



Cabinet

Tuesday, 9 March 2021

Management of Open Spaces in New Developments

Report of the Executive Manager – Communities

Cabinet Portfolio Holder for Housing and Planning, Councillor R Upton

1. Purpose of report

- 1.1. In January 2020 the Growth and Development Scrutiny Group asked officers to investigate a perceived lack of consistency for fees charged to residents of new developments by management companies, resident concerns relating to the lack of control over price rises, and residents lack of involvement in, and inability to change the management company that looks after the development they live on. Officers reported back to the July 2020 Growth and Development Scrutiny Group having reviewed the situation on nine separate housing developments in the Borough.
- 1.2. Cabinet are asked to review the Growth and Development Scrutiny Group report titled Management of Open Spaces in New Developments from January 2021, and determine if the recommendations might assist the Borough Council to obtain consistent information from housing developers, and asking the Secretary of State to review the matter of the prices charged and exert some control on the issue through relevant measures/legislation.
- 1.3. The matter has already been considered by the Growth and Development Scrutiny Group who have asked that Cabinet be asked to consider their resolutions.

2. Recommendation

It is RECOMMENDED that:

- a) Cabinet support the inclusion of guidance within a Supplementary Planning Document (SPD) to provide consistency to future Open Space schemes; and
- b) The Portfolio Holder for Housing and Planning write a letter to the Secretary of State highlighting the issues raised and recommends they bring forward guidance to address the issues identified.

3. Reasons for Recommendation

- 3.1. If drafted and adopted, a Supplementary Planning Document (SPD) would provide a policy basis for establishing a standard setting out matters the Council wishes to see for the management and maintenance of open spaces on new housing developments in the Borough. This would allow officers to negotiate the content of open space schemes to include and exclude matters relevant to the scheme, thus providing a greater degree of consistency of the maintenance and management responsibilities across all developments, and hopefully closer parity of costs incurred by residents across the Borough.
- 3.2. Officers can review the wording contained within the Legal Agreements that secure the Open Space Schemes to ensure consistency and clarity. However, the Borough Council has no powers to dictate which management company must be used, or the prices they can charge for the services. Furthermore, the Borough Council has no ability to get involved with disputes over price increases, hidden costs and currently residents have no ability to request / elect a new management company to act on their behalf. These are matters that would require a change in legislation, it is therefore recommended that the Portfolio Holder for Housing and Planning writes a letter to the Secretary of State highlighting the issues and requesting that they bring forward guidance to address them.

4. Supporting Information

- 4.1. Following the July 2020 Growth and Development Scrutiny Group, officers identified a total of fifteen developments that had recently been occupied of a suitable size to require the maintenance of the open spaces and/or play areas and/or drainage facilities. 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. Local Ward Councillors and the developers responsible for the housing developments were also contacted by officers in an attempt to collate this information.
- 4.2. A range of responses were received from nine of the fifteen developments from residents, Councillors and developers, with varying degrees of engagement. Given the wide ranging scale of developments (61 to 470 dwelling), their locations, and the small sample size, drawing any accurate/meaningful comparisons proved challenging.
- 4.3. The responses showed that residents are charged between £142 and £271 per dwelling. The average cost 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 was 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 acknowledge are costly items to cover on smaller developments. The ninth site (Pasture Lane in Ruddington) advised that they have not yet been charged by their management company and therefore did not know what the fee would be.

- 4.4. The review 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 to which the fee was applied.
- 4.5. The report noted that the Borough Council does not get involved in the process of appointing the management company (as the responsibility to manage and maintain the land lies with the developer(s)) and that the Borough Council has no powers to control the costs charged by management companies. Nevertheless, the Borough Council does require an "Open Space Scheme" to be submitted for developments of 11 or more dwellings. The content of these schemes can vary dramatically with some developers proposing requirements over and above those that the Borough Council would seek, other submissions require a lot of officer time spent negotiating schemes that are more acceptable if the initial submission is lacking in detail.
- 4.6. Currently, Rushcliffe has no policy requirement setting the details expected to be covered in open space schemes or the frequency with which matters such as grass cutting might reasonably occur. The impact is that on some developments, residents may be being charged a higher maintenance fee as certain works are being undertaken more frequently than otherwise necessary, and officer time is spent negotiating with developers who make poor quality submissions to provide better schemes.
- 4.7. 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.
- 4.8. Officers advised that whilst the majority of other local authorities no longer adopt open space on new developments and are dealing with the issue in the same way as Rushcliffe, some local authorities do have Supplementary Planning Guidance to set the standards for open space schemes. It was highlighted that while this cannot control the price a management company chooses to charge; it can at least seek to effect parity and therefore influence prices by trying to standardise the works being required across the Borough. To try and address the matter of cost, officers advised that this would require legislation from Central Government, and the Growth and Development Scrutiny Group therefore recommended that the Portfolio Holder writes to the Secretary of State and asked to review this matter. Finally, officers also advised that they could, with the assistance of Legal, review the wording and definitions of the Open Space Scheme used in S106 agreements to see if there were any matters that might need updating to ensure absolute clarity over what was

expected and remove any areas that might be unnecessarily open to interpretation by developers.

5. Alternative options considered and reasons for rejection

- 5.1. An alternative option is for the Borough Council to revert to adopting the open spaces, play areas and drainage features on new housing developments or maintaining its current position, namely requiring the housing developer(s) to provide an Open Space Scheme detailing how such open space areas will be maintained, but accepting that the cost will be passed on to the new residents.
- 5.2. This option has been discounted at this stage in order to explore working with housing developers to adhere to an SPD. With the SPD in place, there would be greater clarity and parity for developers and residents and would provide a clear, transparent set of guidelines for officers to negotiate against.
- 5.3. With the Local Plan Part 2 sites starting to be developed alongside the Strategic Allocations across the Borough (and looking beyond the current plan period which runs until 2028), it is considered that greater certainty as to what is required would assist developers and officers in securing a fairer baseline of works expected, in a more timely fashion, and provide future residents with greater transparency and parity in the costs charged.

6. Risks and Uncertainties

The adoption of a SPD and sending a letter to the Secretary of State would not raise any risk to for the Council in its ability to deliver its Corporate Priorities nor would it impact on the Council's budget.

7. Implications

7.1. Financial Implications

Any additional officer time in creating and maintaining a SPD (as required) would be contained within existing budgets.

7.2. Legal Implications

There are no legal implications arising from this report.

7.3. Equalities Implications

There are no equalities implications of this report. An SPD, if approved, would apply to all new developments in the Borough.

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

There are no Section 17 implications as a result of this report.

8. 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

9. Recommendation

It is RECOMMENDED that:

- a) Cabinet support the inclusion of guidance within a Supplementary Planning Document (SPD) to provide consistency to future Open Space schemes; and
- b) The Portfolio Holder for Housing and Planning write a letter to the Secretary of State highlighting the issues raised and recommends they bring forward guidance to address the issues identified.

For more information contact:	Dave Mitchell Executive Manager - Communities Tel: 0115 9148267 dmitchell@rushcliffe.gov.uk
Background papers available for Inspection:	Growth and Development Scrutiny Group Report, January 2021, "Management of Open Spaces in New Development" Growth and Development Scrutiny Group, July 2020, "Open Spaces".
List of appendices:	None