2012. It is intended and expected that there will be the necessary resolution (as a result of the ongoing legal work) securing transfer of title to the land in accordance with the section 106 agreement.

Options

44. Option 1 - to agree the process set out above for establishing appropriate long term management arrangements for the land at Mayfield grove to secure public benefit for the long term.

45. Option 2 - to agree the process set out above with appropriate modifications based on comments/ representations made in accordance with this process.

46. Option 3 – to agree that City of York Council would take on the long term management of the land

Analysis

47. Option 1 – It was established and agreed from the outset, and set out in the planning committee report in 1996, that management of the land by a community based organisation was the preferred option. At that time the community group was York Natural Environment Trust (YNET). However, because of the passage of time and the interest now expressed by Chase Residents Association (formed since the completion of the housing development) it is appropriate for the council to follow a prescribed process as set out above for establishing appropriate long term management arrangements for the land at Mayfield Grove to secure public benefit for the long term.

48. Option 2 – It is recognised that some modifications to the process may be necessary in light of comments/ representations made on the report when published in accordance with this process.

49. Option 3 – City of York Council could take on the long term management of the land itself. The Council manages parks, gardens and other public opens space, but is faced with increased pressure on resources and is increasingly looking to work more closely with local communities to secure better management arrangements, as here.

Council Plan

50. Securing appropriate future management arrangements for the land at Mayfield Grove York will contribute to the Council Plan objective of protecting the environment by improving public access to green space.

Implications

51. **Financial** the financial contributions for future management of the land were paid to the council by the developer in 2003.

52. **Human Resources** (HR) There are no HR implications

53. **Equalities** the maintenance of public access to the land is a key component of the management framework and an equalities statement will be required as part of the submission from organisations seeking to manage the land for the long term.

54. **Legal** the council is committed to an ongoing legal process in relation to securing title to the land in accordance with the section 106 agreement dated 2 June 1997.

55. **Crime and Disorder** there are no direct implications, and no reported problems on the land. However it will be necessary for the agreed management make a statement in relation to monitoring / remedial action to avoid any future problems.

56. **Information Technology (IT)** there are no IT implications

57. **Property** it is confirmed that in the first instance the land covered by the s106 agreement and (currently owned by Taylor Wimpey and Woodhead investments) is to be transferred to council ownership.

Risk Management

58. The existing situation with respect to uncertainty in land ownership arising from the council's failure to secure complete discharge of a section 106 agreement dated June 1997 is unsatisfactory. Resolution is required to re-assure the local community and discharge the council's responsibility as local planning authority.

Recommendation:

59. The Cabinet Member for City Strategy is asked to agree Option 1 or 2.

Reason:
Thereby confirming the process to be followed to secure the effective long-term management arrangements for land at Mayfield Grove York as per the Section 106 agreement dated 2 June 1997.

Contact Details

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Report Approved	*tick*	**Date**	*Insert Date 27/3/12*

Wards Affected: *List wards or tick box to indicate all* **All** *tick*

For further information please contact the author of the report

Background Papers:
Planning file ref 7/013/03321H/FUL
Planning and Transport committee report 21 Nov 1996
South Area Planning & Transport sub Committee 11 Sept 1997.

Annexes
Annex 1 – *outline plan of land at Mayfield Grove York*
Annex 2 *– copy of Section 106 agreement dated 2 June 1997.*
Annex 3 *– outline plan of land sold to Woodhead Investments – to rear of Hobmoor Terrace*
Annex 4 *– Management Framework for land at Mayfield Grove York*