



Title: **Adoption of open spaces in Oadby**

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1. Introduction

- 1.1 As part of an update of the Council's land ownership records across the Borough, it has come to the attention of the Legal team that there are several open spaces in the Oadby Woodlands Ward that are currently being maintained by the Council, despite not being owned by it.
- 1.2 The maintenance of these open spaces by the Council without the benefit of formal ownership presents several issues in terms of liability, predominantly in respect of trespass and/or potential criminal damage that may be alleged to occur.
- 1.3 This report therefore seeks delegation of authority to Officers in the Legal team to make contact with the owners of the respective open spaces in order to commence the process of formal adoption of these open spaces and that such adoption be subject to payment of an associated commuted sum.
- 1.4 It is likely that the legal owners of these open spaces are the original developers of the associated housing estates.

2. Recommendations

- 2.1 That delegated authority be given to officers in the Legal team to make contact with the respective owners of the open spaces in the Oadby Woodlands Ward, as shown edged red on the plan at Appendix 1, with a view to the Council adopting the same, subject to the agreement of the respective owners.
- 2.2 That Members approve the adoption of the open spaces in the Oadby Woodlands Ward, as shown edged bold on the plan at Appendix 1, subject to agreement with the respective land owners and subject to payment of an associated commuted sum.

3. Information

- 3.1 The Legal team is currently in the process of updating all of the Council's land ownership records and, as part of this project, it has been identified that there are several open spaces in the Oadby Woodlands Ward that are currently kept and maintained by the Council's Clean and Green team; however, the Council does not legally own these areas of open space. The Council therefore incurs the cost of the maintenance of these open spaces, but does not benefit from the legal ownership of them.
- 3.2 The Council's records indicate that there are no formal agreements in place which provide that the Council is legally bound to adopt these areas of open space land; however, there are several liability issues that could arise in respect of the Council maintaining land that it does not own.
- 3.3 Initial investigation has identified that the areas of open space land are still legally owned by the respective developers of the associated housing developments; however, the Council has been maintaining the land for a number of years.
- 3.4 This report therefore seeks approval from Members that the Legal team enters into discussions with the respective land owners in order to determine whether they would be agreeable to the formal adoption of these open spaces by the Council and, subject to the land owners being agreeable, to approve the formal adoption of those open spaces.
- 3.5 The Legal team will of course ensure that any adoption of land is subject to an appropriate commuted sum being paid to the Council by the current land owner, in respect of the costs of ongoing maintenance. It will also require the respective land owners to bring the land to adoptable standard prior to any transfer or, alternatively, will require a payment in lieu of this (in order to facilitate the Council to bringing the land to an adoptable standard), which sum would be in addition to the commuted sum for ongoing maintenance.
- 3.6 It is noted that these sites are comprised wholly or partly of trees and wooded areas and the maintenance costs associated with the trees, as well as any initial costs of pruning work and remedial work that is required to be carried out immediately, would be factored in to any calculation of a commuted sum.
- 3.7 If the current land owners are unwilling to make payment of a commuted sum which fairly and accurately reflects the initial and ongoing costs associated with the maintenance of these sites and, in particular, the trees thereon, then the Council would not proceed with the formal adoption of them and would have to consider the cessation of such maintenance.

- 3.8 As the Council is already maintaining these areas of open space, there will be no budgetary or staffing impacts on the Clean and Green team and the commuted sum will be used to supplement existing budgets.
- 3.9 It is proposed at this stage that the Council will simply contact the respective owners of the open spaces with a view to considering the adoption of them. The formal adoption of the sites by the Council would only be agreed subject to payment of a commuted sum and the land being brought to an adoptable standard (or payment in lieu of the same).

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| Implications | |
|---------------------|---|
| Financial (PL) | Payment of the commuted sum will offset the ongoing cost of maintenance to the Council. |
| Risk (KG) | CR5 – Effective Utilisation of Assets/Buildings |
| Equalities (KG) | None |
| Legal (KG) | The Council is currently maintaining land that it does not own, which represents a legal risk in terms of assuming liability for this land. |