



**Policy, Finance and
Development
Committee**

24 March 2015

**Matter for
Information**

Title: **ADOPTION AND PURCHASE OF OPEN SPACE LAND KNOWN AS
OADBY GRANGE COUNTRY PARK**

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1. Introduction

1.1 This report deals with the longstanding issue concerning the adoption of land known as Oadby Grange Country Park.

2. Recommendations

That the report be noted.

3. Information

3.1 The Council entered into a Section 106 Agreement (“the Agreement”) for development of land now known as Pipistrelle Way / The Pastures, Oadby, dated 17 May 2001, between Mr Thomas Watson Walker (1), Oadby & Wigston Borough Council (2) and Leicestershire County Council (3). The Agreement imposed several obligations on Mr Walker in favour of the Borough and County Council’s.

3.2 Pursuant to the Agreement, the Council was to adopt an area of open space land on a 125 year lease. The area of land to be adopted was simply a “walk-around” of a much larger open space that would be retained by the land owner. The Agreement provided for the commuted sum to be agreed after completion of the Agreement and the adoption to take place following the submission of mutually agreed commuted sum figures by the agents for Mr Walker following the completion of the development. Regrettably, during the period 2002 – 2011, the Council was unsuccessful in reaching any mutually agreed commuted sums, with several issues and a general lack of positive agreement hindering progress of the matter.

3.3 Mr Walker passed away in the early part of 2011, which resulted in further delay whilst his estate went through probate. The former Head of Environmental Development was tasked with finalising negotiations with the land agents for this matter following the resolution of the probate matters in late 2012 but regrettably, little progress was made and the matter was further delayed.

3.4 The conduct of this matter was passed to the Council’s Corporate Resources (Legal Team) in July 2013, to obtain a valuation, enter into and conclude negotiations.

- 3.5 As part of the ongoing negotiation, the Legal Team discussed the possibility of the Council adopting the entire site rather than simply the walk around as required by the Agreement. The cost of the additional land was off set against the commuted sum payable by the land owner.
- 3.6 A report was presented to the Policy Finance and Development Committee at its meeting on the 22 July 2014 to enable members to make a decision as to whether to adopt the "walk around" on a 125 year lease or to adopt the whole area of the land. The Committee was informed at that meeting that the remainder of the land had been valued by the land owner at £400,000, which was contested by the Legal team who negotiated a value of £235,000 producing a significant saving of £138,000.
- 3.7 The Committee therefore determined that, rather than adopt the walk-around for a commuted sum of £408,395.00 as stated in the Agreement, the Legal Team should be instructed to adopt the entire site known as Oadby Grange Country Park in receipt of an associated commuted sum of £173,395.00, for the ongoing maintenance.
- 3.8 Following the determination of the Committee on 22 July 2014 the Legal Team began the work of finalising the adoption of the land. Having been aware that the matter had already dragged on for over a decade the Legal team endeavoured to conclude the matter as swiftly as possible.
- 3.9 The matter did not however proceed without obstacles. The Council was delayed whilst waiting for the owner to finalise her business arrangements. As the Council were to adopt the whole of land rather than that specified in the Agreement it had no powers to compel the land owner and her representatives to act swiftly. There was also a further complication in that, as part of the land was required to be adopted pursuant to the Agreement and part was not caught by the Agreement, both parties had to determine the most appropriate manner of dealing with the Agreement, whether to vary it or discharge it.
- 3.10 Due to the length of the continuing negotiations and the further delays the Legal Team passed the file to an external Solicitor to conclude the matter once it had reached an advanced stage.
- 3.11 It has been identified that part of the land to be adopted is recorded by the Environment Agency website as a "historic landfill" last used in 1970 (i.e. 45 years ago). Prior to 1948 there were not any legislative controls on waste disposal and formal legislation in specific to such disposals was not made until 1974. The Environment Agency records are based on historical data and the accuracy of this data is less reliable the older the records get. The recording of the historic landfill is likely to be based upon old planning applications rather than formal confirmation of an actual landfill being used.
- 3.12 The Council's Environmental Health Team informed the Legal Team in July 2014 that it had no record of contamination and had not recorded the land as contaminated on the register that the Council is statutorily required to maintain. The only way to be certain if land is contaminated or not would be to carry out a variety of tests of the soil and the necessity of such tests will vary depending on the proposed use of the land. Taking a balanced approach as to the likelihood of contamination and the proposed use of the land the Council has requested that the seller provide indemnity insurance against the risk of any contamination being discovered later.

3.13 The Committee should also note that part of the agreement in the Council adopting the whole of the land was to honour Mr Walker by providing a mention of the Walker name somewhere within the park. This matter will be picked up by the place shaping group in consideration of how the Council will use the land and be responsible for ensuring that the Walker name is acknowledged within the park.

3.14 At the time of writing this report the Legal Team had been informed by its Solicitor that a completion date had been set and the matter would be concluded by the end of March.

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Implications	
Financial (PL)	The commuted sum can be used to subsidise the revenue cost of the land.
Risk (KG)	CR5 – effective utilisation of Assets/Buuildings
Equalities (KG)	None.
Legal (KG)	The legal transaction is underway and due to complete by the end of March.

Background papers referred to in compiling this report:

- Section 106 agreement dated 17 May 2001 between
- Valuation report by Innes England dated January 2014
- Head of Corporate Resources Report to the Policy Finance and Development Committee of 22 July 2014.