



Belfast City Council

Report to: Parks and Leisure Committee

Subject: Land at Whiterock Close

Date: Parks and Leisure Committee

Reporting Officer: Andrew Hassard, Director of Parks and Leisure

Contact Officer: Phil Kelly, Leisure Services Manager

Relevant Background Information

By a lease dated 29 December 1995 the Council provided approximately 0.74 acres at Whiterock Close to the trustees of Blackmountain Irish Medium School on a ninety nine year lease to allow construction of a school on the site. The initial rent under the lease was £3,325 per annum. The rent was subject to review every five years. The rent was subsequently reviewed with effect from 1 December 1999 to £6,500 per annum. A further review with effect from 1 December 2004 remains outstanding. A rent of £9,250 per annum has been notified to the school but has not been agreed. The school have never made counter proposals in relation to the reviewed rent.

Towards the end of 2004 the school re-located to a new address and have not been in occupation of the Whiterock Close site for school purposes since that time. Discussions have also been on-going with the school since that time regarding potential future use of the site and among other things the potential surrender of the lease by the school.

At the present time there are three issues which require consideration by Committee.

1. Arrears of Rent

Since June 2006 there have been a series of reports to Committee, plus letters and meetings between Council officers and school representatives in an effort to clear arrears of rent which started to accumulate from mid 2005. Despite repeated assurances that the arrears would be dealt with there have been no payments made since the end of July 2005. The current level of arrears stands at £16,250.

2. Review of Rent

Use of the site is restricted to educational purposes and the original rent and rent on first review took account of this. Similarly the proposed rent of £9,250 per annum which was notified to the school by letter in December 2004 reflected this. To date we have no response from the school in relation to the proposed revised rent.

3. Proposals for Site Development.

As a result of meetings (chaired by the former Head of Community and Leisure Services) with the school Principal and some of the trustees it is clear that at least two of the trustees would wish to develop the leased land (shown outlined with a heavy black line on Appendix 1) for housing or commercial purposes.

To achieve this they would require conversion of the current 99 year restricted lease to freehold title, free of the covenants which currently restrict its use to "school facilities". They would also need to secure planning approval for such a scheme.

As Planning Service are likely to look unfavourably at permanent development of the 'school' site the two trustees feel that in order to lever planning approval they should be provided the opportunity to develop playing pitches on the Council owned land on the opposite side of Whiterock Close (shown hatched on Appendix 2). Clearly these proposals represent a complete departure from the current lease arrangements.

Following the aforementioned meetings the former Head of Community and Leisure Services wrote a series of letters to the School Principal seeking further information on the trustees proposals and clearance of rent arrears. These meetings and letters cover the period from June 2006 to March 2007. Despite assurances from the trustees no proposals have been submitted and no payments of rent have been received.

Key Issues

The Committee is requested to make a number of key decisions based on the information set out in this report.

1. The key issue which sets the context for the other issues is whether the Committee wish to consider conversion of the current restrictive 99 year lease to a freehold title free of restrictions. The Estates Surveyor advises that this particular 'closed market' transaction is unlikely to realise any substantial financial benefit to the Council and (given the potential planning difficulties) that delivery of a probable multi-part scheme would likely take many years to bring to fruition. It is unlikely the Council would receive any negotiated capital payment from the trustees until planning approval was granted.

2. Following on from the above principle decision Committee are asked to determine a course of action regarding the payment of rent arrears.
 - i) If Committee agree not to consider development proposals from the trustees then Members are asked to approve pursuit of arrears of rent by the trustees on an on-going basis while the Council considers what steps can be taken in relation to recovery of the site either by agreement with the trustees or via legal process.
 - ii) If Committee wish to allow the trustees to make development proposals then Members are asked to approve pursuit of arrears pending the results of any future legal arrangements with the trustees regarding such development. In the case that the Council ultimately rejects any proposals submitted by the trustees then pursuit of rent should continue as per i) above.
3. To approve (if considered necessary) reference to the Lands Tribunal for Northern Ireland to make a determination on the revised level of rent due from the last rent review date (31 December 2004). The additional amount of rent collectable from the review date (based on a rent of £9,500 per annum proposed by the Council's Estates Surveyor) currently stands at £8,900. This would increase the current arrears from the current £16,250 to approximately £25,000.

Resource Implications

Financial

Rent is a debt owed and the Council is obliged to pursue this to seek the best settlement available. The ability of the trustees to clear the debt is not known with certainty but the ability of some of the trustees to make payment will likely be greater than that of others.

Human Resources

No additional human resources required at this stage.

Asset and Other Implications

The most straightforward approach and one that carries the least financial risk to the Council is to continue to seek rental payments and to explore the potential for recovery of the site either by agreement or otherwise (see 'Explanatory Paragraph 1' on Appendix 3 attached).

The alternative approach is to await proposals from the trustees (or some of them). This course of action brings greater financial and operational uncertainty. (See 'Explanatory Paragraph 2' on Appendix 3 attached).

Recommendations

The Committee is recommended to:

1. authorise and support officers in ceasing discussions with the trustees of the Blackmountain Irish Medium School in relation to potential conversion of their 'restricted use' 99 year leasehold interest to an unrestricted freehold interest.
2. authorise officers to pursue outstanding arrears of rent and to make a reference to the Lands Tribunal for Northern Ireland (if necessary) in relation to the outstanding review of rent from 31 December 2004. Reference to the Policy and Resources Strategy Committee in accordance with Standing Orders is likely to be required subsequent to decision by Parks and Leisure Committee.

Key to Abbreviations

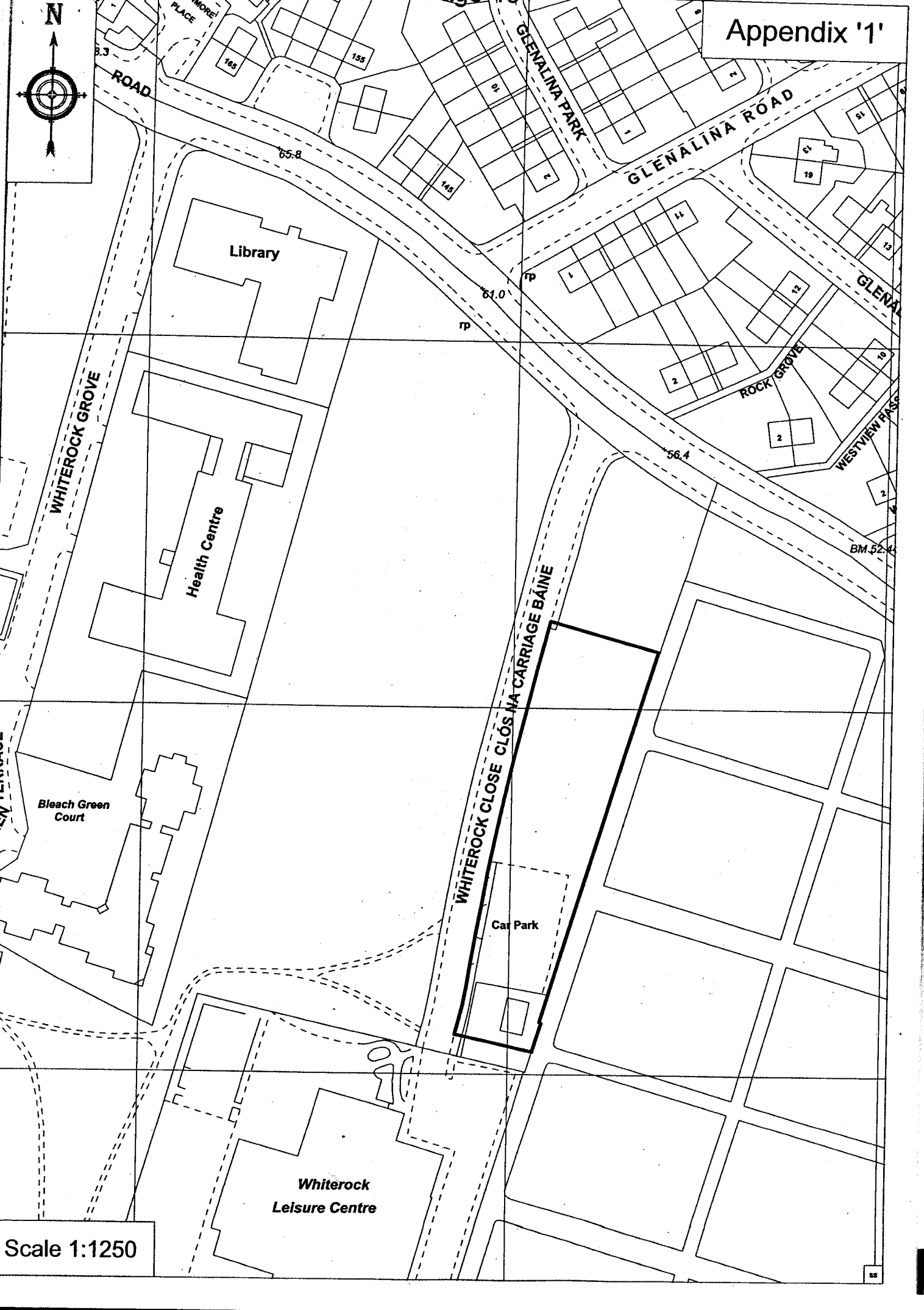
None.

Documents Attached

Appendix 1: Map showing (outlined with a heavy black line) the extent of land currently leased to the trustees of Blackmountain Irish Medium School.

Appendix 2: Map showing (hatched) the area of land sought by some of the trustees of Blackmountain Irish Medium School for development of sports facilities in an effort to lever planning approval for residential or commercial development on the lands shown in Appendix 1.

Appendix 3: Explanatory paragraphs in relation to 'Asset and Other Implications'.



Library

Health Centre

Bleach Green Court

Whiterock Leisure Centre

Car Park

WHITEROCK GROVE

WHITEROCK CLOSE CLÓS NA CARRIAGE BÁINE

GLENALINA ROAD

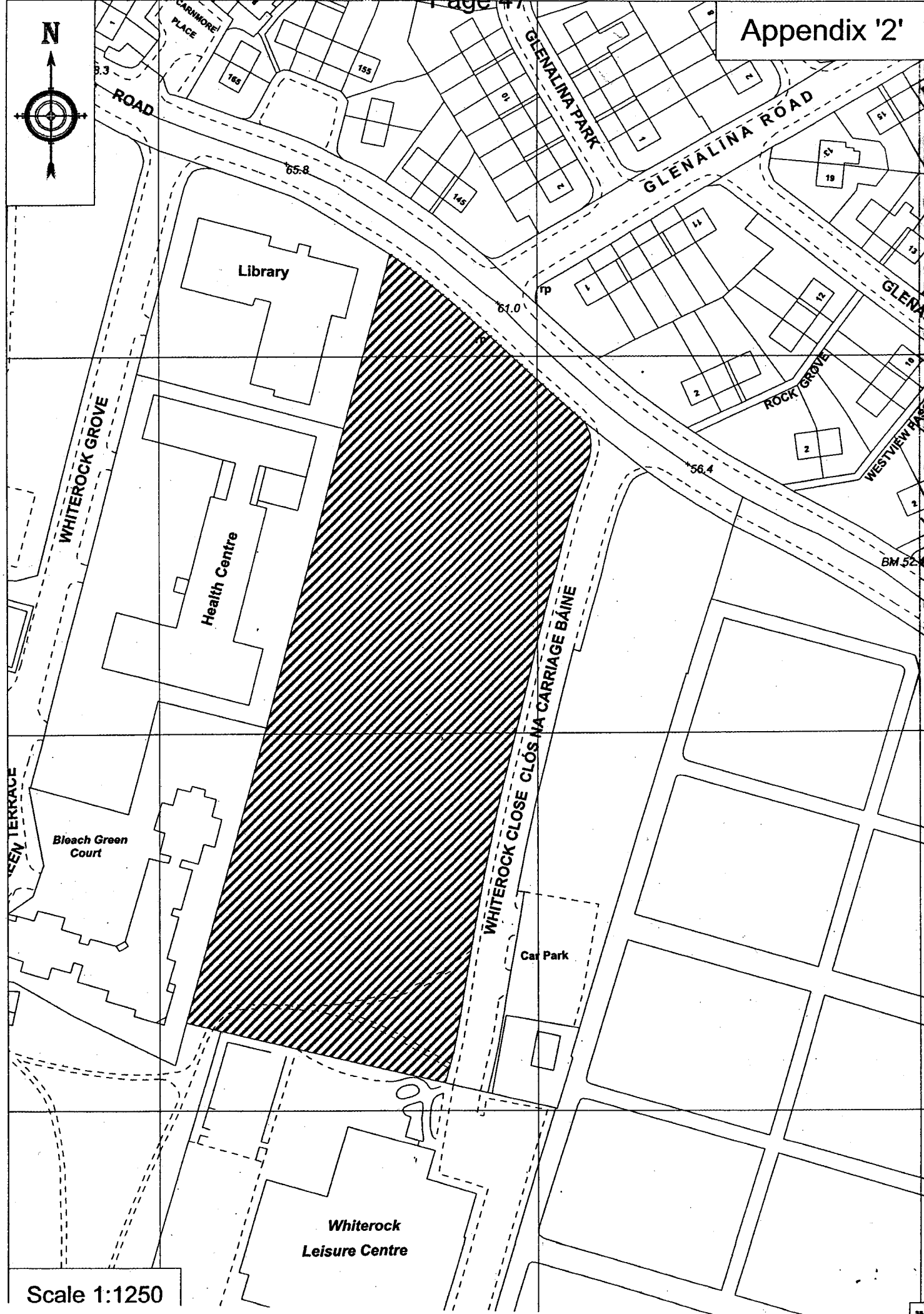
GLENALINA PARK

ROCK GROVE

WESTVIEW PASS

BM 52.4

Scale 1:1250



Scale 1:1250

APPENDIX 3

Explanatory Paragraph 1

If possession was recovered the Council could then fully assess its own operational need for the land (for example, in terms of additional parking provision and open space) and also consider if other uses were desirable or feasible in Planning terms. If disposal for development was considered appropriate the land could be properly marketed and the best price obtained. All interested parties (including some of the school trustees) would have an opportunity to bid for the land. [Even if it was not possible to recover possession there would be some certainty that rental payments would be made or proceedings for recovery could be instituted. The level of rent will remain reviewable every five years.]

Explanatory Paragraph 2

Awaiting proposals from the trustees in itself brings uncertainty in terms of timing and potentially presents the trustees with conflicting messages which could lead to greater difficulties in pursuing arrears of rent. If the Council go on to subsequently broker a deal with the trustees (or some of them) the outcome, given the negotiating position of the respective parties, is extremely uncertain.

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