

# CABINET MEMBER DECISION



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

## **Decision:**

**That approval is granted for the acquisition of seven areas of open space land at Exeter Street, Bourne, PE10 9NJ as contained within Title Number LL208985.**

### **(1) Details of Decision**

To seek approval to the adoption of seven areas of open space land contained within Title Number LL208985 at Exeter Street, Bourne, PE10 9NJ.

### **(2) Considerations/Evidence**

The developer of the Exeter Street development in Bourne, is obliged, under a Section 106 Agreement dated 19<sup>th</sup> December 2001 to transfer the land shown at Appendix Two to the report to the Council.

The land in question has continued to be maintained by the original developer. Since the scheme was completed, the land has been maintained at the expense of the developer.

The Council's Property and Grounds Maintenance teams have had various meetings over the past two years with the developers Barratt & David Wilson Homes North Midlands since 2023 to agree what works were needed before an adoption could be agreed.

Following the most recent meeting, the Council's officers have confirmed that the land is in an acceptable condition for adoption. The only exception to this, is a part of Area One where there is a potential contingent liability from possible tree root damage to an adjacent property. The developer has agreed to retain the land and continue to maintain. The Council has confirmed that it would be willing to look at this area again in the future but, will not be legally bound to adopt.

The Section 106 Agreement contained provision for the developers to pay a commuted sum of £60,000 in respect of future maintenance of the land.

The developers are covering the Council's reasonable legal fees in this matter.

**(3) Reasons for Decision:**

Adopting all of the land would mean the Council taking on the contingent liability for a future claim for tree damage to an adjacent property.

Refusing to adopt all of the land is not considered to be reasonable and would leave the Council in breach of its overall obligation to adopt, as contained within the S.106 Agreement.

**Conflicts of Interest**

**(Any conflict of interest declared by any other Cabinet Member consulted in relation to the decision to be recorded).**

None

**Dispensations**

**(Any dispensation granted by the Monitoring Officer in respect of any declared conflict of interest to be noted).**

None

**Decision taken by:**

Name: Councillor Richard Cleaver  
Cabinet Member for Property and Public Engagement

**Date of Decision:** 16 December 2024

**Date of Publication of Record of Decision:** 17 December 2024

**Date decision effective (i.e. 5 days after the date of publication of record of decision unless subject to call-in by the Chairman of an Overview and Scrutiny Committee or any 5 members of the Council from any political groups):**

25 December 2024