

# STROUD DISTRICT COUNCIL

## ENVIRONMENT COMMITTEE

THURSDAY, 7 DECEMBER 2023

<b>Report Title</b>	<b>Open Spaces and Amenities in New Residential Developments</b>			
<b>Purpose of Report</b>	To propose a series of actions in response to a Council Motion (20 July 2023) to explore potential options and approaches concerning the management of open spaces and amenities on new residential developments.			
<b>Decision(s)</b>	<b>The Committee RESOLVES to endorse the actions proposed in section 3 of this report.</b>			
<b>Consultation and Feedback</b>	A special meeting of the Strategic Planning Advisory Board (SPAB) took place on 9 November 2023, to discuss issues and potential approaches in response to the Council Motion of 20 July 2023. The advice and recommendations in this report reflect the discussion that took place at the SPAB meeting.			
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<b>Options</b>	The Committee may opt not to endorse the proposed actions. This is not recommended as the document has been drawn up following due consideration of the main implications raised by the Council motion of 20 July 2023.			
<b>Background Papers</b>	None			
<b>Appendices</b>	Appendix A – Copy of Motion to Council			
<b>Implications (further details at the end of the report)</b>	Financial	Legal	Equality	Environmental
	No	No	No	No

### 1. BACKGROUND

- 1.1 A Motion was passed at Full Council on 20 July 2023, requesting that the Chief Executive: *‘work with officers and members to explore potential options and approaches concerning the management of open spaces and amenities on new residential developments’*, with findings and recommendations were to be reported to the appropriate Committee by no later than December 2023.
- 1.2 The full motion is attached as Appendix A’. The key points contained in the Motion were as follows:
  - *To better support the role of our Parish and Town Councils in their communities by:*

- *providing them first-refusal (along with the District Council) for any open spaces and amenities delivered on new residential developments in their community.*
- *In the event that a developer management company scheme is approved by the District Council, that legal agreements established during the planning application to protect step-in rights for the District, Town, Parish Council, should they wish to manage at a later date.*
- *To protect freehold residents from the financial and legal liabilities afforded management companies / agents.*
  - *A provision that the use of Private Management companies would only be agreed in exceptional circumstances, which the developer would need to justify at the time.*
  - *A provision that in the event that a developer management company scheme is approved by the District Council, that legal agreements established during the planning application protect step-in rights for the District, Town, Parish Council should they wish to manage at a later date.*
- *To improve the quality, delivery, and sustainability of open spaces and amenities to adoptable standards on new developments across the district.*
  - *A provision that the developer to design and implement the Public Open Space scheme to adoptable standards (design and specification agreed by the Council)*
  - *A provision that the public open space / amenities to be transferred to the Council or by agreement, to a Parish Council once it is in an adoptable condition, after an agreed initial period of maintenance.*
  - *A provision that upon adoption or transfer (whichever is the soonest), a maintenance contribution will be required to cover the first 15 years of maintaining the Public Open Space.*

1.3 A special workshop session of the Strategic Planning Advisory Board (SPAB) was held on 9 November 2023. In addition to the normal membership of SPAB, other members were invited to attend, including Group Leaders, Committee Chairs and the Development Management Advisory Panel. The purpose of the session was to advise on key points to consider and listen to the views of members on a range of topics of relevance to the Motion, including policy and legal considerations and wider resource and operational considerations.

## **2. EXPLORATION OF ISSUES RAISED BY THE MOTION**

### **2.1 Policy and Legal Considerations**

2.1.1 The current requirement for developers of new housing to provide green space and recreational/play provision is contained within the National Planning Policy Framework. Within Stroud District, the requirement is provided by policies ES14 and ES15 of the Stroud Local Plan (2015) which set out the parameters for provision.

The delivery of these requirements is secured by the developer entering into an agreement with the Council, known as a section 106 (s106) agreement.

- 2.1.2 To assist with the s106 process, SDC has adopted a Supplementary Planning Document (SPD) for Planning Obligations, which sets out the current policy approach to the provision and maintenance of open spaces.
- 2.1.3 Many aspects of the Council Motion are already achievable within the current policy framework, such as the design of spaces to adoptable standards and the provision of a commuted sum to cover the first 15 years of maintaining the space.
- 2.1.4 Other aspects of the motion are not achievable within the current policy framework. Specifically, the current SPD does not specify a preference for a particular maintenance model for open spaces and there is no requirement for future step-in rights for SDC or a parish council to be offered at the outset. Initial legal advice has been sought and this has identified potential challenges with the Motion of insisting on a particular approach or model of management, because this conflicts with the provisions of the SPD. Additionally, if a developer were to resist the imposition of a particular approach to the future management arrangements for open space the onus on the Council would be to demonstrate the reasonableness of seeking a different model to the one offered by the developer. This task will be difficult in the absence of a clear policy approach enshrined in a revised SPD. Consequently, the Council's approach could be lost at an appeal.
- 2.1.5 If the Council wishes to pursue the approach proposed by the Motion, the recommended approach would be for the Council to prepare, in the short term, guidance notes for developers and in the longer-term changes to planning policy. Any new guidance or policy would need to be carefully drafted to take account of potential legal challenges referred to above. The reforms to the planning system brought in by the new Levelling Up and Regeneration Act will remove the role of SPD in the future and the Council will need to investigate further what other planning mechanisms will exist to achieve its agreed objectives.
- 2.1.6 However, members are advised that there are a number of other implications that should be considered before any policy change. These are outlined in sections 2.2 and 2.3 below.

## 2.2 The Views of Parish and Town councils.

There are currently a variety of approaches to the management of open spaces in new developments across the District. The views of all parish and town councils about the efficacy of these approaches, and their willingness and ability to accept potential changes that may result in an increased role for them, are not currently known. It will be important to consult parish and town councils on these matters, in line with our approved partnership protocol.

## 2.3 Long-term resource implications.

There are potentially significant long-term financial and operational implications and liabilities associated with the District Council and/or town and parish councils playing a greater role in the management of open spaces and amenities in new developments. It has not been possible in the time available since the Motion as passed to establish these implications with any degree of certainty.

## 3. **PROPOSED ACTIONS**

- 3.1 Taking account of the points raised in Section 2 of this report, the actions below are proposed to be undertaken over the period to Dec 2024. These actions do not commit the Council to additional expenditure or changes in policy at this stage but will provide the necessary evidence to support decisions at a future date.
- 3.2 The proposed actions are as follows:
- **Guidance Note for Planning Applicants.** Prepare and circulate a guidance note for planning applicants on SDC's approach to the management of open spaces in new developments. The guidance note will need to reflect current policy and encourage early discussion of options, rather than expressing a preference for any particular approach, at this stage.
  - **High Level Costing Exercise.** Carry out a high-level exercise to model the potential long-term costs and wider operational resource implications that would be associated with a preference towards adoption of open spaces by SDC or the parish/town council.
  - **Consultation.** Consult town and parish councils and management companies, concerning the management of open spaces and amenities in new developments. Gather views on current practices and their strengths and challenges and seek views on alternative approaches and the appetite for a greater management role for the parish/town council.
  - **Review of Current Policy and Practice.** In the light of the actions above, review the current and emerging local plan policies and Supplementary Planning Document (SPD), identifying any potential longer-term changes and different approaches, taking account of legal implications and the reforms to the planning system to be brought in by the new Levelling Up and Regeneration Act. As part of this work, to review policy examples from other authorities and assess the merits of applying these in Stroud District.
- 3.3 The findings and recommendations will be reported to Environment Committee by December 2024. Updates on progress will be reported as necessary to Strategic Planning Advisory Board.
- 3.4 Environment Committee will decide on further actions to be taken, which may include recommendations to change existing policy and practice. It may be necessary to include a new commitment in a future revision of the Council Plan, depending on the significance of changes proposed and their resource implications.

## 4. IMPLICATIONS

### 4.1 Financial Implications

The proposed actions can be delivered from within existing budget and staff resources.

As outlined in the report, there are potentially significant longer term financial and wider operational resource implications associated with the District Council and/or town and parish councils playing a greater role in the management of open spaces and amenities in new developments. These implications will be established more clearly through the actions proposed.

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#### 4.2 **Legal Implications**

There are no particular legal implications arising from the actions proposed in this report, as these are predominantly about fact-finding, consultation and further review.

As outlined in the report, some of the requirements of the Motion potentially conflict with the Council's existing planning policy framework, and in particular the SPD relating to Section 106 Agreements/Obligations. Currently, the Council does not have a policy approach requiring that green and recreation space provided as part of a development will be adopted by the Council/Parish Council subject to the payment of a commuted sum. The existing policy approach provides that it is for the developer to provide a proposal to meet the policy requirement in respect of green/recreational space provision.

It is possible for the Council to change its policy requirements, but this must follow a statutory process of planning policy preparation and consultation and will need to take account of the new requirements in the Levelling Up and Regeneration Act when in force.

The assumption of responsibility of green/recreational space by the Council or parish Councils will bring with it legal responsibilities as an occupier and owner of land. The legal risks associated with these responsibilities should be considered by the Council as part of the policy discussion.

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#### 4.3 **Equality Implications**

There are no equality implications arising from a decision to support the proposed actions. There may be equality implications arising from adopting different approaches to the management of open spaces in new developments, but these will be identified as and when any changes are proposed.

#### 4.4 **Environmental Implications**

There are no environmental implications arising from a decision to support the proposed actions. There may be environmental implications arising from adopting different approaches to the management of open spaces in new developments, but these will be identified as and when any changes are proposed.