

REPORT FOR DECISION



DECISION MAKER:	CABINET
DATE:	11 FEBRUARY 2015
SUBJECT:	REVISION OF SUPPLEMENTARY PLANNING DOCUMENT 1: OPEN SPACE, SPORT AND RECREATION IN NEW HOUSING DEVELOPMENT
REPORT FROM:	CABINET MEMBER – RESOURCES AND REGULATION
CONTACT OFFICER:	MICHAEL WHITEHEAD – PLANNING OFFICER
TYPE OF DECISION:	CABINET (KEY DECISION)
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>This report brings forward a revised version of the existing Supplementary Planning Document (SPD) on open space, sport and recreation provision in new housing developments. SPD1 currently provides more detailed guidance to support Unitary Development Plan (UDP) Policy RT2/2 and requires all new housing units proposed to be subject to a standard charge per dwelling.</p> <p>Changes to Government guidance has meant that the Council is no longer able to apply the provisions of SPD1 in seeking developer contributions for small-scale developments of 10 dwellings or less. In addition from April 2015, the Community Infrastructure Levy Regulations will introduce pooling restrictions on Section 106 contributions.</p> <p>Approval is therefore sought for the proposed revisions to SPD1 to be brought forward for a 4-week public consultation. After consultation, all representations received will be considered and changes made where appropriate. A final version of the SPD will then be subject to a delegated decision by Executive Member for approval and adoption.</p>
OPTIONS & RECOMMENDED OPTION	<p>Option 1 (Recommended Option) That Members approve the Draft SPD1 for consultation purposes.</p> <p>Option 2 That Members seek revisions to Draft SPD1. Members to specify the nature of any revisions to be sought.</p>

	<p>Reasons Option 1 would enable the Draft SPD to go out for a period of public consultation, which is required before the SPD can be adopted. It would also allow for development management decisions to take account of the revised SPD before the pooling restrictions take effect in April 2015.</p>
IMPLICATIONS:	
Corporate Aims/Policy Framework:	<p>Do the proposals accord with the Policy Framework? Yes</p> <p>The Draft SPD1 supplements Saved Policy RT2/2 of the Bury Unitary Development Plan and takes account of national planning guidance.</p>
Statement by the S151 Officer: Financial Implications and Risk Considerations:	<p>This report seeks to update the Council's Supplementary Planning Document in light of new Government Planning guidance.</p> <p>The guidance restricts the Council's ability to apply "s106" agreements to small scale developments, and new Community Infrastructure Levy regulations will further limit the extent to which agreements can be pooled.</p> <p>These changes potentially mean a loss of resources and reduced flexibility for the Council.</p>
Statement by Executive Director of Resources:	
Equality/Diversity implications:	<p>No</p> <p>An initial screening has been undertaken (see attached assessment) which did not identify any negative impacts on equality.</p>
Considered by Monitoring Officer:	<p>Although the proposed SPD is not a development plan document it will, upon adoption, be a material consideration in the determination of planning applications. The Council is required under the Town and Country Planning (Local Planning) (England) Regulations 2012 to consult on the SPD and to take into account all consultation responses received before adopting the SPD.</p>
Wards Affected:	All
Scrutiny Interest:	

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Cabinet/Committee	Council	
	11th February 2015		

1.0 BACKGROUND & ISSUES

- 1.1 UDP Policy RT2/2 on Recreation Provision in New Housing Development provides the policy basis for requiring development proposals for housing development to make an appropriate contribution for recreation provision for the prospective residents – either on site or as a financial contribution. The Policy is supported by SPD1, which provides additional guidance on the contributions required and how the policy will be implemented.
- 1.2 The latest version of SPD1 was formally adopted on 1 February 2012. The main change of the SPD at that time was to require all residential developments to make recreational contributions, whereas previously only schemes of ten or more units were required to do so.

New Government Guidance

- 1.3 However, on 28 November 2014, the Government issued new advice within the Planning Practice Guidance (PPG) on Section 106 Planning Obligations which clearly states that 'tariff style' planning contributions **should not be sought from developments of 10 units or less**, and which have a maximum combined gross floorspace of no more than 1,000 square metres. This guidance is now a material consideration in decisions on planning applications and, as a consequence, the Council is now unable to apply the current provisions of SPD1 in seeking developer contributions for housing developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. As such, there is now a requirement to amend the SPD1 to accord with the new Government guidance.

CIL Restrictions

- 1.4 In addition, as of 6 April 2015, the Community Infrastructure Levy (CIL) Regulations will impose new restrictions on pooling Section 106 contributions which will affect developments of all sizes, preventing the pooling of more than five Section 106 contributions for a project or type of infrastructure that is capable of being funded by the CIL.
- 1.5 Currently, recreation contributions that are received through residential developments are 'pooled' and ringfenced to be spent on recreation facilities across the Borough. Neither the actual project nor the specific costs of the recreation project had to be identified at the point of the planning application. This provided an element of flexibility in allowing monies received to be spent

on a range of projects according to local priorities or agreed programme of works.

1.6 However, whilst the Council will still be able to collect contributions towards recreation provision in housing schemes of 11 or more dwellings, the new restrictions will mean that Section 106 agreements will need to set out exactly what project the monies will be spent on. Therefore, the current flexibility that allows contributions to be pooled will be lost and detailed schemes will need to be agreed at the point of the planning application.

1.7 There are a number of other challenges presented by the new restrictions, including:

- The **lack of guidance** on what constitutes an infrastructure 'project', therefore introducing the risk that the contribution is refunded should the obligation be found to be unlawful at a later date;
- The **time lag** between identifying projects in the Section 106 agreement and the receipt of monies which will make it harder to respond to urgent issues and may raise public expectations prematurely;
- The **lack of real scope to change** which project a contribution is spent on after the Section 106 agreement is signed;
- The **changes in project costs** between signing the Section 106 agreement and receiving the contribution leading to possible underspend/overspend.

1.8 It will be important to ensure the above implications do not lead to delays in the determination of planning applications. The proposed changes to the SPD1 reflect these new restrictions and give guidance on how future legal agreements will operate.

Consultation and Adoption

1.9 Once adopted, the SPD1 will replace the existing version, thereby bringing local guidance in line with national guidance and legislation ensuring that we are ready for the new pooling restrictions. The costs for establishment, enhancement and maintenance of open spaces have also been revised to ensure that they are up-to-date and reflective of modern prices.

1.10 If the Draft SPD1 is approved for consultation, it will undergo a four-week period of consultation with appropriate internal and external stakeholders, subject to responses received by statutory bodies on the Strategic Environmental Assessment Screening Statement. Following consultation, amendments will be made, where considered appropriate, and the revised version of the SPD will be brought back to Members for approval ahead of adoption.

2.0 CONCLUSION

2.1 Members are asked to consider the Draft SPD1 and approve the document for consultation purposes.

List of Background Papers:-

- Supplementary Planning Document 1: Open Space, Sport and Recreation in New Housing Development (February 2012)

- Bury Unitary Development Plan
- National Planning Policy Framework (March 2012)
- National Planning Practice Guidance (March 2014) – Section on ‘Planning Obligations’ recently updated on 28 November 2014.

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