The Cabinet

6 July 2026

Title:	**Privately Managed Public Open Spaces, Flood Alleviation Schemes, and Estate Roads**
Lead Officer:	**David Buckland, Chief Executive**
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Portfolio Holder/ Lead Member:	**Councillor S Juned**

Summary

The purpose of this report is to provide an opportunity for The Cabinet to consider the recommendations from the Overview and Scrutiny Committee arising from the Task and Finish Group: Privately Managed Public Open Spaces, Flood Alleviation Schemes, and Estate Roads, prior to the consideration by Council.

Recommendations to Council

(1) That the recommendations from the Overview and Scrutiny Committee arising from the Task and Finish Group: Privately Managed Public Open Spaces, Flood Alleviation Schemes, and Estate Roads be supported; and

(2) That the financial implications from Recommendations (6) and (7) be incorporated into the Council's 2027/28 revenue budget considerations.

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1 Background/Information

1.1 A Notice of Motion was submitted to the Council meeting held on 14 April 2025 by Councillor Pemberton, seconded by Councillor Juned. The Notice of Motion read as follows:

1.2 *The practice of developers using private management companies to operate and maintain public assets while levying uncontrolled and increasing charges has not delivered good outcomes for residents in terms of high-quality public amenities. At the same time increasing charges have reached the point of unaffordability for many people.*

Over several years current and former members of this council have raised concerns about this issue relating to specific sites in their Wards. The previous and current administration recognised the severity of the issue which has been addressed, moving forwards, by the Part L Public Open Space SPD adopted in 2024. This creates a cascade mechanism to ensure, as far as possible, that public amenities are held in public hands.

There are, however, many residents who feel trapped by current arrangements that provide poor or no maintenance while costs continually rise. Ward members face challenges in how best to advise residents and to understand what, if any levers the District Council has in resolving issues.

This motion calls upon the Council to establish a member task and finish group, under the auspices of the Overview and Scrutiny Committee (O&S) but membership shall not be limited to members of O&S only. The Group will be tasked with looking into the issue and will report back to O&S with recommendations as to how best to ensure that public assets run by private companies can be managed more effectively and/or taken into the control of the District or relevant Town/ Parish Council where there is local support for doing so. The group is to report back to O&S within 3 months of being established and to update full Council on such recommendations at the conclusion of its work.

The remit of the group should include but not be limited to:

1. *Collating a central record of all sites where a private management company is operating*
2. *Engaging with and taking evidence from any established resident groups on the developments affected*
3. *Understanding the current legal landscape and powers currently available to the District Council*
4. *Establishing the position of the County Council relating to adoption of assets*
5. *Identifying good practice and successes by other Councils in relation to this issue*
6. *Engaging both MPs covering the District, to understand what work is currently underway at a parliamentary level, for example an All Party Parliamentary Group (APPG) and secure support for lobbying Government to make it easier to take over assets currently run by private management companies*
7. *Making recommendations for future actions and/or policy changes to ensure public assets are managed more effectively on sites not covered by Part L Public Open Spaces SPD*
8. *Producing a Ward member guide so that consistent advice is given to residents across the District.*

1.3 At The Cabinet meeting held on 7 July 2025, it was recommended to Council that a Task and Finish Group be established. Following which, the recommendation was ratified at the Council meeting held on 14 July 2025, and the Overview and Scrutiny Committee (OSC) established the Group on 27 August 2025.

1.4 The Cabinet and Council agreed that the following objectives would be set for the Group, but that point six would be of lower priority as the Group should focus on sites where there had been issues identified, rather than all sites where private management companies operated:

1. *Engaging with and taking evidence from any established resident groups on the developments affected*

2. *Understanding the current legal landscape and powers currently available to the District Council*
3. *Identifying good practice and successes by other Councils in relation to this issue*
4. *Engaging both MPs covering the District, to understand what work is currently underway at a parliamentary level*
5. *Establishing the position of the County Council relating to adoption of assets*
6. *Collating a central record of all sites where a private management company is operating*
7. *Making recommendations to inform emerging policy in the South Warwickshire Local Plan, as appropriate.*

1.5 The Group noted at an early stage that the Council's influence was limited in addressing the challenges faced by residents and local councils, particularly regarding service charges, as these require legislative and regulatory changes at a national level. Nevertheless, by meeting the above objectives, the Group was hopeful to realise any additional support which the Council could provide in this area and to contribute to building an evidence base to support changes in national legislation.

1.6 ***Overview of meetings and recommendations***

1.6.1 The Group first met on 3 September 2025 and held its last meeting on 24 March 2026, with the final recommendations from the working group being considered at the Overview and Scrutiny Committee on 8 April 2026. In total 10 recommendations were supported by the Overview and Scrutiny Committee. In line with the Council's constitution where these recommendations have financial or policy implications, they need to be considered by The Cabinet prior to Council. This requirement means that all of the recommendations would need to follow this process.

1.6.2 There was one recommendation however, where the view of the Overview and Scrutiny Committee, and the Head of Paid Service, was that urgency required a more timely response.

1.6.3 The specific recommendation related to a representation to Government which was pertinent to the recent Government consultation "*Reducing the prevalence of private estate management arrangements"* which closed on 12 March. To help influence the Government response to this consultation, The Cabinet supported this recommendation at their meeting on 13 April 2026 and this was referred directly for consideration at the Council meeting scheduled for 20 April 2026, again where it was supported. In line with the Council decision, representations on this issue have therefore been made to Government.

1.6.4 This report will concentrate on the remaining 9 recommendations from the Overview and Scrutiny Committee on 8 April 2026 which are as follows:

(1) That a toolkit be made available on the Council's website by December 2026 as a guide for:

a) local councils or residents' associations considering adoption or purchase of Public Open Space; and

b) residents considering purchasing a property on a development which may be subject to private management arrangements;

(2) That training be provided for district, town and parish councillors on adoption of Public Open Space, to accompany the toolkit;

(3) That a process be established to enable town and parish councils to report decisions, to adopt or not adopt Public Open Space, to the District Council, to ensure better monitoring and compliance with the Part L (Open Space) Development Requirements (SPD), and liaise with the Council throughout the process of adoption;

(4) That a clear set of criteria to inform decisions as to whether the Council adopts Public Open Space when it has been rejected by the town or parish council be established, in accordance with Part L (Open Space) Development Requirements (SPD), by December 2026;

(5) That an internal central record of sites where private management companies operated be kept under review to ensure better monitoring and compliance with Section 106 obligations;

(6) That a report be prepared for consideration by The Cabinet regarding resourcing implications for investigation into non-compliance with Section 106 obligations on all developments;

(7) That a report be prepared for consideration by The Cabinet to investigate additional support available for parish and town councils considering adoption of Public Open Space;

(8) That affected residents be encouraged to join a support forum, and Council asks that local Members of Parliament and Warwickshire and West Midlands Association of Local Councils do the same;

(9) That, where Public Open Space secured through a Section 106 agreement and intended to be maintained in perpetuity is proposed for sale or transfer into private ownership, and the Council becomes aware of this, appropriate steps be taken to liaise with vendors and relevant parties to confirm that the Section 106 conditions would run with the land, meaning the land remained designated as Public Open Space and cannot be restricted from public use without planning permission.

1.6.5 The remainder of the report will consider the proposed response to the recommendations from the Overview and Scrutiny Committee.

1.7 ***Recommendations 1 and 2***

1.7.1 It is suggested that the recommendations 1 and 2 are supported, however, renamed as a checklist of issues that parties would need to consider.

1.7.2 It is clear that the Council cannot provide legal advice to residents, this would include issues that need to be considered as part of a conveyancing process. Individuals need to ensure that they are properly legally advised as part of their house buying process. However, what could be possible is that a checklist be developed by the Council to at least inform some of the questions that individuals may wish to ask as part of this process, with specific regards to management companies.

1.7.3 In relation to ongoing disputes that residents may have with management companies, again the Council cannot get involved. Residents in this situation need to seek independent legal advice.

1.7.4 As far as the town and parish Councils, members will be aware that it is the Council's preference that they are provided with the first opportunity to take on areas of public open space on new estates. Whilst obviously such decisions remain those of the individual town and parish councils, again, a checklist could be developed that would help with identifying the issues that they may consider as part of their deliberations. This could include guidance on how to determine future maintenance costs and issues surrounding liabilities, along with how commuted sums are calculated.

1.7.5 It is for these reasons that the Council cannot get involved in individual decisions but could at least identify some of the questions that would need to be considered by both parties.

1.8 ***Recommendations 3 and 4 - Lead service – Development Delivery***

1.8.1 It is suggested that the recommendations 3 and 4 are supported.

1.8.2 In accordance with Part L (Open Space) Development Requirements (SPD) under individual s106 agreements the relevant town and parish council is provided with the first opportunity to adopt areas of public open space. The s106 agreement will identify the cascade process which is to be followed.

1.8.3 Under current practice the developer of the site, in seeking to discharge their s106 obligations would lead the dialogue and only approach the district council if they have failed. The recommendation properly identifies that the district council cannot require the town or parish council to publish the reasons for refusing to adopt the specific site, however it would be possible for a standard form to be provided to feed back to the district council.

1.8.4 In relation to recommendation 4 this would formalise the process which is currently considered by the Council's estates team when such an opportunity arises. Ultimately this decision is made under delegated powers by the Deputy Chief Executive and the decision notice would be published in the normal way.

1.9 ***Recommendation 5 – Lead Service - Development Delivery***

1.9.1 It is suggested that recommendation 5 is supported. Although, such a list may be of limited use and it should be recognised that such a list could not be guaranteed to be comprehensive.

1.9.2 This recommendation is focussed on private management companies which are appointed by developers as part of a planning process.

However, it should be noted that such arrangements can be implemented completely separately from the planning processs, and as such the Council would have no knowledge of such arrangements. Examples relate to areas including flats and apartments where resident associations are established to undertake roles such as maintenance and communal areas.

1.9.3 It should also be noted that it may not be possible to ensure that such a listing is kept up-to-date, there may well be subsequent changes to the management arrangements that the Council would not be party to or have oversight of.

1.10 ***Recommendations 6 and 7 – Lead Service - Development Delivery***

1.10.1 It is suggested that the recommendations 6 and 7 are supported.

1.10.2 There are clear resource implications arising from the recommendations from the Overview and Scrutiny Committee, which would not be able to be accommodated within the existing budget framework. Although the requirement for additional resources may be reduced through the introduction of a newly developed monitoring module on the Council's Uniform software system to enable the systematic monitoring of relevant planning conditions and section 106 obligations on selected development. Furthermore, there are existing temporary funding arrangements in place for the function that will need to be considered alongside the Council's overall budget.

1.10.3 It is also suggested that to help inform the resource report, that an engagement exercise is undertaken with the town and parish councils to help identify the "additional support" that they may require in helping to consider such requests.

1.10.4 It is therefore recommended that the Council's Development Delivery Manager be requested to prepare a report highlighting the resource requirements which can then be considered alongside the development of the 2027/28 revenue budget.

1.11 ***Recommendation 8 – Lead Service - Communications***

1.11.1 It is suggested that recommendation 8 is supported.

1.11.2 In delivering this recommendation the Council could provide details on the website to help signpost and highlight what support groups may be available to help. Obviously, it would be a decision for the individual residents as to whether they choose to join such groups.

1.11.3 The links to support forums could be included within the toolkit/checklist to be developed under recommendation 1.

1.11.4 If Council accepts this recommendation, then it is also suggested that the Council write to both Members of Parliament and the Chief Executive of the Warwickshire Association of Local Council's encouraging them to highlight the Council's website in this regard to any such affected residents.

1.12 ***Recommendation 9 – Lead Service – Corporate Estates***

1.12.1 It is suggested that recommendation 9 is supported.

1.12.2 It should follow that if land has been designated as public open space in perpetuity, then it should receive such protections identified in the recommendation. However, it is also accepted that no two sites will present with the same issues or solutions.

In accepting this recommendation therefore, it is acknowledged that each such site should be dealt with on a case-by-case basis and led by the Council's corporate estates team.

1.13 It is clear from the amount of consideration and cross-party involvement that the issue of Privately Managed Public Open Spaces, Flood Alleviation Schemes, and Estate Roads, and associated management companies is a significant issue for the residents and elected members of the District.

1.14 The report from the Task and Finish Group has identified 10 recommendations that are designed to assist with future concerns. However, it is recognised that these actions concentrate on future arrangements and it would take action from national Government to address concerns with existing arrangements.

1.15 If The Cabinet support the recommendations these would then be considered at the Council meeting on 15 July 2026.

2 Options available to The Cabinet

2.1 To agree the recommendations to Council;

2.2 To amend the recommendations or make different recommendations to Council; or

2.3 To make no recommendations to Council.

3 Evidence Base

3.1 The evidence base used by the Task and Finish Group was detailed within the report to the Overview and Scrutiny Committee meeting held on 8 April 2026. This evidence includes information and testimony provided by elected members, officers, residents, and parish and town councils.

4 Consultation and Members' comments

4.1 These have been included within the report.

5 Implications of the proposal

5.1 *Legal Implications*

5.1.1 Please see the original report from the 7 July 2025 meeting of The Cabinet for more information.

5.1.2 The Council should reconsider these proposed recommendations, should it be minded to agree them, in light of Local Government Reorganisation.

5.1.3 Whilst wanting to provide support where possible, the Council maintains that residents and parish councils should seek their own independent legal advice regarding all matters relating to purchasing of property and dealings with private management companies.

5.1.4 The Council cannot act retrospectively in relation to previous agreements, and its influence is limited in regard to private contracts between purchasers of property and developers. These are private matters between the developer and home buyer. The Government has consulted on introducing some form of Ombudsman or Tribunal for management companies, however this will require primary legislation and would not involve the local planning authority.

5.2 ***Financial***

5.2.1 As detailed within recommendations 6 and 7, if The Cabinet support the 9 recommendations this would require a further report to be prepared for consideration by The Cabinet as part of the development of the revenue budget for 2027/28.

5.3 ***Council Plan***

5.3.1 Residents and Communities - acting in the best interest of residents and communities throughout the District

As evidenced by the volume of responses to the survey, this is a significant matter affecting residents across the District.

Housing - delivering affordable well built and maintained homes

Management fees affect the affordability of homes, and one of the commonly identified issues has been poorly maintained estates.

Health and Wellbeing - putting health and wellbeing at the heart of decisions

More affordable arrangements and better maintained residential areas will have a positive impact on the health and wellbeing of residents.

Delivery of Service - using money responsibly in delivering the best services possible

The recommendations seek to establish a balance between providing support to residents and parish and town councils in this area, whilst being mindful of resource constraints and the responsibility of other councils as sovereign bodies and individuals acting in a private capacity.

5.4 ***Environmental/Climate Change Implications***

5.4.1 There are no environmental implications arising from this report, other than the fact that ensuring proper maintenance of residential amenities should have a positive impact on the environment.

5.5 ***Analysis of the effects on Equality***

5.5.1 A screening exercise has been undertaken and there were found to be no implications. S.149 Equalities Act 2010 duly considered where appropriate.

5.6 ***Data Protection***

5.6.1 The results to the surveys undertaken by the working group were anonymised, aside from those who have completed it being given the option to be put in contact with other similarly affected residents. Contact details will be handled with care following the Council's normal procedures. Data Protection Act duties and responsibilities considered where appropriate.

5.6.2 The Council must maintain confidentiality and GDPR compliance in relation to any communications and agreements it has access to, noting possible commercial sensitivities.

5.7 ***Health and Wellbeing***

5.7.1 The impact for residents affected has been an overarching consideration for the Task and Finish Group.

5.8 ***Human Resources/Staffing***

5.8.1 Any other resource implications will be kept under review.

6 Risk Assessment

6.1 There are no further risks. Please see the original report from the 7 July 2025 meeting of The Cabinet for more information.

7 Conclusion/Reasons for the Recommendations

7.1 This report provides the opportunity for The Cabinet to consider the remaining 9 recommendations from the Overview and Scrutiny Committee following the review by the Task and Finish Group: Privately Managed Public Open Spaces, Flood Alleviation Schemes, and Estate Roads and recommends actions to be taken by the Council going forward in relation to this matter.

David Buckland

CHIEF EXECUTIVE

Background papers:

None.