

Title: **Public Open Space at Leigh Park, Westbury**  
Reporting Officer: **David Hubbard – Development Control Manager**

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### **Purpose**

The report is brought to this committee in response to a request from Councillor Hawker that the committee considers a report about the provision of public open space at Leigh Park, Westbury.

### **Background**

The public open space requirements for Leigh Park amount to 7.145 hectares spread across 18 separate parcels of land throughout the development. A schedule and plan of open space areas is attached.

A large copy of the plan will be displayed at the meeting and shown as part of the PowerPoint presentation as the plan accompanying the report may not be easily read owing to its scale.

Provision of the open space is regulated by the section 106 agreements covering this development.

Requirements of the Agreement(s) with respect to open space include:-

- Works to layout amenity areas being commenced prior to 75% of the houses in the relevant phase of the development being first occupied and completed within one planting season of the commencement.
- Inspection by the council of the works within 28 days of completion, including any subsequent remedial works
- Maintenance by the developer of the site for a twelve month period beginning with the date on which the council including the replacement of any item which may be damaged or lost.
- Adoption by the council following a satisfactory inspection of the site at the end of the 12 month maintenance period.
- Commuted sums for the maintenance of open space payable at adoption
- Commuted sums for the provision of play areas on public open space areas 3a and 4 and improvements to the existing play area on the recreation ground adjoining public open space area 7 payable at adoption.
- The separate agreement with Wimpey requires them to install a play area on the area of open space within the land they developed

### **Main Issues**

At present most of the areas of public open space fall into three categories:

- Areas laid out, in public use and awaiting the completion of the adoption process.
- Areas where landscaping and planting works are taking place at the present time.
- Areas affected by development taking place at the present time or in the future.

### **Areas laid out, in public use and awaiting the completion of the adoption process**

Public Open Space Areas 2c, 3a, 3b, 4, 5, Bale Public Open Space Area, , strategic landscaping and planting and the northern balancing pond

These areas of public open space, strategic landscaping, planting and the balancing pond have been laid out in accordance with approved details. The 12 month period of maintenance by the developer has been completed successfully and the process to adopt the land by the District Council is ongoing. The council is maintaining land and subject to concluding negotiations with the developer regarding the level and timing of payment of two of the commuted sum payments the adoption process can be completed. It is anticipated that this will happen in the near future.

Discussions have taken place about varying the use of the commuted payments for play areas. This would involve an option of using this money to provide the installation of play equipment on public open space area 4 and improvements to the existing play area at Penleigh Park and at the former Westbury Leigh recreation area. This would also facilitate linking public open space area 3a and 12a to give a larger area of informal recreation space. This option is considered acceptable.

### **Areas where landscaping and planting works are taking place at the present time.**

Public Open Space Areas 7, 8a and 8b

Works to layout and plant these was taking place at the time this report was drafted. The implementation of these works will be monitored and on satisfactory completion the twelve month period of maintenance by the developer will be commenced. The earliest date for the adoption of these areas is likely to be early spring 2007.

### **Areas affected by development taking place at the present time or in the future.**

Public Open Space Areas 2a, 2b and School R9

Each of these areas is associated with areas where development is currently taking place. Works to lay out the public open space areas will follow at the appropriate time as the development proceeds

Public Open Space Areas 11, 12a and 12b

These areas are associated with land on which the council is currently considering an application for the approval of reserved matters. The open space will come forward at the appropriate time

#### Public open space 9

This area off Black Horse Lane is associated with an area of Leigh Park still to be developed.

Two areas of open space fall outside these categories

#### Public Open Space 1

Development in the vicinity of this area of open space close to the school is largely complete. No work has been commenced on the laying out of this area of Public Open Space. This has been raised with the developers.

#### Wimpey Public Open Space

This area has been laid out and a play area installed. The site is currently available to the public. However in order to resolve issues concerning asbestos contamination of the site, levels have been raised. The developers have been informed that this work constitutes an engineering operation for which planning permission is required. The increase in levels may affect the amenities of some nearby residents. To date no planning application has been received. Until the issue of the raised levels is resolved this area can not be adopted. The submission of a retrospective planning application is being pursued

### **Financial Implications**

The section 106 agreement secures payments to the council for the installation of play equipment and the maintenance of open space.

### **Legal Implications**

Section 106 agreements are the key documents regulating the provision of public open space at Leigh Park.

At the moment progress in securing compliance is being made through negotiation with the developers in accordance with the enforcement policy. The Agreements include provision for legal action to be taken to secure compliance with the agreement if necessary.

### **Conclusion**

At the present time there are three outstanding issues with regard to the provision of public open space at Leigh Park:

- 1 Conclusion of the discussions with the developers in respect of the timing and level of commuted sums in respect of public open space areas 3A and 4. Once agreement has been reached, the adoption of these and other areas can be concluded opening the way for the installation of play areas.

2 Commencement of the laying out and planting of Public Open Space area 1

3 The submission and consideration of a retrospective planning application respect of the raised levels of the Wimpey open space area.

**Recommendation:**

That the committee notes the report and support the continuing work to resolve the three issues identified in the conclusion above

**Human Rights**

The Human Rights Act 1998 applies

**Background Papers**

Attached plan and schedule.

Planning permissions, approvals and agreements relating to Leigh Park.

**Attachments**

Schedule of open space areas

Plan of open space areas

<b>PUBLIC OPEN SPACE AREA</b>	<b>SITE AREA</b>
POS 1	0.384 hectares
POS 2A	0.159 hectares
POS 2B	0.288 hectares
POS 2C	0.459 hectares
POS 3A	0.398 hectares
POS 3B	0.591 hectares
POS 4	0.652 hectares
POS 5	0.411 hectares
POS 6	0.057 hectares
POS 7	1.044 hectares
POS 8A	0.502 hectares
POS 8B	0.12 hectares
POS 9	0.425 hectares
POS 11	0.073 hectares
POS 12	0.465 hectares
AREA R12	0.059 hectares
BALE LAND	0.27 hectares
WIMPEY LAND	0.24 hectares
SCHOOL R9	0.41 hectares
<b>TOTAL</b>	<b>7.145 hectares</b>

