

PORTFOLIO HOLDER:	COUNCILLOR A. MAHMOOD, ECONOMIC GROWTH
REPORT FROM:	DIRECTOR OF PLACE
TO:	EXECUTIVE
DATE:	17TH JULY

Report Author:	Ryan Gifford
Tel. No:	01282 661640
E-mail:	ryan.gifford@pendle.gov.uk

SPRING MILL DEVELOPMENT, EARBY – LANDSCAPING AND MAINTENANCE

PURPOSE OF REPORT

1. To seek a decision on whether Pendle Borough Council should adopt and maintain the landscaped open space at the top of the Spring Mill development (Stoney Bank Road end), and to update the Executive on outstanding matters relating to landscaping design, commuted sums, and underground infrastructure.
2. The report reflects changes to the previously approved position (Executive, November 2023, Item 05), following developments in the landscaping design, increased maintenance costs, and clarification on the status of the underground attenuation tank. It also addresses the recommendation made by the West Craven Area Committee on 6th May 2025.

RECOMMENDATION

1. That the Executive declines the request by PEARL Together for Pendle Borough Council to adopt the land at the top of the site (Stoney Bank Road end).
2. That the Executive delegates authority to the Director of Place to agree final proposals for landscaping and drainage works at the bottom of the site (Bailey Street end) and to determine all matters relating to the top end.

REASONS FOR RECOMMENDATIONS

1. The November 2023 Executive report supported adoption in principle but did not consider additional complexities arising from the underground attenuation tank.

2. The area to be adopted is larger than originally agreed to and the original commuted sum would not be sufficient.
3. To decline the request would be the most cost-effective solution for Pendle Council.
4. Agreeing to adopt land at a developer's request may set a precedent, leading to similar approaches on other sites, with cumulative impacts on Council resources and liability.
5. To grant delegated authority will avoid the need for further Executive reports and enable timely negotiations with PEARL regarding the landscaping and drainage proposals for the bottom of the site (Bailey Street end).

BACKGROUND AND ISSUE

1. The Spring Mill development in Earby is being delivered by PEARL Together, a joint venture between Pendle Borough Council, Barnfield Investment Properties and Together Housing Group. The development includes 53 homes with associated landscaping and public realm improvements.
2. In November 2023, the Executive considered a report on proposed landscaped areas at both the top and bottom of the site.

Plot 1 – Stoney Bank Road frontage:

3. Approximately 1,408 sqm of soft landscaping, incorporating verge planting and an underground attenuation tank. Subject to all prerequisites being met, the tank is expected to be adopted by Yorkshire Water.
4. The Executive approved the potential transfer of the landscaped area at the front of the site (Stoney Bank Road end) to Pendle Borough Council, subject to agreement of appropriate terms and an appropriate commuted sum, to be finalised under delegated authority by the Director of Place.
5. However, whilst the attenuation tank was proposed as part of the planning application in 2022, Officers who wrote 2023 report were not informed about this and their recommendation to the council for adoption was based on incomplete knowledge of underground infrastructure or long-term liabilities.
6. The 2023 report did not state a specific figure for a commuted sum but PEARL proposed £23,840. This figure was based on grounds maintenance of public open space for an area of approximately 783 sqm, which was agreed as reasonable, in consultation with the Council's Green Spaces Manager.

Plot 2 – Bailey Street compound (rear):

7. Approximately 704 sqm of land at the rear of the development, is being used as a construction compound. This area, within Council ownership is to be reinstated with grassland, woodland-edge planting, and a swale to enhance drainage along with the retention of an informal pedestrian path. These works will be completed in lieu of rent for the temporary licence when no longer required for the construction phase of Spring Mill. PEARL

is not required to provide a commuted sum for this parcel, and no transfer of ownership is proposed.

ISSUE: LAND AT TOP OF SITE (STONEYBANK ROAD END). IMPLICATIONS FOR THE OWNERSHIP AND MAINTENANCE LIABILITY FOR THIS LAND

8. The area in question remains within PEARL ownership as part of the overall development. Barnfield, acting as the developer partner for PEARL, is now seeking for Pendle Borough Council to adopt the parcel of land at the top of the Spring Mill development (Stoney Bank Road end), following earlier discussions on this matter in 2023.
9. This report now re-considers the question of adoption based on updated information, in order that members may make an informed decision.

Attenuation tank

10. The attenuation tank beneath this area is subject to adoption by Yorkshire Water who would take ownership of the tank and maintenance responsibility for it and the sewer network it connects to.
11. In April 2025 PEARL Together Ltd, Together Housing Association, HCC Insurance Company and Yorkshire Water entered into a Section 104 agreement relating to the adoption of the sewers. This means that, subject to final satisfactory handover of this infrastructure, the foul and surface water infrastructure, including the attenuation tank, which forms the agreement, should be adopted and maintained by Yorkshire Water.
12. Should there be any unforeseen issues resulting from the presence of the tank, the liability for the parcel of land would be the Councils.

Retaining Wall

13. There is a retaining boundary wall at the front of the site, facing Stoney Bank Road, this will remain when the development completes and form part of the site boundary.
14. The cost of periodic maintenance for this wall, and any liabilities as a retaining wall, will also form part of the cost to the council should the land be adopted.
15. As a visual assessment of this wall has been made by the Council's Facility Manager who reports that the condition of the wall is in generally good condition however there are defects that require remedial works. The Officer suggests a sum of approximately £ 500 pa for on-going maintenance of the wall.
 - i. isolated areas of missing / loose pointing to wall face – rake out joints and re-point in sand:cement mortar
 - ii. missing / loose pointing to stone copings at lower end of boundary wall – rake out joints / re-bed if necessary and re-point in sand:cement mortar
 - iii. overgrown ivy to mid -section of wall – remove ivy / shrubs and make good any damaged / loose pointing in sand:cement mortar

Commuted Sum for grounds maintenance and wall maintenance

16. A commuted sum has already been offered to the Council if it adopts the land. The commuted sum is intended to cover the cost of grounds maintenance for a landscaped area over a 10-year period. The sum should be reflective of the anticipated cost of time and equipment to maintain the final landscaped design.
17. Whilst a sum of £23,840 was provisionally agreed in 2023 it is considered no longer suitable by Officers for the following reasons;

- **It was based on a smaller area than it should have been**

The original commuted sum was based on an area of only 783 sqm but should have been based on a larger area of 1,408 sqm, to include land to the rear of Plots 1-5, which are still part of the formally agreed design with Planning.

It is the developers intention that the area to the rear of Plots 1-5 will become incorporated garden space but this variation has not yet been passed.

- **It was based on the original intention for the landscape design**

This is to change to meet the requirements of Yorkshire Water to adopt the tank.

- **It does not take account of the boundary wall.** This needs to be factored in.

- **It did not account for inflation**

The value of the sum is therefore likely to depreciate over time meaning it could be spent before the 10 years is up.

Revised Commuted sum

18. Barnfield have now met with the Council's Head of Greenspaces for discussion on new landscape plans and have provided an updated Landscape Plan. From this the Head of Greenspaces has been able to determine a revised cost of grounds maintenance, based on the revised landscape plan. From this a new Commuted Sum can be renegotiated.
19. The revised landscape plan provided to the Council is only for the top-most part of the public open space. The reason for this is that it is their intention to reduce the public open space down to the 783 sqm figure by extending the gardens to the rear of Plots 1-5. Planning Officers are provisionally accepting of this, subject to their final satisfaction. It should be noted that this is not yet formally approved.
20. The revised commuted sum should therefore be worked out based on the larger area of 1,408sqm, and reduced pro-rata if the planning variation is accepted.
21. In this way any commuted sum should reflect the final size of public open space to be adopted. It should also account for Inflation over the 10-year period, which the original sum did not. It should also account for upkeep to the boundary retaining wall.

22. Following the review of an updated landscape design provided by PEARL, Officers estimate that a revision of the original commuted sum based on the larger grounds footprint, which also includes the wall, and an inflationary increase could be more in the region of £62,836.
23. Barnfield have expressed that they are open to renegotiation and would be accepting of a higher amount.
24. In considering their decision, the Executive should also consider the long term maintenance of the land beyond 10 years. Once the sum has been spent costs would then need to be met by the council. Including, if for any reason unexpected liabilities led to the sum being depleted in fewer than 10 years.
25. These are important considerations not fully explored by the 2023 decision and which need to be resolved.

Alternative to adoption

26. Should the Council not adopt the area then the land would need to remain in the ownership of PEARL, with a management company established to maintain the area through resident contributions, or such alternative arrangements as PEARL may determine. PEARL has raised concerns about impact on saleability of the homes, and the Council does have a financial interest in this, via the PEARL Joint Venture, but such arrangements are common practice.
18. Barnfield, as the developer for the scheme and a partner in PEARL, would prefer the Council to take responsibility for this area of land.
19. Sales interest is now being taken on homes and as such, prospective homeowners may be informed retrospectively about land management arrangements should the area need to be retained by PEARL.

RECOMMENDATION

Plot 1 – Stoney Bank Road frontage

20. There is a choice for the Council to agree to the adoption of the landscaped area at the top of the site and take on the associated liability.
27. To decline the request would be the most cost-effective solution for Pendle Council, avoiding long-term liability for maintenance.
28. Agreeing to adopt land at a developer's request may set a precedent, leading to similar approaches on other sites, with cumulative impacts on Council resources and liability.

Plot 2 – Bailey Street compound (rear):

21. Officers request delegated authority to the Director of Place to determine all matters, including final proposals for landscaping and drainage works at the bottom of the site (Bailey Street end).

22. At present this is mostly a grassed area but the developer has proposed 'enhancements' in lieu of rent for the compound. Any change to the landscape design could have implications for the cost of grounds maintenance to the council. The cost of this is being considered by the Greenspaces Manager, though it is not expected that the developer will contribute to the cost of this parcel of land as it was already within council ownership and responsibility.

WEST CRAVEN AREA COMMITTEE RECOMMENDATION TO THE EXECUTIVE

23. On 6th May 2025, a report was presented to West Craven Area Committee. Members resolved to recommend to the Executive that:

- The Council adopt the landscaped open space at the front of the site (Stoney Bank Road end).
- The reinstated compound area at the Bailey Street end remains in Council ownership and be developed as wetland/woodland.
- The original commuted sum of £23,840 be accepted.

24. This recommendation was made before it was known that the landscape plan is to be revised and before the full legal and financial implications of adoption were known. Officers have since reviewed the updated position and advise that the transfer should not proceed at this time.

IMPLICATIONS

Policy: Aligns with place-making and regeneration priorities, subject to appropriate design and financial safeguards.

Financial: Due to budget pressures the Council is currently looking at ways to reduce its financial liabilities. Adopting this piece of land would go against that plan. It must be noted that even though a commuted sum has been offered, due to the attenuation tank there are significant unknown risks associated with adopting the land which could lead to additional financial implications. In addition, adopting a piece of land at the request of a developer may lead to similar requests from other developers.

Legal: Legal arrangements for access, maintenance and liabilities over the adopted attenuation tank are unresolved. Transfer of land would require formal terms covering boundaries, liability exclusions, and maintenance obligations.

Risk Management: Recommending against adoption at this stage reduces the Council's exposure to financial and legal risk, especially in the absence of a confirmed landscape scheme.

Health and Safety: None directly arising from this report.

Sustainability: Proposed swale and planting at the Bailey Street end contribute positively to local biodiversity and flood resilience.

Equality and Diversity: Enhances public open space provision accessible to all residents.

APPENDICES

Appendix 1	PDF	Drainage plan – shows location of attenuation tank. Taken from planning application
Appendix 2	JPEG	Further detailed image of showing attenuation tank and underground pipe infrastructure
Appendix 3	PDF	Original Landscape plan. Still the formal design within the Planning application
Appendix 4	PDF	Revised Landscape plan. Showing proposed updated design. Note this plan has been given showing an extension to gardens on plots 1-5 which has not yet been approved by the Planning team

LIST OF BACKGROUND PAPERS

- Executive Report – 16th November 2023 (Item 05)
- West Craven Area Committee Report – 6th May 2025