



AGENDA ITEM: 10

PLANNING COMMITTEE:
19 June 2014

CABINET:
1 July 2014

**EXECUTIVE OVERVIEW AND
SCRUTINY COMMITTEE:**
17 July 2014

Report of: Assistant Director Planning

Relevant Managing Director: Managing Director (Transformation)

Relevant Portfolio Holder: Councillor M Forshaw

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SUBJECT: OPEN SPACE AND RECREATION PROVISION IN NEW RESIDENTIAL DEVELOPMENTS SUPPLEMENTARY PLANNING DOCUMENT

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To recommend the Open Space and Recreation Provision in New Residential Developments Supplementary Planning Document ('the Open Space SPD') be adopted with immediate effect to form part of the planning policy framework against which planning applications are assessed.

2.0 RECOMMENDATION TO PLANNING COMMITTEE

- 2.1 That the content of this report be considered and that agreed comments be referred to Cabinet for consideration.

3.0 RECOMMENDATIONS TO CABINET

- 3.1 That Cabinet consider the agreed comments of Planning Committee set out at Appendix D.

- 3.2 That Cabinet approve the adoption by the Council of the Open Space SPD (Appendix A to this report), subject to the track changes amendments being accepted and any minor amendments to be made by the Assistant Director Planning in consultation with the Portfolio Holder, following consideration of this report and its appendices by Executive Overview and Scrutiny Committee.
- 3.3 That call-in is not appropriate for this item as this report is being submitted to Executive Overview and Scrutiny Committee on 17 July 2014.

4.0 RECOMMENDATION TO EXECUTIVE OVERVIEW & SCRUTINY COMMITTEE

- 4.1 That the content of this report be considered and that agreed comments be referred to the Assistant Director Planning for consideration.
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5.0 BACKGROUND

- 5.1 In April 2009, the Council adopted a Supplementary Planning Document (SPD) on open space and recreation provision in new residential developments. This SPD covered both on-site open space, and wider, 'strategic' open space, both of which required financial contributions from developers of residential schemes above a certain number of dwellings. The size of the financial contributions depended on the size, location and nature of the residential development in question.
- 5.2 Subject to the introduction of the Community Infrastructure Levy (CIL), it is intended to change from the current system whereby developer contributions towards public open space are all secured through Planning Obligations (Section 106 Agreements). Instead, following the adoption of the CIL Charging Schedule in the Borough, housing developers will simply pay a levy per square metre of floorspace developed to contribute towards necessary infrastructure improvements (including "strategic" public open space) across the Borough, and so the use and the scope of Section 106 Agreements will be significantly curtailed.
- 5.3 Specifically, in terms of public open space, the implementation of CIL will mean that more strategic, off-site public open space will be funded through CIL contributions. However, there would still be a need to have "local" public open space on-site within developments of a certain size. This would be secured either through a planning condition or through a Section 106 Agreement.
- 5.4 As a result, a new Open Space SPD is required to deal solely with the provision of on-site public open space within new residential developments. This SPD needs to address:
- When on-site provision would be required;
 - The amount of public open space that would be required;
 - What type of public open space should be provided; and

- How the public open space should be maintained.

5.5 Policy EN3: Provision of Green Infrastructure and Open Recreation Space of the West Lancashire Local Plan 2012-2027 sets the framework for open space provision in the Borough. As such, Policy EN3 is the 'parent' policy for the Open Space SPD. Part (d) of Policy EN3 states that:

Where deficiencies in existing open space provision exist, as demonstrated in the Council's Open Space, Sports and Recreation Study, new residential development will either be expected to provide public open space on site (where appropriate) or a financial contribution towards the provision of off-site public open space to meet the demand created by the new development or enhancement to existing areas of public open space which could be upgraded to meet the demand created by the new development

6.0 CURRENT POSITION

6.1 A draft Open Space SPD was prepared and approved for public consultation by Cabinet on 18 March 2014. The draft document was drawn up in consultation with officers in Leisure, Grounds Maintenance and in the Development Management team of Planning, and has drawn upon the 2009 Open Space Study and other relevant more up-to-date information. This draft SPD was consulted upon for six weeks from 3 April to 16 May 2014.

6.2 16 representations were received during the consultation, two of which were paper copies of representations which duplicated representations already submitted online, and a further two provided no comment at all. As such, only 12 true representations were received. These representations, together with a proposed Council response to each one, are provided at Appendix B.

6.3 The representations made a range of points, which can be summarised as follows:

- Concern regarding whether the Open Space & Recreation Study 2009 can be considered an up-to-date evidence base for the SPD;
- Concern regarding the lack of a viability assessment to inform and test the implications of the SPD on development viability;
- Queries over the justification for the open space requirements set within the SPD, including the thresholds;
- Queries regarding over provision of public open space within developments and within a general locality;
- Request for clarification regarding the role of the canal network in new public open space;
- Queries and concerns over the issue of flexibility within the SPD;
- Queries regarding the management of incremental smaller developments in one location;
- The differentiation of types of open space and how they should be provided;

- Concern about safety of open space users where new open space is provided by a rail line;
 - Concern that the SPD should include and promote Green Infrastructure, sustainability and the management of the natural environment for the benefit of current and future generations; and
 - Suggestion that local communities should be consulted on the provision, and type, of new open space.
- 6.4 There were also several comments generally in favour of the SPD and of requiring the provision of new open space within residential developments.
- 6.5 As a result, the final SPD being recommended for adoption (provided at Appendix A) incorporates the following changes compared to the consultation draft version:
- Add to Justification of Policy OS1 to explain the derivation of on-site open space requirements from the recommended local standards in the 2009 Open Space and Recreation Study;
 - Add to Justification of Policy OS1 to clarify the potential for exceptions to the requirements in this SPD, especially related to where a Neighbourhood Plan, masterplan or development brief identifies an exception would be appropriate;
 - Clarify comments in relation to the canal network at the end of chapter 5 of the SPD;
 - Clarify wording and process applying to incremental developments within Justification to Policy OS1;
 - Include appropriate wording within chapter 5 of the SPD to address the issue of trespass onto rail lines from adjacent public open spaces; and
 - Add reference to the need to consult local communities on the public open space proposed within a development as part of an applicant's pre-application consultation.
- 6.6 For comparison, the changes are included in Appendix A as track changes to the SPD, but the final adopted SPD will accept all the track changes (subject to Cabinet's decision).
- 6.7 In addition, the Council have proposed one further change to wording within Policy OS1 to clarify that it would only be on exceptional occasion that the Council would take on responsibility for the management and maintenance of a new open space provided as part of a new development. This amendment has been proposed to ensure that it is absolutely clear that in all but the most exceptional cases, developers themselves will be expected to manage and maintain public open spaces provided within new residential developments, or to appoint a maintenance company / land trust to manage and maintain the public open spaces on their behalf.
- 6.8 The SPD proposes the following with regard to on-site open space:
- No specific area of on-site public open space will be required by the Open Space SPD for residential developments of 1-39 dwellings (although a small amount may be required in order to ensure good design and

adequate residential amenity under WLLP Policy GN3 (Criteria for Sustainable Development) or under the Design Guide SPD) – this is consistent with the existing 2009 Open Space SPD.

- For developments of 40-289 dwellings, 13.5 square metres of open space will be required per bedroom developed. The public open space will take the form of “informal amenity green space”, i.e. undeveloped publicly accessible areas providing an informal recreation function.
- For developments of 290 dwellings and above, 15 square metres of open space will be required per bedroom developed. This public open space will comprise informal amenity green space (approximately 13.5 square metres) and formal public open space including play equipment for children and young people (approximately 1.5 square metres).

- 6.9 While the threshold of 40 dwellings remains the same as the existing SPD, the introduction of a second, higher threshold where the level of on-site provision increases slightly is a measure to ensure that on the larger sites (accommodating approximately 1000 new residents) formal public open space with play facilities is included on-site. In terms of the quantity of public open space required per bedroom, this is now a flat rate requirement across the Borough (the existing SPD provides variable rates in different parts of the Borough) and requires a significantly larger amount of open space on-site than previously, to reflect the up-to-date open space standards in the 2009 Open Space Study.
- 6.10 The SPD will not allow for financial contributions to be made in lieu of on-site public open space provision, as this would not be permissible with the reduced ability to pool planning obligations under the CIL Regulations. A reduction in the amount of on-site public open space, compared with the above requirements, would only be allowed where the developer provides a clear and robust justification as to why it would be appropriate to reduce the amount of on-site public open space for their specific development.
- 6.11 In terms of maintenance, the SPD outlines how the preference of the Council will be that a developer retains the ownership of the on-site public open space and manages and maintains it themselves (or via a maintenance company or land trust). However, it is acknowledged that this will not always be appropriate and that in some instances ownership of the on-site public open space will need to transfer to the Council.
- 6.12 Where the public open space is to transfer to the ownership of the Council, the SPD requires a financial contribution from the developer to pay for the maintenance of the public open space provided for a period of at least ten years, after which the burden of maintenance would pass to the Council. A standard cost per hectare of open space would apply Borough-wide, rather than attempting to agree discrete costs for each development. The cost per hectare would be higher for sites above the 290 dwelling threshold, as there would be more types of open space to maintain.

7.0 NEXT STEPS

- 7.1 Assuming that Cabinet accept the recommendation at 2.1 above, the SPD will be adopted with immediate effect.

8.0 SUSTAINABILITY IMPLICATIONS / COMMUNITY STRATEGY

- 8.1 The provision of adequate public open space for residents and visitors to West Lancashire is a key sustainability requirement and a significant factor in an individual's quality of life. This SPD will provide the Borough Council with greater control in ensuring that new development provides an acceptable level of on-site public open space.
- 8.2 As part of the preparatory work on the SPD, a screening exercise was carried out on the Council's behalf by consultants, to test whether the SPD needed a Sustainability Appraisal (SA). The consultants concluded that no SA of the SPD is required. This screening report is included as an appendix to the SPD.
- 8.3 Providing suitable public open space will, directly or indirectly, help to meet three of the key objectives of the Sustainable Community Strategy, namely "Improved health for all" (to improve health outcomes, promote social wellbeing for communities and improve health for everyone), "Young and older people" (to provide opportunities for young and older people to thrive), and "Better environment" (to protect and improve West Lancashire's environment including safeguarding our biodiversity).

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 9.1 The preparation of the Open Space SPD (and consultation on it) has been resourced through the Planning Service's revenue budgets.
- 9.2 The adoption and implementation of the proposed policy set out in the SPD should result in the provision of additional public open space in the Borough. In time, depending on whether the new public open space passes into the Council's ownership or not, this may result in an ongoing financial cost to the Council for maintenance.

10.0 RISK ASSESSMENT

- 10.1 Not having an up-to-date, CIL-compliant SPD could lead to developers challenging any requirements from the Council for open space in new residential developments, possibly leading to inadequate standards of amenity for the occupiers of new developments and a greater strain on existing public open spaces in the Borough because of the additional demand on them created by the increased residential population. The speedy preparation and adoption of this SPD should ensure that the above scenario is avoided.

Background Documents

West Lancashire Borough Council Open Space, Sport and Recreation Study 2009
(http://www.westlancs.gov.uk/planning/planning_policy/the_local_plan/the_local_plan_2012-2027/evidence_and_research/open_space_study.aspx)

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected Members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal Equality Impact Assessment is attached as Appendix C to this report, the results of which have been taken into account in the recommendations contained within this report.

Appendices

- A. Open Space and Recreation Provision in New Residential Developments SPD (including track changes to show post-consultation amendments)
- B. Representations received during consultation (and proposed Council responses)
- C. Equality Impact Assessment
- D. Minute of Planning Committee 19 June 2014 (Cabinet & Executive Overview and Scrutiny Committee only)
- E. Minute of Cabinet 1 July 2014 (Executive Overview and Scrutiny Committee only)