

**AGENDA ITEM: 6**

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| Meeting        | Cabinet Resources Committee                                                                                                                                                                                       |
| Date           | 5 January 2006                                                                                                                                                                                                    |
| <b>Subject</b> | <b>Land at York Road, Barnet</b>                                                                                                                                                                                  |
| Report of      | Cabinet Member for Resources<br>Cabinet Member for Environment and Transport                                                                                                                                      |
| Summary        | To consider the options arising from a request from Notting Hill Housing Trust for the Council to take a freehold transfer of a parcel of land at York Road, Barnet which has been designated as a village green. |

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|--------------------------------------------------------------|-------------------------------------------|
| Officer Contributors                                         | Dave Stephens, Strategic Property Advisor |
| Status (public or exempt)                                    | Public – with a separate exempt section   |
| Wards affected                                               | Oakleigh                                  |
| Enclosures                                                   | Plan<br>Appendix A – Options              |
| For decision by                                              | The Committee                             |
| Function of                                                  | Executive                                 |
| Reason for urgency / exemption from call-in (if appropriate) | N/A                                       |

Contact for further information:  
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## **1 RECOMMENDATIONS**

- 1.1 That officers be instructed to investigate with Notting Hill Housing Trust whether the Lyonsdown Residents Group or other local organisation would be prepared to establish a Trust to take a transfer of and manage the land at York Road as a village green, reporting upon the outcome of such investigations to a future meeting of the Committee.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet 22.7.02 – Accepted the tender offer from Notting Hill Housing Trust (NHHT) to take the freehold transfer of various of the Council’s Learning Disabilities care homes and day centres and other lands on the basis that NNHT would provide new care homes, day centres and supported living accommodation with part of the cost being met from the sale of the surplus sites.
- 2.2 Planning and Environment Committee 26.1.05 – considered and approved an application to register the land at York Road as a village green under Section 13 of the Commons Registration Act 1965.
- 2.3 Cabinet 31.5.05 – Agreed a revised modernisation programme for the Learning Disabilities Service consequent upon, amongst other matters, the inability of NHHT to achieve planning permission for all of its original proposals.

## **3 CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 None.

## **4 RISK MANAGEMENT ISSUES**

- 4.1 The land is sandwiched between the public highway and the railway. Whilst there is a fence along the boundary with the railway it is probable that this will need regular maintenance to prevent trespass onto the railway and physical injury to the trespassers. As a consequence the site will require a higher level of management than is given to similar sized parcels of public open space located in other areas.
- 4.2 If the Council took a transfer of the land and then sought to sell it on, subject to the necessary statutory procedures, it is likely there would be significant local opposition to such a move.

## **5 FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS**

- 5.1 There is no budgetary provision for the Council to take on the responsibility for the maintenance and management of this land. Similarly, there is no financial provision for any improvements that local people may wish to see implemented.

- 5.2 The land was originally transferred to Notting Hill Housing Trust (NHHT) at nil value. If the Council took a re-transfer of the land it would have to be at nil value. However, there would be legal fees and related costs which would have to be met. These could be made the responsibility of NHHT but they are then likely to be included within the overall expenditure for the Learning Disabilities Accommodation Reprovision Programme and may have to be covered by the Council by way of additional revenue expenditure.
- 5.3 Whilst the land is now designated as a village green, it still has an area of approximately 0.47 acres/0.19 hectares. However, because of its Village Green status the land has little value – the estimated value is set out in the exempt report.

## **6. LEGAL ISSUES**

- 6.1 None.

## **7. CONSTITUTIONAL POWERS**

- 7.1 Constitution – Part3 Responsibility for Functions – Section 3.6 Functions delegated to the Cabinet Resources committee – All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

## **8. BACKGROUND INFORMATION**

### **BACKGROUND**

- 8.1 The subject land is located in York Road opposite Richmond Road, New Barnet and is shown hatched black on the appended plan. It is approximately 85 metres long and 27 metres wide at one end narrowing to 18 metres at the other end. The land is grassed and there are some trees and shrubs around the edges. There are no buildings on the land and no pavement between the land and the carriageway of York Road.
- 8.2 The land was cleared and grassed by the developers, Wards Construction (Medway) Ltd. in 1971 / 1972 when the town houses on the east side of York Road were built. Soon afterwards it was transferred to the Council which held it for Highways Act purposes and maintained it as amenity land principally by the regular mowing of the grass.
- 8.3 The Council transferred the majority of the land to Notting Hill Housing Trust in March 2003. The Trust intended to relocate the 1<sup>st</sup> Lyonsdown New Barnet Scout Group hall to this land so that it could redevelop the current scout site along with the adjacent Rosa Morison House site as part of the Learning Disabilities accommodation reprovision project. Planning permission for the York Road land was refused.
- 8.4 An application was made on 3<sup>rd</sup> September 2003 on behalf of the Lyonsdown Residents' Group and other local residents to register the land as Town or

Village Green under Section 13 of the Commons Registration Act 1965. The application was approved by the Planning and Environment Committee at its meeting on 26 January 2005.

#### TRANSFER TO NHHT

- 8.5 The purpose for which the Council originally took a transfer of the land is not referred to in the title and there was no legal reason or statutory restriction preventing the Council from transferring the land to NHHT. The application for the land to be registered as a village green was made six months after the transfer to NHHT was executed.

#### VILLAGE GREEN

- 8.6 Just because the land is registered as a village green it is not implied that it should be owned by the Council or other public body. Village Greens can be privately owned. Responsibilities for maintenance remain the same – the use or management must not be incompatible with its recreational use. Section 12 of the Inclosures Act 1857 makes it an offence to do anything which injures a green or interrupts its use or enjoyment as a place for exercise and recreation. Section 29 of the Commons Act 1876 makes all types of encroachment, inclosure and building an offence unless they are for the better enjoyment of the green.
- 8.7 The owner of a village green can sell it on. Registration ensures that prospective new owners are aware from the outset of the established recreational function of the land.

#### OPTIONS

- 8.8 Because of its village green status and the refusal of planning permission for the development of a scout hut on the land, NHHT no longer wants the land and is seeking its freehold transfer back to the Council. When the Council first transferred the land to Notting Hill it also entered into a Put Option Agreement which, upon the failure to achieve a planning permission, Notting Hill could have required the Council to 're-purchase' the land. This reflected the fact that this whole project is a form of partnership arrangement. The Put Option Agreement has since expired and cannot now be implemented. Nevertheless, this issue needs to be considered as a 'partnership' problem.
- 8.9 Having given the matter due consideration officers are of the opinion that the Council has four possible options:
- i. To refuse to accept a transfer of the land and leave it to NHHT to find an alternative solution.
  - ii. To take a freehold transfer of the land and maintain it as an area of public open space.
  - iii. To take a freehold transfer of the land and then offer it for freehold sale subject to covenants on the open market.
  - iv. To work with NHHT to see if Lyonsdown Residents Group or other local

organisation is prepared to set up a local trust to take a transfer of the land and be responsible for maintaining it as a village green.

The advantages and disadvantages for each of these options are set out in Appendix A.

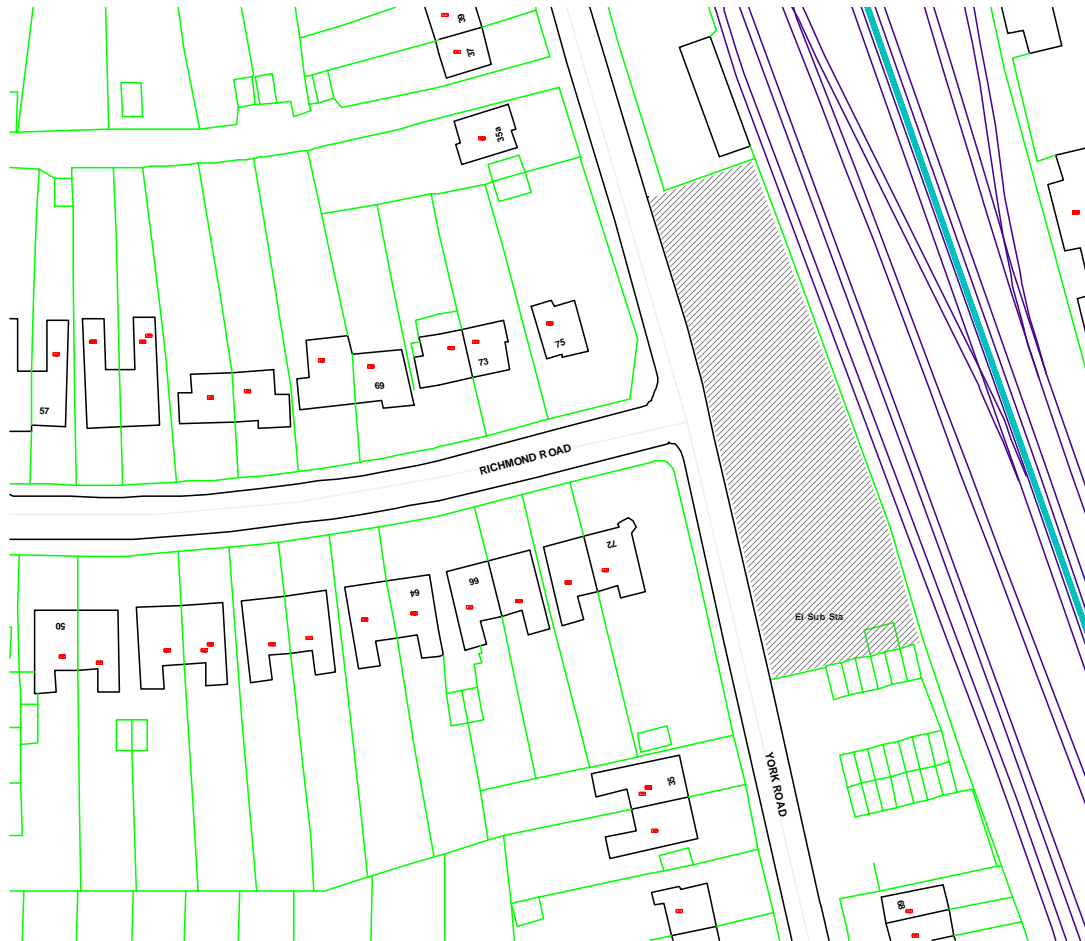
- 8.10 On balance it is considered that option (iv) should be investigated as a first step. If that is unsuccessful the other options can be given further consideration.

## **9. LIST OF BACKGROUND PAPERS**

- 9.1 None.

Legal: PJ  
Finance: HG

# Plan Showing Land at York Road



Not to scale

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LAND AT YORK ROAD - OPTIONS

| OPTION                                                                                                               | ADVANTAGES                                                                                                                                                        | DISADVANTAGES                                                                                                                                                                                                                | COMMENT                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| To refuse to accept a transfer of the land and leave it to NHHT to find an alternative solution.                     | <p>No costs incurred by the Council.</p> <p>It remains a problem for NHHT to resolve.</p>                                                                         | <p>It will not assist relations with NHHT with which the Council will have a long term contractual relationship.</p> <p>It will not be popular with local residents.</p>                                                     | <p>The local residents have an expectation of the Council taking a transfer of the land.</p> <p>The intent of the transfer of the land to NHHT at nil value was to assist with the Learning Disabilities accommodation reprovion programme. If it no longer fulfils that objective the Council has transferred an asset at nil value for no benefit.</p> |
| To take a freehold transfer of the land and maintain it as an area of public open space.                             | <p>An asset transferred at nil value will be recovered.</p> <p>It will satisfy the wishes of NHHT.</p> <p>Local residents will be satisfied with the outcome.</p> | <p>There is no budgetary provision to meet the costs of transfer nor the annual maintenance costs.</p> <p>The land is not of sufficient size to properly meet any open space deficiency in the locality????</p>              | <p>Future financial responsibilities and local expectations are unknown.</p>                                                                                                                                                                                                                                                                             |
| To take a freehold transfer of the land and then offer it for freehold sale subject to covenants on the open market. | <p>The Council can possibly realise a capital receipt which may cover the costs of taking the transfer from NHHT and provide a small capital receipt.</p>         | <p>The restrictions on the land because of its village green status would affect its marketability and may result in an abortive sale process and thus a failure to meet costs.</p> <p>This will not be in line with the</p> |                                                                                                                                                                                                                                                                                                                                                          |

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                     | <p>expectations of local residents.</p> <p>The purchaser may seek to put the land to other uses.</p>                 |                                                                                    |
| <p>To work with NHHT to see if Lyonsdown Residents Group or other local organisation is prepared to set up a local trust to take a transfer of the land and be responsible for maintaining it as a village green.</p> | <p>Does not preclude any of the above being considered again if this is unsuccessful.</p> <p>Provides local people with the opportunity of managing a very localised facility.</p> <p>The costs for NHHT would be similar to those it would incur if the land transferred to the Council. The Council's costs could be minimal.</p> | <p>Local people may not be prepared to take in the responsibilities associated with the land as a village green.</p> | <p>The Council could seek to maintain some restriction on the use of the land.</p> |
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