

**EXETER CITY COUNCIL****SCRUTINY COMMITTEE ECONOMY  
2 SEPTEMBER 2010****PETITION IN RESPECT OF OPEN SPACE AT LORAM WAY, ALPHINGTON****1.0 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to consider a petition received in respect of the open space areas at the Loram Way estate in Alphington.

**2.0 BACKGROUND**

- 2.1 The petition was presented by Councillor P Wadham. It includes names, addresses and signatures for over 100 people. The petition requests Exeter City Council to take over the maintenance of green areas on the Loram Way estate. A copy of the petition can be inspected in Estates Services or viewed prior to the meeting.
- 2.2 Council, on 13 July 2010, agreed a petition scheme in accordance with the Local Democracy, Economic Development and Construction Act 2009. This specifies that, if a petition containing between 20 and 750 signatures, is submitted to Council, it will be referred to either the relevant Committee or an officer for consideration.
- 2.3 The practice of addressing open space on new residential development has been that the developer should meet the costs of maintenance of the land in perpetuity. Typically this has been handled by developers paying a sum equivalent to the cost of maintaining the area by the Council for a period of 10 to 20 years. This payment is known as a commuted sum.

There are instances of private open space where the cost of maintenance is met by local residents, usually through some form of Management Committee. This is usually the arrangement in relation to blocks of flats.

The more usual arrangement however is for open space to pass to a local authority together with a commuted sum. The commuted sum is a cost that can be reflected in the price paid for the land and therefore should be covered by the land purchase. This was standard practice in the 1980's and remains so today.

- 2.4 Loram Way and the other cul-de-sacs running off it were built in the late 1980's early 1990's. There were two developers, Costain and Beazers, there was a s52 agreement between them and the Council dated 10/11/1987. The Section 52 Agreement did not include any requirement on management of Open Space. A current member of staff dealt with the negotiation at the time and recalls offering terms for the Council to take the land subject to the developers paying for any outstanding work plus a sum of money to be invested to pay for maintenance in perpetuity, known as a commuted sum. Both developers opted not to pay the money and to maintain the land themselves.

Other developers at about the same period in the immediate area (Chantry Meadow, Tower Walk, Canon Way, Westcombe) did pay the commuted sums, and their areas of open space were transferred to and are being maintained by the Council.

- 2.5 A broadly identical situation exists at Pennsylvania, where some developers elected to pay a commuted sum and transfer open space to the Council and others elected to retain the money and maintain the land themselves. A further small plot on Gloucester Road falls into the same category and there may well be other plots around the city.
- 2.6 The Council has powers under the Town & Country Planning Act 1990 Section 215 to serve a Notice requiring unsightly sites to be tidied up. However the Development Manager advises that the land is not untidy enough for such a Notice. The land is being maintained albeit not to the standard the Council would adopt.

### **3.0 CONSIDERATION**

- 3.1 The current commuted sum if the Council were to take the land over is £23,188. This is based on the play area being returned to grass, as there is an equipped play area in Chantry Meadow, a maximum of 300 metres away. The estimated cost of remedial work to bring the land to an adoptable standard is £2,050, a total therefore of £25,238.
- 3.2 The petition requests the Council to take over maintenance. The Council has not had any recent contract with the landowner. If that landowner requested the Council to take the land over and offered the usual commuted sum the transfer could be authorised under Delegated Powers.
- 3.3 To consider taking on the maintenance without the normal commuted sum would undermine the stance the Council has maintained over the years which is that whilst annoying to the residents it would be inequitable for the council tax payers as a whole to take on this obligation and would be grossly unfair to those developers who have paid the commuted sum to have open space maintained by the Council.
- 3.4 If maintenance were taken on without the normal commuted sum it would almost certainly lead to the same request in other areas and may encourage developers who did correctly make the payments to request return of their money.
- 3.5 The cost of maintaining public open space in perpetuity is greater than the amount saved from developers. Commuted sums are intended to cover a period typically 15 years. Whereas the Council will thereafter maintain the land for decades. Many authorities are now exploring alternative arrangements that do not involve the local authority. This would tend to involve the Management Committees and Trusts where the residents pay an annual sum to a contractor to maintain the land. Areas of open space will also have to accommodate sustainable urban drainage systems and means to handle surface water run offs. Developers will have to consider the maintenance regime for such works and the default position cannot be the local authority.

**4.0 RECOMMENDED**

- (1) that Scrutiny Committee Economy note the petition; and
- (2) that the petition organiser be advised that the Council could only consider taking transfer of the land if it received the normal commuted sum and cost of remedial work being £25,238.

**MICHAEL CARSON  
ACTING HEAD OF ESTATES SERVICES**

**ECONOMY & DEVELOPMENT DIRECTORATE**

**Local Government (Access to Information) Act 1985 (as amended)**

**Background papers used in compiling this report:**

None