

THE HIGHLAND COUNCIL
PLANNING, ENVIRONMENT AND DEVELOPMENT
COMMITTEE
20th May 2009

Agenda Item	12
Report No	PED 42/09

Open Space in New Residential Developments: Supplementary Guidance

Joint Report by the Director of Planning and Development and the Director of Transport, Environment and Community Services

SUMMARY

Following a public consultation early 2009 adjustments have been made to the consultation version of the supplementary guidance, brought before this committee in November 2008. Following these changes Members are asked to adopt the revised version of the guidance as a material planning consideration in the determination of planning applications for residential developments.

Copies of the final version of the document, the strategic environmental assessment environmental report and the report of consultation are available in the Members library.

1. Introduction

- 1.1 Members will recall the report brought to this Committee on the 19 November 2008 which set out the new approach to the provision of open space in new residential development. It was agreed at that meeting that the draft supplementary guidance (SG) be issued for public comment; and that the outcomes of the consultation be brought back to Committee with a view to adopting the guidance as SG, pending approval of the Highland Wide Local Development Plan (HWLDP). This report discusses the response to the consultation and the next steps for the supplementary guidance.
- 1.2 The SG can be broken into three sections, however it is necessary to read the document as a whole rather than in part. The three sections are:
 - Guidance for Developers - This section provides applicants for planning permission for residential development all of the information they need on the Council's requirements in relation to greenspace, sport and recreation provision. The emphasis is on the need for open space to be the fundamental part of the design process
 - Provision Standards - This section sets out the provision standards in terms of quality, quantity and accessibility of open space, sport and recreation provision on-site.
 - Technical Appendix - This sets out the policy justification for the Council's requirements and other relevant background information.

- 1.3 The guidance contained within the SG will apply to all planning applications for a residential development for four or more houses or flats to reflect the approach being taken forward with respect to affordable housing.

2. Consultation

- 2.1 The consultation began on the 23rd January 2009 and lasted for an 8 week period until the 20th March 2009. The document was available online and in all service points across the Highland Council area as well as at Council Headquarters.

- 2.2 The Consultation was publicised on the Council website and through the local press. Over 300 people/groups were contacted directly including all Community Councils, residents associations and private developers. Ward managers and all Council Members were also informed about the consultation. In addition the consultation was added to the Council's Consultation Year Planner. There were 47 responses to the consultation.

- 2.3 A report of consultation has been produced and a copy has been made available in the Members library. This gives a summary of the responses and the level of support for various approaches contained within the guidance. Where specific comments have been made these have been included verbatim and a response to the comment has been given. Some issues raised in responses were:

- Maintenance of open space by a factor;
- Adoption of open spaces by the Council;
- Lack of a Highland wide open space audit to support the guidance;
- The guidance is more suitable for larger towns;
- Possibility of retrospective application of the guidance;
- Fairness of the management and maintenance approach over the long term/unfairness in short term;
- Support of the transparent way in which the Council will calculate potential contributions to open space;
- Difficulty in applying standards at a range of scales;
- Clarity required over who is responsible for different elements of open space i.e. SUDS.

3.0 Management and Maintenance

- 3.1 Throughout the production of this guidance it has been recognised that one of the major issues with open space provision is the future management and maintenance arrangements of the open spaces.

- 3.2 Following the public consultation and further discussion with Transport, Environment and Community Services and Legal Services we have chosen a preferred approach toward management and maintenance of open space. This will be clearly set out in the title deeds of any new residential development. The preferred approach to management and maintenance is set out below;

Landownership: House owners will own all common areas of open space within new residential developments

Initial determination of maintenance specification: The maintenance specification of the common areas of open space will be agreed between the Council and developers.

Long term control of maintenance specification: House owners will have control over all common areas of open space within new residential developments

Management of maintenance operations: Residents associations will need to be set up in new residential developments. The Residents Association will have responsibility to manage the maintenance operations in the long term.

Funding of Maintenance Works: The developer of the new residential development will be responsible for funding maintenance of common areas of open space and for first year following this house owners will be responsible for maintenance on an equitable basis as set out in title deeds.

Fall Back Position: If these arrangements are not in place or maintenance is not carried out to the required standard it is possible that legal action may be taken by the Council to enforce the requirement in the title deeds.

This will provide a long term, sustainable solution to management and maintenance of open space. The approach is generally supported by Homes for Scotland, the group which represents house builders throughout Scotland.

- 3.3 While only the preferred approach is outlined in the final version of the guidance, there will be an opportunity for developers to come forward with alternative proposals for management and maintenance to ensure the Council are not stifling innovation in the field of management and maintenance of open space. It was raised during the consultation that the Council could take on the adoption of open space. This is still considered an option if the open space is accompanied by a commuted sum payment equivalent to 40 years the annual maintenance cost. The figure of 40 years commuted sum is to be reviewed over the coming year by Transport, Environment and Community Services however given the current economic climate and the low interest rates it is unlikely that this will be reduced.

4.0 Developer Contributions

- 4.1 The approach taken to developer contributions has been widely supported as part of the public consultation and will be carried through into the final version of the guidance. It was recognised that the new approach which is outlined in the guidance and supported by an online calculator was transparent and a robust way in which to initially calculate potential developer contributions.
- 4.2 The results from the calculator will act as the basis for any negotiation on developer contributions towards off-site open space provision or enhancement and will be updated yearly reflecting the current cost of open space provision. This contribution will then be secured through a Section 75 agreement. Due to issues with gaining accurate costs for provision of new open spaces this section of the online calculator will not be available until the autumn.

5.0 Highland Greenspace Audit

- 5.1 As reported to members on 19 November 2009, the quantitative information used in the production of this SG has been based upon the GreenInverness Audit and its subsequent update by Ironside Farrar. This document has been used as it was the most recent information on the current level of open space in Highland.
- 5.2 Progress has been made on the Highland wide greenspace audit and the methodology has been agreed internally and the audit will be carried out during the summer. This is being carried out to ensure that the supplementary guidance can be supported by accurate data, and to avoid legal challenge. The methodology for the audit is available on request.

6.0 Implementation

- 6.1 To ensure the successful implementation of the guidance it is essential that all development management officers be given training on how the guidance should be implemented and use of the open space contributions calculator. This training will be rolled out as part of ongoing liaison with development management on the HWLDP.
- 6.2 To monitor the success of the new approach outlined in the guidance an appropriate monitoring framework will be set up and follow that which is set out in the Strategic Environmental Assessment Environmental Report.
- 6.3 The preparation of this supplementary guidance has been carried out in line with the provisions set out in the Planning etc (Scotland) Act 2006 and The Town and Country Planning (Development Planning) Regulations 2008. This means that the supplementary guidance can be re-adopted as part of the HWLDP and have the same status as the development plan once the HWLDP has been adopted by the Council and approved by Scottish Ministers.

7.0 Strategic Environmental Assessment

- 7.1 A Strategic Environmental Assessment has been carried out and following consultation with the Consultation Authorities has been finalised. A copy is available in the Members library and, following approval of the guidance, will be made available online.
- 7.2 Following adoption of the supplementary guidance a Post Adoption Strategic Environmental Assessment Statement will be produced as soon as practicably possible.

8.0 Equalities Impact Assessment

- 8.1 A screening of policies to assess relevance to equality has been carried out and it was found that a full Equalities Impact Assessment (EqIA) is not required. The EqIA screening report has been passed onto the Highland Council Equalities Group, who have published the report.

9.0 Community Engagement

9.1 During the public consultation the Council have met and in some areas exceeded the national standards for community engagement. To meet the final requirement of the national standards a report of consultation has been produced which is available in the Members' library.

10.0 Financial Implications

10.1 There are no direct financial implications arising from this report.

11.0 Conclusion

11.1 The implementation of this guidance will assist developers and the wider community in the delivery of high quality, accessible and fit for purpose open spaces in new residential developments throughout Highland.

11.2 The guidance will help to avoid poor quality open space having a detrimental impact on the quality of the environment in Highland and the lifestyle of residents. This guidance sets out how the Council will encourage developers to deliver this and, with the additional information on how the new open spaces should be designed, maintained and managed, the document will prove to be an invaluable tool for use by development management officers.

12.0 RECOMMENDATION

- 12.1
- (i) Adopt the supplementary guidance for use as a material planning consideration in the determination of planning applications;
 - (ii) Agree that the recommendations for implementing the supplementary guidance are carried out;
 - (iii) Agree that the guidance is brought back to committee to be re-adopted as part of the local development plan at the appropriate time.

Signature:

Designation: Director of Planning and Development

Signature

Designation Director of Transport, Environment and Community

Date: 8 May 2009

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