



## Report to High Wycombe Community Board

**Date:** 14 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 Community Board 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 Community Board consider whether to (a) approve that response or (b) refer the matter to the Cabinet Member for Culture and Leisure for consideration, who will take into account the views of the Board in considering a decision on the adoption of the play areas/open space.

**Reason for decision:** 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.

### **1. Executive summary**

- 1.1 The purpose of this report is to set out the response to a petition received by Buckinghamshire Council in February 2021, as detailed below:-

**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.

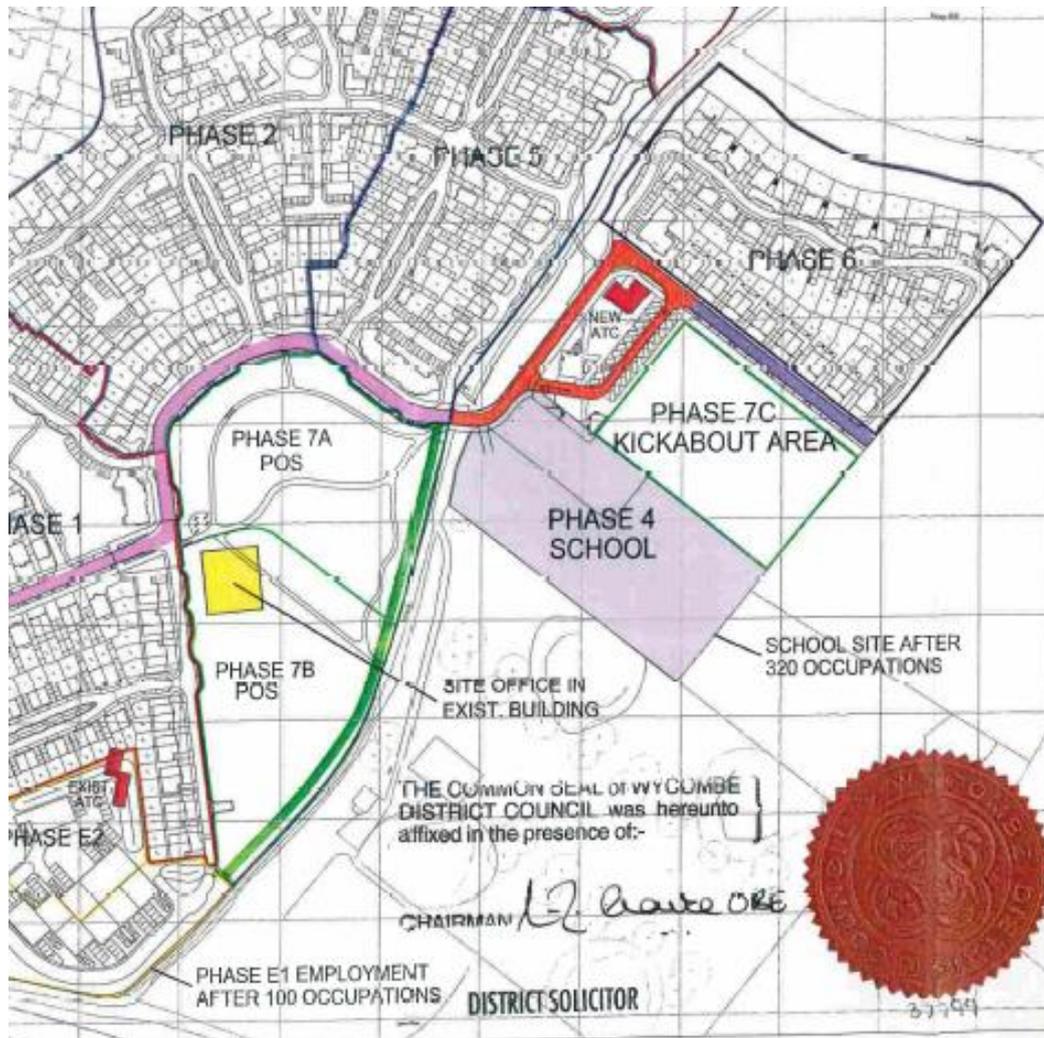
C: The local council is already receiving further revenue from the council tax collections of the new estate.

## 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.<sup>1</sup>

<sup>1</sup> 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 The Community Board may either approve 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; or refer the matter to the Cabinet Member for Culture and Leisure for consideration, who will take into account the views of the Board in considering a decision on the adoption of the play areas/open space.

#### **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.

