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## East Area Planning Sub-Committee

7 July 2010

Report of the Director of Customer and Business Support Services

### **Current position of open space and footpath provision at the former Clifton Hospital site**

#### **Summary**

1. The purpose of this report is to explain to Members the current position as to the dedication of land as public open space and the provision of a public footpath at the site of the former Clifton Hospital.

#### **Background**

2. In 1994 a Planning Agreement further to the Town and Country Planning Act 1990 Section 106 was completed between the Ryedale District Council (1) North Yorkshire County Council (2) and the Secretary of State for Health (3) with regard to the development of land and known as the Clifton Hospital Estate, Clifton Without, York.
3. This agreement dealt with a number of matters but the two that are material to this report were :-
  - (i) a duty imposed on the landowner, the then Secretary of State for Health, to provide a new footpath from Shipton Road to a point within the land to be developed and
  - (ii) an obligation by the Minister to dedicate an identified parcel of land of approximately 2.45 acres to the Ryedale District Council for a nominal sum of £1 to be used as public open space.
4. The Council of the City of York became successors in law to the Ryedale District Council on 1 April 1996 as far as the site at Clifton Hospital is concerned.
5. The two outstanding issues already identified remain unresolved and Members need to be appraised as to the current position.
6. As far as the public open space land is concerned, the Head of Civic, Democratic and Legal Services has been in correspondence with solicitors who act for the current developers since January 2007. The latest letter on file from

such solicitors indicated that they were seeking to obtain instructions from their client. However, more recently, the Council's Countryside Officer has completed a landscape management plan for the whole of the former Clifton Hospital site, including the open space land, which was seen as an essential requirement for the whole of the development. The developers also agreed to press their solicitors now to deal with the necessary documentation concerning the transfer of the public open space.

7. Turning to the public footpath, the Rights of Way Officer has been pressing for the matter to be dealt with for some considerable time. Again, those efforts to date have been unsuccessful. The developer has now agreed to request their solicitors to deal with the formal dedication required, although it has to be stressed that the footpath itself has been available for public use for some time.

### **Consultation**

8. Essential discussions have taken place with the current developer.

### **Options**

9. The sub-committee has the following options:-
10. Option 1 Commence proceedings at once to enforce the outstanding requirements of the 1994 Agreement.
11. Option 2 To follow up the recently concluded agreement already mentioned and deal with both outstanding issues on the basis indicated.

### **Analysis**

12. The need to bring this matter to a conclusion is clear. It would seem at this stage that the prudent course would be to seek to follow through what has been agreed with the Countryside Officer, as this is more likely to resolve outstanding issues quickly, rather than engaging in litigation.

### **Corporate Priorities**

13. It is clearly within the public interest to ensure that outstanding obligations are duly fulfilled and that both public open space and the footpath are duly provided and made available on a proper formal basis.

### **Implications**

14. **Finance** – None  
**Human Resources (HR)** – None  
**Equalities** – None

**Legal** – Proceedings could be commenced by the Council to compel the adherers to the requirements of the 1994 agreement.

**Crime and Disorder** - None

**Information Technology (IT)** – None

**Property** – None

**Other** – None

### **Risk Management**

15. Should proceedings be commenced there would be a risk that they would be unsuccessful and costs could be awarded against the Council.

### **Recommendations**

16. It is recommended that the Council accepts Option 2 and requires a further report in three months' time if by then substantial progress to resolve both outstanding issues has not been made.

REASON: Such an approach is likely to resolve the matter more expeditiously.

### **Contact details**

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\_\_\_\_\_ **Report approved**

**Ward Affected: Clifton Without**

**Background Papers;**

None

**Annexes:**

None