



Growth and Development Scrutiny Group

Wednesday, 20 January 2021

Management of Open Spaces in New Development

Report of the Executive Manager – Communities

1. Purpose of report

- 1.1. At the March 2020 Growth and Development Scrutiny Group, officers were asked to review a number of recently completed and occupied developments and assess the costs, any issues and levels of satisfaction with the various management companies appointed to maintain the open spaces.
- 1.2. This report provides an update on the review to enable councillors to scrutinise the information gathered and consider the use of a Supplementary Planning Document (SPD) to provide consistency for future Open Space Schemes.

2. Recommendation

It is RECOMMENDED that Cabinet be requested to support the inclusion of guidance within a Supplementary Planning Document (SPD) to provide consistency to future Open Space Schemes.

3. Reasons for Recommendation

- 3.1. As previously advised, the way in which open spaces on developments are managed has varied across the past two decades from the Borough Council adopting them, initially without but later with a commuted sum, to the current approach of requiring Open Space Schemes. Since 2011, open space provided 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 as part of an Open Space Scheme. However, most developers seek to pass that maintenance responsibility onto a Management Company and 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.
- 3.2. The Ward Councillor raising the initial key line of enquiry for scrutiny raised concerns that constituents have reported 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 undertaken.

- 3.3. 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.

4. Supporting Information

- 4.1. A total of fifteen developments were identified that have recently been occupied of a suitable size to require the maintenance of the open spaces and/or play areas and/or drainage facilities on them. Councillors were asked to engage with their constituents on the relevant developments to answer a series of questions (provided by officers) to identify the Management Company, the maintenance costs , the facilities that the cost covered and in a general sense a level of satisfaction with the service provided. As well as the Local Ward Councillors, the Developers responsible for the housing developments were also contacted by officers in an attempt to collate this information. A table summarising the responses is provided in the appendices.
- 4.2. The level of response has been varied, with some Councillors engaging more in the process than others and developers providing limited information as they could not respond to questions relating to issues residents had experienced or levels of satisfaction with the Management Companies appointed to look after the sites. However, given the wide ranging scale of developments, their locations, and the limited number sample size drawing any accurate/meaningful comparisons has proved challenging to collate.
- 4.3. Developments reviewed ranged from 61 dwellings to 470 dwellings and the costs paid per year to the Management Company varied from £142 to £271 per dwelling. The average for the sample being £201 per year/per dwelling (or £16.75 per month). Of the eight developments that provided information regarding the costs paid, five were paying below this average price, and the three paying above it being smaller developments ranging between 75 and 170 dwellings. This is perhaps not surprising as the fewer dwellings on the site, the fewer number of parties there are to split the costs amongst. It was also noteworthy that two of the three developments paying above the average annual price to their Management Company had open space, drainage facilities and play space to maintain on the developments, which officers would expect to be costly items to cover on smaller developments. One of the developments (Pasture Lane in Ruddington) advised that they have not yet been charged by their Management Company and therefore do not know what the fee will be.

- 4.4. Based on the responses received there are currently five different Management Companies operating across nine sites, however one of the Management Companies (Greenbelt) appear to either sub-contract or work with local companies in the Borough to maintain some (but not all) of their sites.
- 4.5. Given the issues as outlined regarding access to better/further information it is difficult for officers to advise the Growth and Development Scrutiny Group further. Management Companies are entitled to charge for the service. The review has revealed that although there is some disparity in the costs being charged to residents across developments this is reasonable when factoring in the amenities that require maintenance and the quantum of development.
- 4.6. It is also noteworthy that none of the developments surveyed include very large open spaces of the scale that will be provided on the Bingham Sustainable Urban Extension and therefore the impacts of open space provision on developments of this scale has not been considered at this time.
- 4.7. Officers have also reviewed what other Local Authorities are doing; concluding that the vast majority are adopting the same approach as Rushcliffe, i.e. no longer adopting open space and requiring the developer to manage and maintain it. However, officers did note that some Authorities do have a Supplementary Planning Document (SPD) within which the detailed requirements of the maintenance and management of open spaces (including formal and informal play areas and drainage facilities) are explicitly stated. A very detailed consultation draft SPD on public open spaces being prepared by Warwick District Council is included in the appendices.
- 4.8. Officers in the Planning Policy Team are currently working on an SPD considering the parameters for contributions sought on new developments, and therefore this could be a vehicle to incorporate the detailed management and maintenance requirements of the Open Space Scheme (secured by the S106 agreement in the majority of cases) across the Borough to ensure that a consistent level of information is provided for all sites.
- 4.9. Officers are aware that on medium to large scale developments residents associations have been formed to engage directly with Management Companies. Residents also (regardless of any residents association) currently have access to a complaints procedure regarding poor service directly to their Management Company. If the Management Company were to be in breach of the approved Open Space Scheme then the Borough Council could also enforce non-compliance with the legal requirements of the s106 agreement (where applicable). However the Borough Council has no powers to control the costs charged by Management Companies nor can it prevent or restrict the use of open spaces or facilities on housing developments by any other individual(s). Ultimately if residents are not happy with the service provided by their Management Company and/or the costs being charged (and any other mediation is not to their satisfaction) then the only real resolution may be to move to another location.

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

6.1.1. There are currently no financial implications associated with this report. Any additional officer time in creating a Supplementary Planning Document (as required) would be contained within existing budgets. Any changes to Council policy resulting in adoption of areas of open space would have a longer term impact on Council budgets.

6.2. Legal Implications

6.2.1. There are no legal implications associated with this report. Enforcement is considered and reviewed on a case by case basis.

6.3. Equalities Implications

6.3.1. There are no equality implications associated with this report

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

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

7. Link to Corporate Priorities

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| 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 Cabinet be requested to support the inclusion of guidance within a Supplementary Planning Document (SPD) to provide consistency to future Open Space Schemes.

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| For more information contact: | Dave Mitchell Executive Manager - Communities Tel: 0115 9148267 dmitchell@rushcliffe.gov.uk |
| Background papers available for Inspection: | None |
| List of appendices: | Spreadsheet summarising the responses from Residents/Developers; & Example Draft SPD from Warwick District Council |