



Report to: Cabinet Meeting - 24 February 2026

Portfolio Holder: Councillor Simon Forde, Climate & the Environment  
Councillor Paul Peacock, Strategy, Performance & Finance

Director Lead: Matthew Finch, Director - Communities & Environment  
Matt Lamb, Director - Planning & Growth

Lead Officer: Ashley Kitchen, Street Scene Manager, Environmental Services, Ext 5738  
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<b>Report Summary</b>	
<b>Type of Report</b>	<p>Open Report / Key Decision with Exempt Appendix</p> <p><i>The appendix to the report contains exempt information as defined under Schedule 12A of the Local Government Act 1972, Paragraph 3 under which the Cabinet has the power to exclude the press and public if it so wishes.</i></p> <p><i>It is considered that the need to treat the information in this report as exempt outweighs the public interest in disclosure because a formal legal agreement has not been concluded between the two parties.</i></p>
<b>Report Title</b>	Adoption of Public Open Space within the Fernwood North Development.
<b>Purpose of Report</b>	To put forward a proposal for the District Council to adopt Public Open Space (POS), including its ownership and ongoing maintenance, within the Fernwood North development.
<b>Recommendations</b>	<p>That Cabinet:</p> <p>a) approve the Council entering into arrangements with Barratt David Wilson Homes (BDW) to purchase (for the consideration of £1) and maintain the POS within the Fernwood North development, subject to the Council securing:</p> <p>i) an appropriate contribution towards ongoing maintenance costs from Barratt David Wilson Homes (BDW), subject to BDW successfully securing and legally executing an agreement with the Council, as the Local Planning Authority, a S106 Deed of Variation as detailed</p>

	<p>at paragraph 2.4 below and within Exempt Appendix A; and</p> <ul style="list-style-type: none"> <li>ii) completion of satisfactory due diligence by the Director - Communities &amp; Environment, in consultation with the Street Scene Manager and Principal Legal Officer, on the Public Open Space extent, type, and phasing including in relation to the legal title to the land;</li> <li>b) approve the Council covering future maintenance revenue requirements, supplemented by and subject to the required 'appropriate contribution' details at a) i) above, as detailed in the Financial Implications section at Exempt Appendix A; and</li> <li>c) approve that delegated authority be given to the Council's Director - Communities &amp; Environment, in consultation with the Street Scene Manager, to secure the land transfer from Barrat David Wilson Homes, including appropriate phasing and onboarding of the POS.</li> </ul>
<b>Alternative Considered</b>	<b>Options</b> <p>The extant S106 for the Fernwood North development allows Barratt David Wilson Homes (BDW) to set up a Management Company to cover maintenance costs of POS. BDW have honoured a previously verbally and written negotiated position that they would not introduce a Management Company in this instance, an agreement predicated on the land being transferred to the District Council for the consideration of £1. The Council could choose not to purchase the POS for the previously agreed price, in which case BDW would need to find an alternative management route. This would likely mean introducing a management charge on future residents from this point forward, as has been done elsewhere within Fernwood. This would not be appropriate.</p>
<b>Reason for Recommendations</b>	<p>The recommendations align with the Community Plan objectives in relation to biodiversity, the environment and climate change. As set out in the report, the development has the potential to help the Council secure additionality which is above and beyond simply bringing POS into public ownership.</p>

## 1.0 Background

1.1 Members will recall the update to the November 2024 Cabinet meeting which set the context of developments taking place in the Greater Fernwood area and specifically negotiations taking place between Officers and Barratt David Wilson Homes (BDW) to secure a previous agreement for them to transfer POS to the District Council rather than implement a Management Company (ManCo), which is the extant lawful position, for the Fernwood North development.

1.2 Since the last update negotiations with BDW have continued, with an agreement being reached on the quantum and types of open space that could be transferred into public ownership, subject to the recommendations detailed above. This Council has also resolved, at Cabinet on 8 July 2025, to have a 'No Man-Co' preferred approach on Strategic Urban Extension sites such as Fernwood.

1.3 The developments which make up 'Greater Fernwood' are detailed below:

- a) Original Fernwood – just over 1000 homes, local centre, open spaces and primary school which are largely on the original footprint of the former Balderton Hospital.
- b) Fernwood North – the site being developed by Barratt David Wilson Homes (BDW) for 1050 new homes, a school expansion and formal and informal Open Space, as defined in the S106 Agreement which accompanies the planning permission
- c) Fernwood Central – the site being developed by Alison Homes (formally Larkfleet Homes) for 350 new homes and open space. It should be noted that NSDC understand that Alison Homes will only complete Phase 1 of this scheme, with a new developer coming in for subsequent phases
- d) Fernwood South – a Persimmon Homes scheme for 1800 new homes, a new school, a new local centre and formal and Open Space
- e) Fernwood West – the site of the Fernwood Business Park (Tawny Owl, Suthers School, etc) and land which runs south to the A1 to accommodate further employment land expansion and an additional c300 new homes.

1.4 **Original Fernwood**

Original Fernwood is largely subject to a ManCo, save for Phase 1. Original Fernwood is within the ownership of the developer, BDW, but the land is long leased to the ManCo. There is no straightforward way to undo the current ManCo. Fernwood Parish Council have previously requested that BDW transfer the freehold of Fernwood Central land as a 'gift', noting that the lease would then continue to run with the ManCo. The Parish Council subsequently elected not to progress this.

1.5 **Fernwood North & Central**

Planning permissions for Fernwood North and Central were granted at a time when the developers were continuing promote a ManCo model, something which remains a legitimate practice but where NSDC now encourage a different approach. This Council has historically worked with Fernwood Parish Council with the aim of avoiding more ManCo's across Fernwood with a view that a single ownership, control, custodianship, management regime, and maintenance schedule is optimum for civic pride and place-making.

1.6 This is challenging given the extant legal position for both BDW and Alison Homes is to have a ManCo. That said, as detailed previously to Cabinet, BDW have previously agreed to sell homes without a ManCo charge being levied, subject to the District Council taking on the land. BDW have done what was agreed and house sales to date do not include a ManCo charge.

1.7 At the time of writing, the District Council is yet to purchase the land from BDW for the agreed written consideration of £1. As previously captured (including detail within the Exempt Appendix) it was envisaged that any purchase would sit alongside a back-to-back arrangement with Fernwood Parish Council to pay for the POS for a period of up to 10 years via their CIL receipts, after which time costs would be absorbed within the General Fund. This arrangement was discussed between the previous FPC administration and Senior Officers of the District Council, as captured in 2019,

“Following negotiation (and approval under an urgent item from the Leader, Deputy Leader, and Leader of the Opposition) the Council and BDW have agreed that there will not be a Management Company for this phase of the development. As an alternative BDW has agreed, under terms captured separately as an exempt item, that after each phase of development (subject to an appropriate handover mechanism to ensure the open space is fit for purpose prior to transfer) the open space associated with that development will be transferred to the Council for it to maintain. Fernwood Parish Council have been informed of this agreement, and wholly supportive and welcoming of this solution, which will mean no ManCo for the next phase of development.”

Policy & Finance Committee, November 2019

1.8 **Other Land Parcels**

The Alison Homes site was intended to mirror the approach for the BDW site, with the District Council acting to negotiate a No ManCo approach in favour of public ownership with maintenance costs underwritten by the Parish Council. We have been informed that the POS in Phase 1 of the Alison Homes development is now within a ManCo. This is a legitimate and legally extant position, notwithstanding a desire to avoid this. Officers have asked Alison Homes for the terms of the ManCo in order to understand future options.

1.9 It is important to note that Fernwood South was granted planning permission in 2024 and therefore Officers have negotiated and agreed with Persimmon Homes that there will be no ManCo for this phase of Fernwood. This is captured legally in the accompanying Section 106 agreement which includes for a ‘traditional’ commuted payment from the developer to the District Council in accordance with an agreed schedule of costs (plus indexation) for each open space or public realm type (for example arid grassland will be £ Y/per square metre).

**2.0 Proposal/Details of Options Considered**

2.1 The BDW Fernwood North development continues its implementation at pace, and a resolution is required to bring the POS into Public Ownership. Initial conversations took place between the District Council, BDW and Fernwood Parish Council. Dialogue included an exchange of details and specifications to enable NSDC and/or FPC to each undertake due diligence to take on POS. FPC resolved on 17 Feb 2025 that “Based upon the information currently available and after careful consideration, the Parish Council has resolved that it is unable to pursue taking ownership of the land in Fernwood North”. We are not aware that any work was independently commissioned to undertake due diligence nor was any additional information or time to come to a view requested. No further communication has been received.

- 2.2 The District Council's Environmental Services team have been working with BDW and have completed due diligence such we are satisfied that a transfer could take place on the first phase of Open Space. Other open space would then follow, following a similar process whereby the Council would inspect and agree the open spaces prior to adoption.
- 2.3 It is clear that if the District Council is to bring the POS into public ownership that there will be a maintenance shortfall, especially given the stated stance of FPC. It is recommended that other Fernwood North S106 contributions be utilised in order to provide a commuted payment towards Public Open Space Maintenance, something BDW are willing to pursue with the Council, as Local Planning Authority.
- 2.4 Members may be aware that any major planning application for housing is expected to mitigate its impacts through the provision of Developer Contributions (often referred to S106 contributions) for a range of different infrastructure types. In cases where there is no ManCo, this often includes a POS maintenance commuted sum to cover a set number of years maintenance. Members will note that after this period expires the costs of maintaining open space are then absorbed into the District Council's General Fund base budget. In the case of Fernwood North, the developers demonstrated that viability was such that not all contributions could be provided. As detailed at Exempt Appendix A, there is now an ability to re-provide monies previously set aside for Community Facilities for POS maintenance. BDW have agreed in principle to this re-provision, accepting that POS maintenance is a legitimate and policy-compliant S106 ask. BDW are willing to submit this proposal as a S106 Deed of Variation to the Council, as Local Planning Authority. To do this, they need the comfort that this Council will cover the ongoing maintenance costs above and beyond the contribution they make to take on the POS on Fernwood North.
- 2.5 It is recommended that the District Council confirms its intentions with respect to securing public ownership of POS on the Fernwood North Development when any finite payments by BDW via a S106 Deed of Variation end.
- 2.6 This will ensure that the bulk of the new Fernwood Development (1050 homes from BDW and 1800 new homes from Persimmon) will be absorbed within a single public ownership and maintenance regime in the form of the District Council.
- 2.7 Members will be aware that this Council has a proud history of delivering, managing and enhancing spaces across the District. This includes planting or gifting in excess of 20,000 trees, invest £350,000 in improving play parks at ten sites across Newark and Sherwood, and working in partnership with Newark Town Council to deliver a £500,000 transformation of Sherwood Avenue Park in Newark. The Council also operates five green flag parks across the district – Sconce and Devon Park, the Castle Gardens and the Queen Elizabeth Memorial Gardens in Newark and Vicar Water at Clipstone and Sherwood Heath in Ollerton. There is no reason Fernwood could not host a sixth.
- 2.8 Taking on the POS at Fernwood would align with the July 2025 resolution on Management of Open Space on Strategic Urban Extension sites and chime with the latest Resident Survey which showed the growing importance our residents were

placing on parks and open spaces. It would also have very practical advantages such as:

- Ownership of play parks to continue our drive to maintain and improve standards and accessibility across the district
- More directly owned open space to deliver or enable tree planting initiatives
- Similarly, the Council would have more available land to deliver other greening initiatives such as wetland, habitat recovery, wildflower meadows, orchards and naturalised rain gardens
- The ability to do more in partnership with others including those within the Council's Biodiversity and Conservation Opportunities Partnership
- Delivering a base similar to the one at the Queen Elizabeth Memorial Garden to provide outreach services from our Park Rangers, including Forest Schools and build a relationship with the primary school in Middlebeck
- Working towards a 'Friends Group' to have residents directly involved in the future development of the site
- New employment opportunities within the district council, including an apprentice.

### **3.0 Alternative Options Considered**

3.1 The District Council could choose not to honour an agreement in writing with BDW Homes and allow them to find an alternative management arrangement, most likely leading to a ManCo with remaining residents being subject to a service charge covering the entire site. This is not considered appropriate and would simply repeat unpalatable circumstances of the past within original Fernwood. It is considered that the suggested 'swapping' of S106 contributions would give the Council a sufficient initial committed sum to bring and keep the open space into public ownership.

### **4.0 Implications**

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection; Digital & Cyber Security; Equality & Diversity; Financial; Human Resources; Human Rights; Legal; Safeguarding & Sustainability and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

<b>Implications Considered</b>			
<b>Yes – relevant and included / NA – not applicable</b>			
Financial	Yes	Equality & Diversity	N/A
Human Resources	N/A	Human Rights	N/A
Legal	Yes	Data Protection	N/A
Digital & Cyber Security	N/A	Safeguarding	N/A
Sustainability	N/A	Crime & Disorder	N/A
LGR	N/A	Tenant Consultation	N/A

### **Financial Implications (FIN25-26/9152)**

4.1 These are referenced in the exempt appendix.

### **Legal Implications (LEG2526/9323)**

- 4.2 Cabinet is the appropriate body to consider the content of this report insofar as the principle of funding, alongside an appropriate contribution, the ongoing management and maintenance of the POS. As detailed within the report, it will be for the Planning Committee in discharging its functions on behalf of the Council, as Local Planning Authority, to determine the acceptability of a repurposed S106 payment via a formal submission from BDW in the form of a Section 106 Deed of Variation.
- 4.3 Before proceeding to transfer open space land, legal advice will be needed regarding the legal title to the land proposed for transfer, and Legal Services will need to be instructed to negotiate the transfer. In relation to any Section 106 Agreement Deed of Variation required, Legal Services will need to be instructed to draft and negotiate the Deed.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Fernwood Open Space, Cabinet – 4 November 2024

Management of Open Space on Residential Developments – 8 July 2025