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**TITLE: LAND AT THE VINEYARDS ELY**

Committee: Asset Development Committee

Date: 1<sup>st</sup> February 2016

Author: Legal Services Manager

[Q187]

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1.0 ISSUE

1.1 To update Members as to progress in this matter.

2.0 RECOMMENDATION(S)

2.1 Members are requested to:-

- (i) Agree to discharge the Public Open Space designation and to confirm the development of the land at The Vineyards, Ely; and
- (ii) Instruct the Open Spaces and Facilities Manager to relocate the existing bench on the open space to the small piece of land retained by the Council.

3.0 BACKGROUND/OPTIONS

- 3.1 Members have already resolved to approve the development of the public open space located at The Vineyards, Ely on 22<sup>nd</sup> July 2015 and this matter was considered again by Members on 16<sup>th</sup> December, where the matter was deferred as Members asked for more background information as to how the land was acquired by the Council.
- 3.2 By a Deed of Dedication dated 23<sup>rd</sup> November 1970 between Hawtin Industries Ltd and City of Ely Urban District Council, the open space at The Vineyards was given to the Council for use as public open space under s9 Open Spaces Act 1906.
- 3.3 The Deed contained covenants that the Council would “undertake the entire care maintenance and management of the said open space forever for the purposes of the Open Spaces Act 1906” together with a covenant regarding maintenance of the fence.
- 3.4 Enquiries have been carried out to ascertain whether Hawtin Industries Limited is still in existence. The company was originally based in Blackpool as a holding company and sold off F. A. Standen and Sons (Engineering) in 1973. Enquiries have revealed that the original founders have died and the company is no longer in existence.
- 3.5 As the company is no longer in existence, there is nobody who can enforce any of the covenants contained in the Deed of Dedication to maintain the land as public open space. The land has been registered to the Council at the Land Registry when the Council carried out its voluntary first registration project of all Council owned land in 2008.

- 3.6 Under the Local Government Act, the Council is required to advertise their intention to dispose of any public open space held under the Open Spaces Act 1906 for “two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections to the proposed disposal which may be made to them”.
- 3.7 Advertisements were placed in the Cambridge News, which circulates in East Cambridgeshire, on 12<sup>th</sup> and 19<sup>th</sup> November 2015. The advertisements outlined that any objections or representations should be sent to the Legal Services Manager by Friday 4<sup>th</sup> December 2015.
- 3.8 Objections have been received from 5 residents, copies of which are attached. In summary, the objections are:
- Loss of public open space that was given to the Council by Standens to remain as public open space;
  - Concerns as to construction of houses on the open space and that this will set a precedent;
  - Loss of a well used bench that many local people use whilst travelling to and from Sainsburys from the Market Square;
  - Loss of a haven for wildlife and host to local hedgehogs, including several trees which add to the character of the street;
  - Claims residents were not adequately consulted;
  - Area unsuitable for further development;
  - Retention of this area of open space used as mitigation for the Planning Officer’s report for the granting of residential planning consent on the adjacent green area;
  - Area important as effective separation of a totally residential setting from the retail setting; and
  - Trees on the public open space are protected by virtue of being in the Conservation Area.
- 3.9 Two further enquiries were received; one person wanted to purchase the land for his grandson as a legacy and the other enquiry was from a cash buyer who would like to be kept informed as to when the land is offered for sale.

#### 4.0 ARGUMENTS/CONCLUSIONS

- 4.1 Letters of objection have been received and two other enquiries were requests to purchase the land. The land has been advertised as required by the Local Government Act and the notice was also posted on the Council’s website; therefore the Council has discharged its statutory duty to advertise.
- 4.2 Members have already resolved to dispose of the public open space and the further investigation carried out by the Legal Services Manager provides no basis for which Members cannot proceed with the recommendation.

#### 5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 5.1 There are no additional financial implications arising from this report.
- 5.2 Equality Impact Assessment (INRA) not required.

6.0 APPENDICES

6.1 Plan of the public open space at The Vineyards Ely

6.2 Copy letters received from residents.

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<b><u>Background Documents</u></b>	<b><u>Location</u></b>	<b><u>Contact Officer</u></b>
Legal File Reference 001248 Asset Development Committee Minutes dated 16 <sup>th</sup> December 2015	Room 112 The Grange, Ely	Maggie Camp, Legal Services Manager (01353) 616277 E-mail: <a href="mailto:maggie.camp@eastcambs.gov.uk">maggie.camp@eastcambs.gov.uk</a>

<http://www.eastcambs.gov.uk/sites/default/files/minutes/ad16121min.pdf>