

City of York Council

Asset Management Policy on lifting of restrictive covenants at

Clifton Moor

When York District Council sold parcels of land to create office developments at Clifton Moor in the 1980's, the authority added a number of restrictive covenants onto the sale deeds to limit the use to office only.

In more recent years a number of these offices have had only partial tenancies and are considered by their owners to be difficult if not impossible to let. The market for office accommodation in York is oversupplied with the quality of office accommodation that exists at Clifton Moor which is by and large moderate to poor. We are experiencing increasing demand for city centre high quality office accommodation which is currently in short supply. With regard to Clifton Moor the market has voted with its feet and there are a number of sites where CYC is being asked to vary or lift the covenants to convert them into residential schemes. CYC has now developed a policy to set out the principles that we will apply to these requests when we receive them.

Other restrictive covenants will still exist on land sales made in the past in different parts of the city. As the circumstances and the drivers around these will all be very different these should be treated on a case by case basis but the volume of these at Clifton Moor requires a specific policy framework.

Individual decisions will be made by the Cabinet Member for Finance and Performance. The following principles will be applied to those decisions:-

1. CYC will agree to lift restrictive covenants on Clifton Moor which restricted future use to office accommodation, to enable them to be used for residential accommodation, but we will only do so when there is a package of facilities to support reasonable quality of housing.

2. Future housing schemes must include
 - a. appropriate communal open space for clothes drying, secure cycle storage and bin storage etc,
 - b. Some play provision
 - c. Suitable pedestrian access,
 - d. Appropriate acoustic treatment to limit road noise etc
3. We will consider lifting the covenant without a charge for schemes that deliver affordable housing as defined in the affordable housing policy in place at the time of the request.
4. If schemes do not deliver affordable housing in accordance with our policy, we will consider the suitability of the development for housing and if we believe that it will provide accommodation units that are a reasonable standard then we will make a charge for removing the restrictive covenant and will seek to work with developers to ensure that developments consider the requirements set out above eg. acoustic treatment, proper pedestrian access, sound proofing, links through to other residential areas.
5. Overage clauses may be considered as part of any negotiations regarding the sum to be paid to lift a restrictive covenant. Where we decide to lift the covenant for free we will seek an overage clause to ensure CYC gains a share of the uplifted market value should affordable housing be sold on.
6. We will not support the lifting of the restrictive covenants where we believe that the accommodation being provided is of low or substandard quality or where the scheme creates a single isolated block of housing in an otherwise commercial or industrial setting.
7. Consideration will be given to the prevailing economic conditions and the state of the market for office accommodation across the city and specifically in Clifton Moor.
8. Developers should make a formal request to the Head of Asset Management, setting out the details of their scheme and how it meets the criteria set out above, along with a proposed financial value where appropriate.