



High Wycombe Town Committee agenda supplement

Date: Wednesday 28 July 2021

Time: 7.00 pm

Venue: Council Chamber, Buckinghamshire Council, Queen Victoria Road,
High Wycombe, HP11 1BB - High Wycombe

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5a Petition report - Pine Trees Daws Hill		3 – 22

The Deputy Monitoring Officer in consultation with the Chairman has agreed this urgent item following on from High Wycombe Community Board. The appendix to the report are the slides presented by the Residents Association at the Community Board.

If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

For further information please contact: Iram Malik / Liz Hornby on 01494 421204 / 01494 421261, email democracy@buckinghamshire.gov.uk.

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Report to High Wycombe Town Committee

Date: 28 July 2021

Title: **Petition report: Children’s Play Area Maintenance, The Pine Trees**

Author and/or contact officer: Andy Sherwood / Chris Steuart

Ward(s) affected: Abbey Ward

Recommendations:

- i. that the Town Committee notes the officer response to the Petition that the children’s play areas in open spaces 7a and 7b at the Pine Trees should be maintained by and remain with the developer’s management company, which will maintain other elements of the site; and,
- ii. that the Town Committee’s comments on the officer report be noted and referred for further consideration of the Community Board.

Reason for decision: The officer report considers that it is not financially sustainable for the Council to take on the maintenance of play areas/open spaces in new developments without a ‘commuted sum’ being paid by the developer to cover the associated costs. This is in line with the Council’s policy as set out in its Planning Obligations Supplementary Planning Document.

The Community Board wish to take into account the views of the Town Committee before considering their own response to the Petition and the Officer’s report.

1. Executive summary

- 1.1 The purpose of the report is to seek the views of the Town Committee on the officer report to enable the Community Board to consider its response to the Petition:-

Title: Childrens Play Area Maintenance , The Pine Trees

Statement:

We the undersigned petition the council to Reconsider its decision of denying support for the maintenance of the children's play areas on the Pine Trees estate for the safety and wellbeing of the children of this community.

Justification:

This is a petition for the local council to support and maintain the children's play areas on the Pine Trees estate as part of the council tax revenue they now receive from this relatively new housing area.

It has been suggested this area may be covered by a Maintenance Company, to which households already pay a fee. This may incur increased charges to all households on the estate.

A: This is not fair on households that do not use the area.

B: The areas are close to the school and open to public access, so not confined to the local residents.

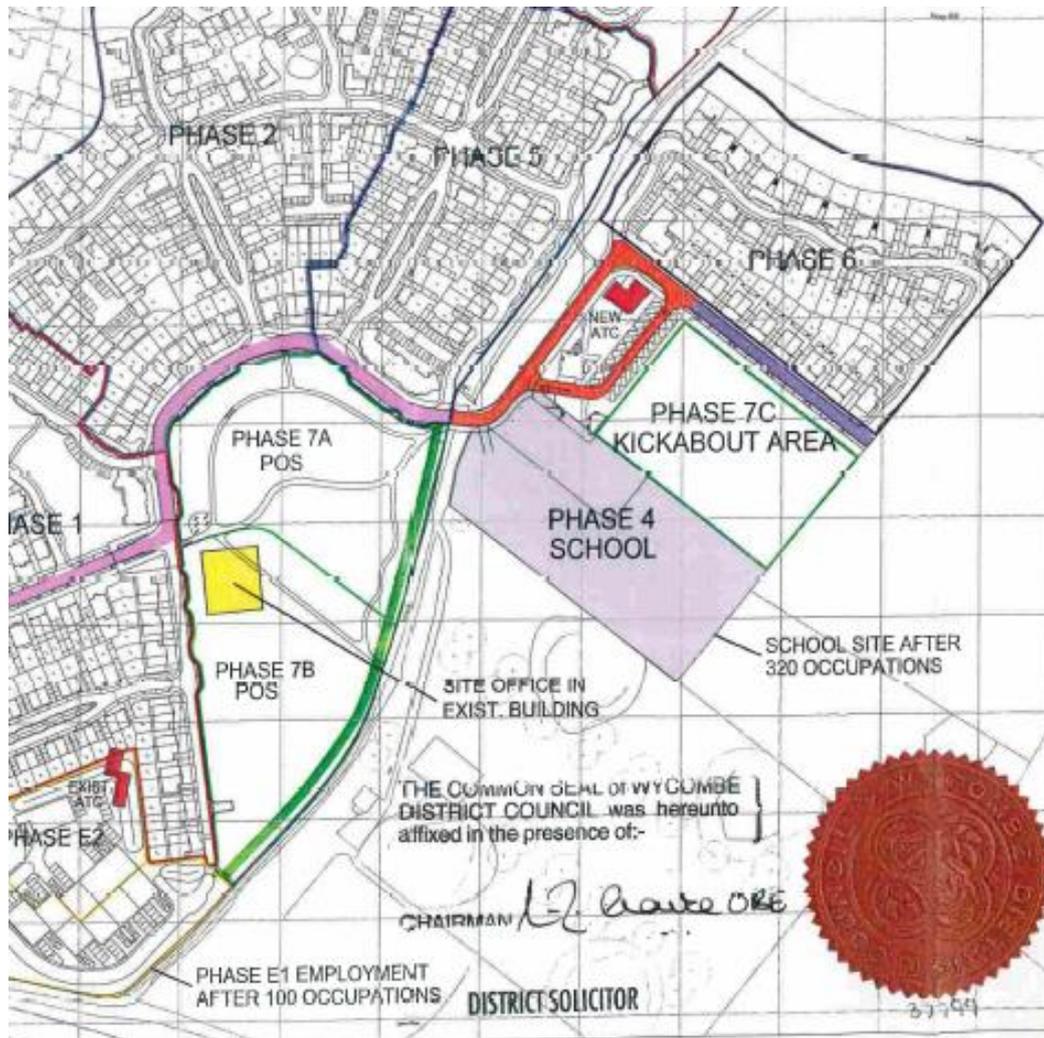
C: The local council is already receiving further revenue from the council tax collections of the new estate.

2. Content of report

Background

- 2.1 The RAF Daws Hill site located off Daws Hill Lane was closed as an operational defence establishment in 2007. Taylor Wimpey submitted a planning application in July 2013 (13/05799/FULEA) for a development of 441 dwellings, a community centre, a retail unit, an Air Training Corps building, nine industrial units, a primary school and public open space.
- 2.2 In November 2013, the former Wycombe District Council Planning Committee determined that the planning application should be granted permission. The site is known as the Pine Trees development.
- 2.3 A Section 106 (S106) Town and Country Planning Act 1990 agreement relating to the land at Daws Hill was agreed and signed in October 2014 between Taylor Wimpey and Wycombe District Council (*please note that Wycombe District Council, along with the other Buckinghamshire district councils and county council, was replaced by Buckinghamshire Council from 1 April 2020*).

Amongst other things, this S106 agreement secured land at this site to be used as Open Space Land and identified as land parcels 7a, 7b and 7c on the plan below, which was included as part of the agreement. The agreement defines the children's play areas, which are located within open spaces 7a and 7b, as follows: *"Play Spaces means the areas of Open Space Land or elsewhere in the Development and the equipment erected thereon to be provided as children's play areas."*



2.4 Under the S106 agreement, the Council is given the opportunity to elect whether or not it wishes to have the Open Space Land in Phase 7a, 7b and/or 7c transferred to it, but the agreement does not oblige the Council to adopt the land (including the play areas located within the land). If the Council were to elect to adopt the relevant area(s) of open space, following the transfer it would then become responsible for the management and maintenance of that open space (including any play spaces and facilities located on that open space) and all the associated costs.¹

¹ p27 of the S106 agreement describes process around the transfer of the freehold for the open space. Within 1 month of receiving the Provisional Certificate from the Council for each area of open space (the purpose of this Provisional Certificate is to confirm that the Council is satisfied that the developer has laid out and landscaped each area of open space in accordance with the approved Open Space Management Plan), Taylor Wimpey must offer for a period of 25 working days to transfer the freehold to the council free of any fees and charges (including Land Registry fees, VAT and other charges) arising from transferring that open space to the Council. Please note that this section relates to the cost for transferring the freehold rather than the costs of maintenance and management of the land.

- 2.5 The Council's published [Planning Obligation Supplementary Planning Document](#) sets out the terms under which the Council may be prepared to adopt and maintain properly laid out public open space and play areas:

"Maintenance

142. The District Council or relevant Parish or Town Council may be prepared to adopt and maintain properly laid out public open space and play areas, subject to a payment by the developer of a commuted sum. This payment should cover twenty five years' costs of maintenance. On payment of the commuted sum, and when all liabilities for construction, equipment and maintenance have been met to relevant body's satisfaction, the open space will be transferred.

143. The commuted sum figure is calculated using current contract prices and maintenance costs for maintaining open space. This figure is multiplied to establish a twenty five-year maintenance figure, which allows for inflation of contract prices.

144. Should a relevant Parish or Town Council or the District Council not be in a position to agree to the adoption, or if the developers do not intend to offer these areas for adoption, the Council will need to be satisfied that alternative arrangements have been made for their long-term maintenance and that they will be kept as public open space in perpetuity. This may be through some form of private management arrangements (such as a management company), or some other form of partnership such as a local trust."

- 2.6 The S106 agreement for the Daws Hill site is silent with regard to any commuted sum to be paid by the developer to the Council for the open space/play areas.
- 2.7 Under the terms of the S106 agreement, there was also a requirement for the developer to provide an Open Space Management Plan, which they did. This document, dated October 2017 and approved by the local Planning Authority on 5 July 2018, states: *"The purpose of this report is to act as a briefing document to the appointed Landscape Contractor who will be responsible for the management and maintenance of the Open Spaces during the initial 12-month Maintenance / Rectification Period and subsequently The Estate Managing Agent who will be responsible for ongoing maintenance and management following handover from the Landscape Contractor once the Rectification Period is completed. The Estate Managing Agent, will be a reputable and suitably qualified professional landscape contractor appointed by The Developer (Taylor Wimpey). The Estate Managing Agent will be responsible for the successful upkeep, establishment and management of the Open Spaces on behalf of Taylor Wimpey."*
- 2.8 The Open Space Management Plan sets out its objectives as follows, which include the play areas: *"The primary management aim for the proposed playspace and planting is the successful ongoing upkeep of the play equipment and establishment and future sustained growth of individual trees, hedges, shrubs and seeded areas*

within the Open Space areas. This document outlines the maintenance period immediately following planting and the first 5 years of ongoing maintenance to ensure that the new plantings succeed and the play equipment continues to work as originally intended and continues to contribute to the area. A good standard of maintenance is essential to the long term sustainability of play areas.” Detailed plans for the play areas are included within the appendices.

- 2.9 The document also states the following in relation to the maintenance:

“SPECIFIC MANAGEMENT FOLLOWING MAINTENANCE/ RECTIFICATION PERIOD

Play Equipment

5.7. The Estate Managing Agent shall remain responsible for the ongoing general maintenance of the specialised play equipment. The manufacturer’s guidelines for ongoing maintenance should be followed to ensure soundness and good working order.

5.8. Regular visual and technical inspections shall be undertaken to all play equipment and non-prescriptive play elements during routine 13 maintenance visits. Annual RoSPA Inspections (arranged by the The Estate Managing Agent should be undertaken to ensure approved safety of play equipment and RoSPA records maintained on file and issued to the client.

5.9. All structural supports, joints, fastenings, fixtures, ropes etc. shall be checked for soundness and wear and tear. Fixtures and fittings to be refixed where necessary to ensure good working order. Manufacturers should be consulted for any significant hazards identified or maintenance / repair / replacement requirements.

5.10. Any cleaning, painting, treating, adjusting shall be undertaken as necessary and as indicated by manufacturers.”

- 2.10 In September 2020, the Buckinghamshire Council Green Spaces Team were asked by the Planning Officers to inspect the installation of the play areas for compliance with the agreed plans. Following this inspection, it was noted that the seating and litter bins provided were not the models set out on the approved plans; the team stated however that they could agree the change of models as it was not intended that the Council would manage the site.
- 2.11 In late February 2021, Buckinghamshire Council was first made aware that residents had concerns that the Pine Trees development open and play spaces would not be adopted by the Council, and that this was being presented to residents as a change in stance. Since then local Councillors have held discussions with Taylor Wimpey on behalf of local residents on this issue.
- 2.12 The petitioner asks *“the council to reconsider its decision of denying support for the maintenance of the children’s play areas on the Pine Trees estate for the safety and*

wellbeing of the children of this community” and suggests that council tax revenue from the new estate is used to support and maintain the children’s play areas.

- 2.13 Whilst it is of course correct that there is additional council tax revenue through the new estate, this is needed to pay for a wide range of essential local services, including waste collections and recycling, roads and transport, housing, libraries, caring for people in need and more. The Council no longer receives any general funding from central government; our costs continue to rise due to inflation and we are seeing increasing demand for statutory services to protect, support and care for our vulnerable adults and children (as context, in 2021/22 the Council made additional investment in both Adults [£9.6m] and Children’s Social Care [£11.4m] to address the continued increase in demand, cost and complexity in these service areas).
- 2.14 Given these wider pressures, the Council is not in a position to adopt additional open spaces and play areas linked to new housing developments without an appropriate level of financial contribution from the developers to use towards managing and maintaining these, as set out above.
- 2.15 This is a not a new position; the previous version of the Wycombe District Council Planning Obligations Supplementary Planning Document (adopted in 2013 and therefore in force at the time of entering into the S106 agreement for the Daws Hill site) also stated, *“The District Council or relevant Parish or Town Council may be prepared to adopt and maintain properly laid out public open space and play areas, subject to a payment by the developer of a commuted sum.”*
- 2.16 In terms of the petitioner’s comment on potential for increases in the management company’s service charges, these presumably form part of residents’ conveyancing contracts and therefore are a matter to address to Taylor Wimpey. The points around proximity of the school and potential usage of the play areas by non-residents are also noted; the Abbey View Primary Academy is set within the Pines Tree development and, given the number of new dwellings in the development, it is hoped that many pupils will be from within the local community. Open space has to be available for use by the public with unrestricted access in order to satisfy public open space planning policies.

3. Other options considered

- 3.1 Other options considered:-
- a. Agree to the transfer to the Council of the play areas/open spaces without any commuted sum from the developer. As set out above, this would not be financially sustainable; it does not align with the approach set out in the Council’s Planning Obligations Supplementary Planning Document, and risks

creating a difficult precedent/inconsistency with other developments in the local area.

- b. Agree to the transfer to the Council of the play areas/open space with a 25-year commuted lump sum. At the time of writing, the Council has not received any offer from the developer to provide such a commuted sum (and legally the Council cannot compel the developer to provide it, as there is no clause in the s106 agreement to enforce).

4. Next steps

- 4.1 This report was considered by the High Wycombe Community Board at its meeting on 14 July; it was agreed that the report should be referred to the High Wycombe Town Committee for consideration.
- 4.2 Any comments and observations from the Town Committee will be further considered by the Community Board.

5. Background papers

- 5.1 Details of the planning application 13/05799/FULEA and associated documents, including the S106 agreement and the Open Space Management Plan, are available on the Council website.

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Pine Trees
Residents
Association

ePetition Hearing

Steve Gill – Vice Chair

What is our ePetition About

Expectation during house purchase: the Local Authority would manage the Park and Play Areas.

We have now been informed that this is not the plan.

Pine Trees Residents Association created to put it right.

Unacceptable that residents are misled into covering the risks and uncapped costs of a Public facility.

What would we like?

Council to adopt the Park & Play Areas as originally intended.

Our new Council Tax revenue is paying for other public parks, why not ours?

Un-parished so the park could be funded by Special Expenses, like other parks and play areas around Wycombe.

There are significant questions that warrant a select committee investigation

Select Committee to review:

- "Commuted Sum" missing from S106?:
 - It was a POSPD requirement
 - Planning to be refused if not included
- As no "Commuted Sum" in S106, park was never going to be adopted – why adoption kept as option in S106?

WDC POSPD (Planning Obligations Supplementary planning document):

Adoption only if "Commuted sum" in S106 covering 15 years

S106 Approved

No "Commuted Sum" for adoption of Park

Adoption decision deferred:
 - to 139 units (7a)
 - To 386 unit (7b)

Residents move in: TP1 says LA to adopt



Park 7a laid out

Council to issue a Provisional Certificate

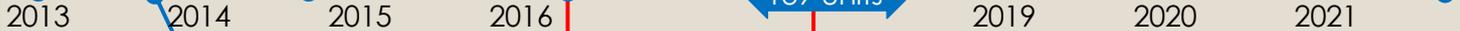
No Provisional certificate produced = **no decision**

Consequences:

No clarity on park ownership

Open Space Management Plan not triggered

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Planning Meeting Nov 2013

Planning Application - 6.56: Main central park to be **adopted** by the council

Officer's Recommendation: "a commensurate contribution to the provision of future maintenance of open spaces" to be secured by Planning Obligation.

"If the Council was unable to secure above-mentioned matters via a Planning Obligation, **to refuse planning permission.**"

RESOLVED: that the application be **approved in accordance with** the officer's recommendation.

No certificate - No decision

Park maintenance standards fall & Play areas become locked out



TP1 – continues to say "Open Space to be transferred to LA"

Conclusion



This situation requires further investigation, as such we ask the members to refer this case to a Select Committee.



We thank the council for asking the developer for a commuted sum. We propose that the council coordinate with us to explore this option further.



In addition, we ask for special expenses to be explored.



We would rather resolve via Council, but if required will take further steps including the Local Government Ombudsman

Urgent

The Park is outside formal maintenance.

The play areas are locked out and will remain so until this situation is resolved.

Additional Content

The following three slides show the original planning application for the development, the Planning Officer's report on the planning application, and the minutes of the Planning Committee meeting where planning application 1 (3/05799/FULEA) was conditionally approved – in accordance with the planning officer's recommendations.

This will show that:

- The park was to be adopted by the council.
- A commuted sum for maintenance of the park (open spaces) would be built into the S106.
- Failure to achieve a commuted sum was to result in refusal of planning permission.

This is in stark contrast to the S106 which does not include any agreement for a commuted sum to be paid for future park maintenance.

The last slide shows that in 2013 if the council were to adopt a park (public open space and play areas) a commuted sum would need to be included in the S106, which as mentioned above, it was not.

Planning Application - 13/05799/FULEA

6.56 The Brief sets out the Council's expectations for public open space. In total this requires 5.1 HA of new open space. The proposals include 5.74 HA. The Brief also sets out what types of space should be provided (outdoor sports, play areas, allotments, semi-natural space). Much of the space on site is constrained by mature trees, and areas of the site are significantly sloping, limiting the scope for outdoor sports and allotments. This is compounded by the scale of development which is not large enough to generate a sufficient critical mass of either sports pitches or allotments. In consultation with officers in both Planning & Sustainability and Community Services the application has come forwards including:

- a) A main central park of 2.3 HA which will include significant new play areas. **This area is to be adopted by the Council.**
- b) A "kick around" grassed area of 0.8 HA which is the right size and shape and slope to accommodate a full size football pitch. **This area is to be adopted by the Council** allowing the Council to maintain a flexible position over the future use of this space.
- c) A series of smaller spaces around the site totalling a further 2.6 HA (including provision for play and fitness activities) which will be retained and managed by the developer.

Although not part of the public open space provision, the school site is of sufficient size that its requirements for outdoor space can be accommodated within its own boundaries.

- Received 09-Jul-2013
- 25 Pages + drawings
- Section 6.56
 - Central park (7a / 7b) to be adopted by Council
 - Kick around area (7c) to be adopted by Council

From Planning Officers Report

Recommendation:

Minded to grant permission subject to completion of a Planning Obligation or other agreement.

That the Head of Planning and Sustainability be given delegated authority to grant Conditional Permission provided that:

Firstly, the following matters are resolved to his or her satisfaction in consultation with the Chairman of Planning Committee:

1. The final report of the District Valuer on viability
2. A refined hard and soft landscaping and tree planting and tree protection strategy (some details may be deferred to condition)
3. A legal agreement to guarantee the offered proportion of affordable housing
4. The detailed design of plots 317 and 318
5. The provision and the detailed design of, balconies and terraces to the apartments (some details may be deferred to condition).

Secondly, the following matters are secured via a Planning Obligation:

1. The provision of:
 - a. Affordable Housing at the maximum level shown to be viable and not less than 25% of bedspaces
 - b. Land for the construction of a one form entry primary school
 - c. Land and buildings for community use
 - d. Public open space
2. A commensurate contribution to the provision of:
 - a. The Daws Hill to Handy Cross Transport Link
 - b. Improved foot and cycle routes via Keep Hill Wood to the Rye
 - c. The construction of a one form entry primary school on the site
 - d. Future maintenance of the open spaces
 - e. Seed funding for community uses
3. Provision for the dedication of key routes as public rights of way
4. Phasing requirements relating to:
 - a. Construction access to the future school site.
 - b. Access for buses during the construction phase.
 - c. An interim arrangement for play space during the construction phase.
 - d. Phasing of affordable housing delivery.
 - e. Phasing of employment floorspace delivery.
 - f. Phasing of community buildings delivery
5. Provision for rights of access and related rights so as not to prejudice the possible future development of Abbey Barn South

If the Council is unable to secure above-mentioned matters via a Planning Obligation, to refuse planning permission.

Public Open Space

Adopted Local Plan (ALP): None
Core Strategy Development Planning Document (CSDPD): Policies CS19
Delivery and Site Allocations DPD (DSA): Policies DM16
Adopted Development Brief for the former RAF Daws Hill Area: Sections 7.6
Other Supplementary Guidance: Open Space Framework

- 6.56 The Brief sets out the Council's expectations for public open space. In total this requires 5.1 HA of new open space. The proposals include 5.74 HA. The Brief also sets out what types of space should be provided (outdoor sports, play areas, allotments, semi-natural space). Much of the space on site is constrained by mature trees, and areas of the site are significantly sloping, limiting the scope for outdoor sports and allotments. This is compounded by the scale of development which is not large enough to generate a sufficient critical mass of either sports pitches or allotments. In consultation with officers in both Planning & Sustainability and Community Services the application has come forwards including:
- a) A main central park of 2.3 HA which will include significant new play areas. This area is to be adopted by the Council.
 - b) A "kick around" grassed area of 0.8 HA which is the right size and shape and slope to accommodate a full size football pitch. This area is to be adopted by the Council allowing the Council to maintain a flexible position over the future use of this space.
 - c) A series of smaller spaces around the site totalling a further 2.6 HA (including provision for play and fitness activities) which will be retained and managed by the developer.
- Although not part of the public open space provision, the school site is of sufficient size that its requirements for outdoor space can be accommodated within its own boundaries.
- 6.57 The proposal accords with the Council's requirements for Public Open Space.

- 6.69 On this basis the development is able to deliver:

- 26.9% affordable housing
- The provision of a new primary school
- Financial contributions sufficient to deliver the related components of the SQTS
- The provision of on-site open space and a commuted payment for the maintenance of the on-site open space
- The provision of the community building and seed funding
- The provision of new employment floorspace

- 6.70 This is considered acceptable.

Planning Committee meeting where original planning application 13/05799/FULEA was conditionally approved – in accordance with the planning officer's recommendations

This included that permission be granted subject to the completion of a Planning Obligation or other agreement and that the Head of Planning and Sustainability be given delegated authority to grant Conditional Permission with the conditions provided that:

Secondly, the following matters are secured via a Planning Obligation:

1. The provision of:
 - a. Affordable Housing at the maximum level shown to be viable and not less than 25% of bedspaces
 - b. Land for the construction of one form entry primary school
 - c. Land and buildings for community uses
 - d. Public open space
2. A commensurate contribution to the provision of:
 - a. The Daws Hill to Handy Cross Transport Link
 - b. Improved foot and cycle routes via Keep Hill Wood to the Rye
 - c. The construction of one form entry primary school on the site
 - d. Future maintenance of open spaces
 - e. Seed funding for community uses

If the Council was unable to secure above-mentioned matters via a Planning Obligation, to refuse planning permission.

RESOLVED: that the application be approved in accordance with the officer's recommendation.

WDC Planning Committee Wednesday, 20th November, 2013 7.00 pm

- Meeting of Planning Committee, Wednesday, 20th November, 2013 7.00 pm (Item 68.)

Minutes:

Members noted that since the September committee meeting the Environment Agency had confirmed their acceptance of the Thames Water assessment that there was sufficient capacity at the Little Marlow Sewage Treatment Works and therefore the proposal accorded with the relevant policies.

During the discussion concern was raised, as it had been in September, in relation to the numbers of trees that were scheduled to be removed – particularly quality TPO'd trees. Members were informed that some discussion had taken place since September and the original number of trees to be removed had been reduced, although only by about eight. Members noted that the new tree planting would consist of a mixture of native and non-native trees.

Highway issues were also discussed and a Buckinghamshire County Council Highway Officer explained their assessment process and conclusions.

After a lengthy debate Members voted in favour of the motion to approve the item subject to the recommendation as set out in the main report. This included that permission be granted subject to the completion of a Planning Obligation or other agreement and that the Head of Planning and Sustainability be given delegated authority to grant Conditional Permission with the conditions provided that:

Firstly the following matters are resolved to his or her satisfaction in consultation with the Chairman of Planning Committee:

1. The final report of the District Valuer on viability.
2. A refined hard and soft landscaping and tree planting and tree protection strategy (some details may be referred to condition).
3. A legal agreement to guarantee the offered proportion of affordable housing.
4. The detailed design of plots 317 and 318.
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 - f. Phasing of community buildings delivery
5. Provision for rights of access and related rights so as not to prejudice the possible future development of Abbey Barn South.

If the Council was unable to secure above-mentioned matters via a Planning Obligation, to refuse planning permission.

RESOLVED: that the application be approved in accordance with the officer's recommendation.

S106 Contract between Council and Taylor Wimpey

Transfer of Open Space

- 9 The Owner covenants with the District Council:
- (a) that within 1 month of the issue of the Provisional Certificate in respect of each of the areas of Open Space Land within Phase 7a 7b and 7c as shown on Plan 2 it shall offer for a period of 25 Working Days to transfer of the freehold of each such area to the District Council **at nil consideration and free of legal charges**
 - (b) to pay all fees and charges including land registry fees VAT and other charges arising in connection with such transfer
 - (c) if the District Council elects within 25 Working Days of the receipt of such notice in respect of such area of Open Space Land it shall give notice to the Owner of such election within 25 Working Days of receiving the notice from the Owner **provided that** if the Owner does not serve the notice referred to in paragraph 9(a) above the District Council may make such election at any time after the date on which notice should have been served
 - (d) upon the District Council's notice of election being served the Owner shall immediately provide to the District Council full details of its title and all matters affecting the area of the Open Space Land in respect of which the District Council shall have elected including environmental reports and shall

- Contract signed 03-Oct-2014
- Contract references the planning application 13/05799/FULEA (page 7)
- Schedule 5 (extract shown) includes clause enabling Council to adopt land at no cost (page 27)

April 2013 POSPD (Planning Obligations Supplementary Planning Document)



Maintenance

- 6.8 The District Council or relevant Parish or Town Council may be prepared to adopt and maintain properly laid out public open space and play areas, **subject to a payment by the developer of a commuted sum.** This payment should cover fifteen years' costs of maintenance. On payment of the commuted sum, and when all liabilities for construction, equipment and maintenance have been met to relevant body's satisfaction, the open space will be transferred.