
East Area Planning Sub-Committee

2 December 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 update Members as to 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 considered a report earlier in the year and asked to be kept informed as to progress.

6. As far as the public open space land is concerned, Legal Services has been in correspondence with solicitors who act for the current developers since January 2007. In October 2010 solicitors acting for Persimmon Homes confirmed that they were instructed to act in respect of the transfer of the open space land. The documents necessary for the transfer have now been drafted and the Council is awaiting their approval. However, investigations have confirmed that the site is owned jointly by Persimmon with Henry Lax (York) Limited and the Council therefore need the approval and co-operation of such co-owners in order to complete the matter. The Council are pursuing these joint owners.
7. Turning to the public footpath, the developers have now requested their solicitors to deal with the formal dedication required and they have agreed to submit to the Council the necessary application. Again, the co-owners will also need to be a party to such formal dedication and Legal will duly pursue.

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 progress already mentioned and to 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, as this is more likely to resolve outstanding issues quickly, rather than engaging in litigation. The discovery that the land is owned jointly with Henry Lax (York) Limited creates a complexity but this can be addressed. Members will be given a verbal update at the meeting.

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 two 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.

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Ward Affected: Clifton Without

Background Papers;
None

Annexes:
None

Chief Office Responsible for the report:

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Report approved ✓