



Growth and Development Scrutiny Group

Wednesday, 15 July 2020

Open Spaces

Report of the Executive Manager – Communities

1. Purpose of report

1.1. This item has been raised for consideration by the Growth and Development Scrutiny Group following concerns regarding the lack of consistency for Management Companies fees from development to development (even within the same village). More specifically the concerns raised include:

- The lack of an overall cap on fees,
- “Hidden” fees for residents who come to sell their property or re-mortgage,
- The lack of ability for residents to redress any dissatisfactions or shortcomings with Management Companies,
- The fact that residents don’t understand the full extent of the costs they are agreeing to pay when they purchase the properties and
- The resident’s misconception that the areas they are paying for are for their sole use creating friction with other local residents lawfully using the areas.

1.2 Open spaces can be required on small, medium and large scale residential developments within the Borough. Under the Local Plan, the Council has identified six strategic sites within the Core Strategy and twenty five additional residential sites under Local Plan Part 2. These developments range from 45 to 4,000 dwellings in size.

1.3 A background investigation has been undertaken to explore the challenges associated with the delivery of open space managed by Management Companies on housing developments, looking at who could be responsible for the management and maintenance of outdoor community spaces on them in the future.

1.4 This initial report and presentation will give Councillors an update on the current arrangements to enable Councillors to scrutinise this information and make recommendations on the options for their future investigation and operation.

1.5 This issue has not currently been considered by any other committee.

1.6 A presentation will be given to the Group to expand on the issues contained within this report.

2. Recommendation

It is RECOMMENDED that the Growth and Development Scrutiny Group considers the contents of the report and presentation, and identifies any areas for further investigation.

3. Reasons for Recommendation

- 3.1. Prior to 2000, the Council adopted any open space on housing developments with no cost to developer or residents of that development.
- 3.2. Between the years of 2000 and 2011, the Council continued to adopt all open space on new housing developments but sought a commuted sum from the developer that covered the first 15 years of the costs associated with the maintenance and management of the open space. After 15 years the responsibility became a financial implication for the Council. Issues were, however, experienced whereby some developers failed to pay the commuted sum and, therefore, residents experienced issues of open spaces not being maintained.
- 3.3. In 2011, the Council changed its position regarding taking ownership of Open Space land, including the risk of on-going maintenance liability deciding it was no longer in a position to accept ownership of any open space land. Developers are now required to submit an Open Space Scheme which, amongst other things requires the method for securing the management and maintenance of the open space by an 'appropriate organisation' and that management and maintenance of the open space should be through a 'management company or by transfer to some other appropriate organisation', with suitable provision for funding the future management and maintenance. This process is now common practice amongst Local Authorities.
- 3.4. Since 2011, all new open space, constructed as part of new housing developments, has been the sole financial and physical responsibility of the developer to provide, and then inspect and maintain post development. However, most developers seek to pass that maintenance responsibility onto a Management Company with the financial burden for paying the Management Company passed on to the residents of the new developments with monies collected via a monthly charge on each dwelling secured at the time each dwelling is sold/re-sold.
- 3.5. In the case of the strategic housing allocations (500+ dwellings), the facilities are likely to prove attractive and, therefore, be used by significant number of people from within the settlement within which they are located, and some facilities even serve as an attractor to visitors from outside the settlement. However, the costs of funding the maintenance of the facilities are only paid for by the residents of the development within which the facility is situated. In other words, the facilities may be used by significantly more people than are contributing towards the maintenance and up keep them.

- 3.6. The Ward Councillor who raised the initial key line of enquiry that has resulted in this item states that their constituents have raised issues: that different Management Companies within the same village are charging differing amounts; that there is no cap on the fees that residents are charged; and that the residents have little or no control over the quality and frequency of the work that they are paying for.
- 3.7. This is an issue not only for the Larger Strategic developments, but also on the smaller developments such as those allocated within Local Plan Part 2. Furthermore, with community facilities, such as country parks on strategic allocations, the costs could be significant as they are likely to serve as an attractor to high levels of footfall from further afield which could accelerate the maintenance requirements for the facility, and therefore, increase in the initial costs placed upon those limited number of residents to pay for.

4. Supporting Information

- 4.1. There are three scales of development that attract the requirement to provide some form of open space; smaller developments (less than 50 dwellings), such as the 5 dwellings on the redevelopment of Chestnut Farm, Willoughby On The Wolds, medium sized (10 plus to circa 150 dwellings), such as the 74 dwellings approved at Abbey Lane, Aslockton, and large developments, (Strategic Allocations of between 550 and 4,000 dwellings).
- 4.2. The requirements for the smaller developments are less likely to require any significant community open space with the maintenance requirements (mowing, pruning trees etc.) more likely to be undertaken by the residents.
- 4.3. Medium sized developments are likely to hit the threshold whereby the developer is required to provide some form of communal open play provision, ideally on site, but possibly as a contribution to improve an existing facility off-site in close proximity to the development. This could be a mixture of formalised (equipped) play areas and informal (unequipped) areas of open space that have a requirement to be maintained and inspected. However, development of this scale is less likely to result in the provision of a community facility whereby the new open space would be a major attraction to draw in people from a significantly wider area to use the space. Nevertheless, the provision of open space on developments of this scale would (currently) result in the requirement for an open space scheme and an appropriate funding mechanism through a S106 agreement.
- 4.4. Due to their scale, the larger scale strategic developments in the Local Plan (strategic allocations being between 550 and 4,000 dwellings, but also some of the larger Local Plan Part 2 sites between 100 and 400 dwellings), will result in the level of provision that could attract users from further afield than just the occupants of the new development to use facilities such as playing fields, large equipped play areas, country parks etc. Again these would require the provision of open space and the requirement for an open space scheme and an appropriate funding mechanism through a S106 agreement.

- 4.5. The recently approved Strategic Housing Allocation at Bingham (Policy 21 of the Local Plan Part 1: Core Strategy) includes, amongst other things, 1,050 new dwellings, a new primary school, retail opportunities and community hall, 15.5ha of employment land, two equipped play areas, incidental (unequipped) play areas, a trim trail and a community park on the edge of the development (and, indeed, on the edge of Bingham) centred around a reservoir with a country park feel. Similarly approved strategic allocations at Edwalton, Cotgrave and Clifton also have large community parks within or alongside them and Clifton will also provide a range of sports pitches within the development. Furthermore, the, as yet unapproved, development at Gamston would also include a range of communal open spaces, play areas (equipped and unequipped) and potentially a country park area. There is also the consideration of the 25 allocated residential developments within Local Plan Part 2, most of which will require an element of on-site open space and the requirement for an open space scheme and an appropriate funding mechanism through a S106 agreement.

5. Risks and Uncertainties

- 5.1. As this report does not propose any detailed options for consideration there is little risk other than that under the current situation the Council could be required to take action in the case where a management company fails in its duties to maintain open space areas, but this would be dependent on the circumstances of any such failures.

6. Implications

6.1. Financial Implications

There are currently no financial implications associated with this report. If the Council chose to change its policy and adopt areas of open space this could have a significant impact on Council budgets.

6.2. Legal Implications

There are no legal implications associated with this report.

6.3. Equalities Implications

There are no equality implications associated with this report.

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no Section 17 Crime and Disorder implications associated with this report

7. Link to Corporate Priorities

Quality of Life	Open space areas on new developments provide a real benefit to the quality of life for residents
Efficient Services	The management of Open Spaces by management companies ensures that no financial implications fall on the Borough Council
Sustainable Growth	The provision of open space on new housing developments ensures high quality growth
The Environment	Open spaces with new housing developments provide a positive impact on the Environment

8. Recommendations

It is RECOMMENDED that the Growth and Development Scrutiny Group considers the contents of the report and presentation, and identifies any areas for further investigation

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Background papers available for Inspection:	None
List of appendices:	None