



# Ryedale District Council

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**REPORT TO:** Policy and Resources Committee

**DATE:** 29<sup>th</sup> June 2007

**REPORTING OFFICER:** Tim Bradley  
Asset Management Officer

**SUBJECT:** **PUBLIC OPEN SPACE, WEST END MEWS,  
KIRKBYMOORSIDE**

**WARDS AFFECTED:** Kirkbymoorside

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**1.0 PURPOSE OF REPORT**

**1.1** To approve the transfer of public open space into the Council's ownership.

**2.0 RECOMMENDATIONS**

**2.1** That the transfer of ownership of the public open space at West End Mews to Ryedale District Council is approved.

**3.0 REASONS SUPPORTING DECISION**

**3.1** Section 106 of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

**4.0 BACKGROUND**

**4.1** Unilateral agreement dated 12<sup>th</sup> December 2001 made by Tay Homes (Northern) Limited and William Hodgson and Sons (Motors) Limited.

**4.2** Barratt Homes as successors to Tay Homes are now pressing to resolve this outstanding matter.

**5.0 INTRODUCTION**

**5.1** This report seeks approval from members to transfer ownership of the Public Open Space from Barratt Homes as successors to Tay Homes (Northern) Limited, to Ryedale District Council

**6.0 POLICY CONTEXT**

**6.1** Planning policy.

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## **7.0 REPORT**

- 7.1** The subject property is shown edged red on the attached ordnance survey plan. The land extends to an area of 480 sq.m. It has been landscaped to provide a grassed area, borders planted with shrubs, and mature trees.
- 7.2** The public open space has been provided by way of a deed dated 12<sup>th</sup> December 2001 made by Tay Homes (Northern Limited) and William Hodgson and Sons Limited in which the developer undertook to provide public open space as part of the development, should their appeal against refusal of planning consent succeed.
- 7.3** The deed stipulated that the developer would pay the Ryedale District Council £30,000, as a commuted sum for the ongoing future maintenance of the land by the Council, on completion of the development. The money was paid by Barratt York as successors to Tay Homes (Northern Limited) back in 2003, following the granting of planning consent on appeal.
- 7.4** The deed made no provision for the transfer of ownership of the land to Ryedale District Council, as originally intended. Barratt York are now wishing to proceed with the transfer.
- 7.5** Barratt York have complied with all their obligations as far as the provision of the public open space is concerned. As far as we are aware there is no obligation on Barratts to continue with maintaining the land.

## **8.0 OPTIONS**

- 8.1** Approve or refuse the transfer.

## **9.0 FINANCIAL IMPLICATIONS**

- 9.1** The transfer would be at nil value.
- 9.2** The Council's Financial Services Manager has advised that if members refused the transfer the Council may have to return the commuted sum to the developer. However, the money is held in a suspense account at the moment. Therefore, there are no implications for the Council's revenue account if the money were to be returned.

## **10.0 LEGAL IMPLICATIONS**

- 10.1** The Council's legal section have advised that if the transfer were refused Barratts may take action to require the Council to accept the transfer. It may be considered that the provision of a sum for future maintenance implies that the Council will accept the transfer.

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## **11.0 RISK ASSESSMENT**

- 11.1** There is no financial risk of not proceeding.
- 11.2** There is the risk of the land no longer being maintained should the transfer not proceed with the consequent loss of amenity. This could reflect badly on the Council.
- 11.3** It is possible that the Council will have to defend any legal action Barratts may decide to take.

## **12.0 CONCLUSION**

- 12.1** From the information provided in this report a decision is sought from members on the proposed transfer of Public Open Space, West End Mews, Kirkbymoorside.

**Background Papers:** File no. CP12 held in Property Management.

**OFFICER CONTACT:** Please contact Tim Bradley, Asset Management Officer if you require any further information on the contents of this report. The officer can be contacted at Ryedale District Council, 01653 600666, Ext 284 and e-mail [tim.bradley@ryedale.gov.uk](mailto:tim.bradley@ryedale.gov.uk)