

## Record of officer decision

<b>Decision title:</b>	Complete acquisition of public open space at Hereford Saxon Gate (also known as Saddlestone Circle)
<b>Date of decision:</b>	3rd June 2019
<b>Decision maker:</b>	Acting Assistant Director for Technical Services, Economy & Place
<b>Authority for delegated decision:</b>	<p>Herefordshire Council's constitution - Scheme of Delegation Part 3 Functions Scheme, Section 7 Officer Functions</p> <ol style="list-style-type: none"> <li>1. 3.7.6 Delegation to Chief Executive</li> <li>2. 3.7.12 Sub delegation from Chief Exec to officers</li> </ol>
<b>Ward:</b>	Saxon Gate
<b>Consultation:</b>	None
<b>Decision made:</b>	Complete acquisition of public open space at Hereford Saxon Gate (also known as Saddlestone Circle).
<b>Reasons for decision:</b>	<p>This decision relates to a legacy agreement. Formal acquisition of this open space will complete provisional agreements made many years ago that for various reasons have not technically completed. With the open space are play areas and public art.</p> <p>At that time, it was council policy to acquire public open space in return for a commuted sum from developers. Herefordshire Council entered into a S106 agreement on 9<sup>th</sup> February 2005 with the developers and the Secretary of State for Defence. This included various commitments.</p> <p>Clause 13.4.6 provides that the "Owner" <u>may</u> offer to transfer the freehold interest in the public open space at nil consideration and that the Council may accept such offer with a commuted sum being payable to the Council. The "public open space" is defined in the Agreement as being land "...on plans to be approved by the Council". The expectation at the time of the S106 agreement was that the Council would take the Open Space when the detail of this was agreed as part of the planning process and in return for a commuted sum.</p> <p>The commuted sum was received 4 years ago and is being 'held to order' pending completion. Now that the residential scheme has been completed, the final plans for public open space have also been agreed. The Council and the developers are finally in a position to complete the land transfer.</p>
<b>Highlight any associated risks/finance/legal/equality considerations:</b>	<p>Herefordshire Council will be taking on the ongoing liability for the management of this public open space in return for a commuted sum. This was in accordance with policy at the time.</p> <p>The quantum of commuted sum and land areas have been agreed; the developer has transferred the agreed money to the Council and now wants to complete the land transfer.</p> <p>The site has been developed by two different companies, therefore</p>

	<p>transfers will be required from both sets of developers.</p> <p>No equality issues have been identified.</p>
<b>Details of any alternative options considered and rejected:</b>	<p>Herefordshire Council is not obligated to take this land, but there is a strong presumption that this was the intention of the parties 15 years ago in accordance with the then council policy on Public Space for development sites.</p> <p>If the Council does not adopt this land then the commuted sum will need to be returned. There would then be nobody obligated to manage this public open space as no alternative mechanisms will have been in put in place (for example by the creation of a management company funded by the residents of the development as typically happens with new developments under the current policy). In other cases where there are no obligations with regards open space they are typically left unmanaged once the developers has finished at the site.</p>
<b>Details of any declarations of interest made:</b>	None

Signed Chris Jenner

Date: 3<sup>rd</sup> June 2019

Acting Assistant Director for Technical Service, Economy & Place