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| Crime and Disorder Select Committee |
| Review of Outdoor Play Provision: Quality and Distribution, Maintenance, and Physical Accessibility |
| Inclusive Growth & Development (Planning Services / Place Development) |

As part of the scrutiny review process, information has been requested with regards to open space provision and the associated planning processes, these are outlined below;

- **Local plan policies and how this influences new play / informal sport facility development.**

The key overarching strategic policy of the Local Plan is Policy SD5 which seeks to ensure that the natural, built and historic environment is conserved and enhanced which includes green infrastructure networks and assets of which open space is a part of.

Policy ENV6 builds on that detail with criterion 2, requiring that Green infrastructure should be integrated, where practicable, into new developments but also allowing for 'appropriate contributions' towards green infrastructure. Criterion 2 states;

Where appropriate, development proposals will be required to make contributions having regard to standards and guidance provided within the Open Space, Recreation and Landscaping SPD or any successor. Green infrastructure should be integrated, where practicable, into new developments. This includes new hard and soft landscaping, and other types of green infrastructure. Proposals should illustrate how the proposed development will be satisfactorily integrated into the surrounding area in a manner appropriate to the surrounding townscape and landscape setting and enhances the wider green infrastructure network.

Additionally, the Council also has two Supplementary Planning Documents (SPD's) which provide further guidance on provision of open space. These are the 'Planning Obligations SPD' and the 'Open Space, Recreation and Landscaping SPD'.

The planning obligations SPD sets out that wherever possible that planning obligations shall be provided for on site, and where this is not practicable, or appropriate off-site improvements or contributions may be sought to fund their provision.

The Open Space, Recreation and Landscaping SPD sets local standards for quantity, quality and proximity which provide clarity and certainty about the level of developer contribution which may be required and also the circumstances in which open space will be required on site.

For clarity open space under planning documentation consists of the following ;

- Parks and Gardens;
- Natural Greenspace;
- Green Corridors;
- Sports Facilities;
- Amenity Greenspace;
- Play Areas;
- Allotments;
- Cemeteries and Churchyards;

- **List of applications approving play / informal sport facilities as part of new housing developments over the past two years,**

- 20/0191/EIS – Yarm Back Lane; provision of open space across the site and two play areas. (E 440694; N 519297)
- 20/0279/REM - Allens West; provision of open space and play area (E 441320; N 514887)
- 21/0156/FUL – St Martins Way, Kirklevington; provision of open space (E 442576; N 509482)

- **Rationale behind developers building new rather than improving existing assets.**

The provision of open space also plays a much larger role within creating environments residents want to live, work and play within. They have an important role in providing high quality environments, creating a sense of place and creating inclusive communities.

As above policy direction indicates a preference for on-site provision.

Simplifying the process, it is effectively about the scale of development proposed and the level of impact (population growth) a development has. The ultimate aim is to improve the provision of open spaces and recreation facilities in the Borough.

All new developments will vary in size and it is likely to be more appropriate that smaller developments provide an off-site contribution where it is necessary and justified.

Larger scale developments are likely to justify a need for on site provision due to the level of population increase across the site. Additionally where sites are situated on the periphery of settlements existing open space and play areas may not be nearby or readily accessible.

- **What are the rights of the general public on the use of play facilities managed and funded by individual housing developments or residents under a service charge.**

The planning system does not seek to restrict or prevent the use of the facility for any resident. Privately maintained areas of public open space are not intended to be for exclusive use for residents of an estate.

- **How S.106 works and the requirements around this for play provision to new developments**

Planning obligations (also known as Section 106 agreements), like planning conditions can only be required to make a development acceptable in planning terms and they must meet the tests set out under the Community Infrastructure Levy (CIL) regulation (122) which are;

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

As above, the Open Space, Recreation and Landscaping SPD sets local standards for quantity, quality and proximity.

Contributions towards off site provision must be identified and they must also be fully costed schemes to be compliant with the tests set out in the Community Infrastructure Levy (CIL). For example the Council isn't able to ask for a generic figure derived from the calculator as

a contribution and instead must highlight a particular scheme (and the associated costs of the delivery of that scheme).

Members should also be aware that on the back of the Levelling Up and Regeneration Act (LURA) there will be changes to planning obligations in the future, as the Infrastructure Levy is introduced, this is a mandatory, pre-set and non-negotiable. The Infrastructure Levy will largely replace planning obligation except for “large and complex sites”. A response to the technical guidance is still awaited as is the associated secondary legislation.

- **Can we ask for a revenue element within a s106 to enable maintenance or sinking funds?**

Section 106 funding (S.106) is generally only for capital projects and revenue funding towards on-going running costs is unlikely to be available.

Where the Council are to assume responsibility for the maintenance of either on or off-site open space, the Council requires a commuted revenue lump sum for the equivalent of 25 years maintenance. All calculations are based on the approved landscaping scheme. This sum is placed in an interest-bearing account and the interest is used solely for grounds maintenance.

Maintenance costs are generally only acceptable where it relates to the maintenance of open space provision being secured. However, there is no legal requirement for a developer to ask the Council to adopt or maintain the open space and they can choose to maintain it themselves. This is often funded through an additional service charge to a management company from the occupants of a development. Where long-term maintenance may be provided by a management company, a management plan is provided and agreed to ensure the open space is suitably maintained in perpetuity.