

EAST HERTS COUNCIL

EXECUTIVE -3 SEPTEMBER 2019

REPORT BY LEADER OF THE COUNCIL AND THE EXECUTIVE MEMBER
FOR PLANNING AND GROWTH

OPEN SPACE, SPORT AND RECREATION SUPPLEMENTARY PLANNING
DOCUMENT (SPD) - DRAFT FOR CONSULTATION

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To seek Members' agreement to publish for consultation the draft Open Space, Sport and Recreation Supplementary Planning Document (SPD).
- To agree that a Strategic Environmental Assessment (SEA) of the emerging Open Space, Sport and Recreation Supplementary Planning Document (SPD) is not required.

<u>RECOMMENDATIONS FOR EXECUTIVE:</u>	
(A)	The draft Open Space, Sport and Recreation Supplementary Planning Document (SPD), as set out in Essential Reference Paper 'B', be agreed and published for a six-week period of public consultation; and
(B)	In accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 it has been determined that a Strategic Environmental Assessment of the emerging Open Space, Sport and Recreation Supplementary Planning Document (SPD) is not required as it is unlikely to have significant environmental effects.

1.0 Background

- 1.1 Sport, recreation, open space, leisure and other community facilities are key infrastructure that must be provided to support development in East Herts, with existing facilities protected and enhanced.
- 1.2 With a minimum of 18,458 new homes being built in the District by 2033 the provision and funding of this infrastructure needs to be planned and supported. This draft Supplementary Planning Document (SPD) sets out detailed guidance on the type and scale of open space, sport and recreation developer contributions that will be sought to support new development.
- 1.3 The principles and standards identified in the SPD are based on the recent technical studies that informed the District Plan. Once adopted, this SPD will replace the current Open Space, Sport and Recreation guidance (2009).
- 1.4 Supplementary Planning Documents are documents which add further detail to the policies in the development plan. This SPD has been produced to expand particularly on District Plan policies CFLR1 Open Space, Sport and Recreation and Policy DEL2 Planning Obligations.
- 1.5 The draft Open Space, Sport and Recreation SPD has been produced by Nortoft Partnerships Limited, in collaboration with the Council. A copy of the draft SPD is attached at **Essential Reference Paper 'B'**. Appendix C to the draft SPD is attached at **Essential Reference Paper 'C'**.

2.0 Report

- 2.1 The National Planning Policy Framework (NPPF) emphasises the need to deliver sufficient infrastructure and facilities to support new development. It states that plans should set out the contributions expected from development¹ and local Planning Authorities are encouraged to consider if otherwise

¹ NPPF para 34

unacceptable development could be made acceptable through the use of conditions or planning obligations².

2.2 Planning obligations are sought via section 106 agreements but only when they meet the three tests set out in the Community Infrastructure Levy Regulations³:

- To make development acceptable in planning terms;
- Where they are directly related to the development; and
- Are fairly and reasonable related in scale and kind to the development.

2.3 Proposed changes to these regulations in September 2019 will end the current pooling restrictions, so if required contributions can be pooled from multiple developments to fund strategic facilities.

2.4 The East Herts District Plan aims to deliver the timely provision of infrastructure to support proposed growth and outlines the use of planning obligations as a key mechanism for securing this provision. The Plan recognises that access to high quality open space and sport and recreation facilities is important for the health and well-being of communities and can also benefit the natural environment. The draft SPD has been prepared to provide further guidance in relation to the following District Plan Policies:

- *CFLR1 Open space, Sport and Recreation* - residential development will be expected to provide open spaces, indoor and outdoor sport and recreation facilities. Provision should either be made on-site, or if appropriate in certain circumstances, through contributions towards off-site provision or the enhancement of existing facilities.
- *CLFR7 Community Facilities* - some community facilities, such as village halls, also have sport and recreation uses. Provision should either be made on-site, or if appropriate in

² NPPF para 54

³ CIL Regulation 122, 2010 (as amended)

certain circumstances, through contributions towards off-site provision or the enhancement of existing facilities.

- *DEL1 Infrastructure and Service Delivery*
- *DEL2 Planning Obligations*

2.5 The purpose of the draft SPD is to provide additional guidance on how to calculate the planning obligations for open space, sport and recreation in new developments. It provides information on the level of contributions that will be sought from new residential development and information on the planning policy justification. This will provide guidance to developers regarding the relevant types of infrastructure and/or contributions needed, which can support land negotiations, masterplanning and early viability assessments.

2.6 Once adopted the SPD will be a material consideration in the determination of planning applications.

Scope of the SPD

2.7 The contribution requirements in the SPD are based on the quantity, quality and accessibility standards from recent strategies, which form part of the evidence base to the District Plan. Key studies include the following:

- Playing pitch strategy (August 2017)
- Built Facilities Strategy (July 2017)
- Open Space Strategy (July 2017)

2.8 These technical studies have been endorsed by Sport England and developed in consultation with national governing bodies and local providers. This approach ensures that contributions for open space, sport and recreation are relevant, using the most up-to-date evidence.

- 2.9 The draft SPD sets out the context and process for securing planning obligations, explains how need is assessed, sets out quality requirements, identifies how costs are calculated for each type of open space and/or facility and provides worked examples in section 4 to explain how to work-out the calculations.
- 2.10 In accordance with the District Plan, land will either be required for provision on-site or if this is not appropriate a financial contribution will be sought for new, improved or extended open space, sport and recreation. Five sub-areas are identified around the main towns to help identify where strategic facilities are located in relation to new housing. Contributions from housing for the strategic⁴ and satellite⁵ facilities can then be directed within the relevant sub-areas. Local facilities such as play, amenity green space, village playing fields require contributions across all sub-areas because they mainly serve the locality around the development.
- 2.11 Long term management regimes should be demonstrated (such as private management companies secured through S106 Obligations), or arrangements made for a commuted sum to cover the cost of long term maintenance. Maintenance costs will be included as part of the contribution calculations for a period of 25 years. This is an increase from the 10 year period currently required, but will ensure the ongoing viability of provision.
- 2.12 Facility costs are based on Sport England's latest facility costs guidance⁶, costs from the NGBs and where relevant latest industry figures, including sourced from SPONS construction and Landscape Price books.⁷

⁴ Facilities that serve the whole district or two or more sub-area

⁵ Facilities that typically serve one sub-area

⁶ Sport England Facility Costs Q2/2018

⁷ Spons External Works and Landscaping Costs 2019

2.13 The SPD is accompanied by a 'contributions calculator' (as shown in Appendix C of the SPD), which enables planning obligations to be calculated easily using an excel spreadsheet, based on the standards and costs identified and explained in this SPD. However, it should be noted that in order for planning obligations to comply with the CIL tests, standards are not used in isolation. They must be applied within the local context and used in tandem with the assessed need and other robust evidence, such as consultation with stakeholders.

Consultation

2.14 It is intended that the draft SPD will be published for a six-week period of consultation commencing in September/October 2019. The consultation will meet all the statutory requirements, including:

- Placing the consultation documents on the Council's website for the duration of the consultation;
- Notifying relevant consultees by email or letter;
- Making hard copies of the consultation documents available at the Council's offices in Hertford and Bishop's Stortford, and at libraries across the district.

2.15 A draft consultation statement has been produced, as detailed at **Essential Reference Paper 'D'**. This outlines the statutory requirements and summarises early engagement with stakeholders. Following the 6 week public consultation, a final version of the SPD will be produced. At the same time the statement of consultation will be expanded, setting out who was consulted during the preparation of the SPD; a summary of the main issues raised; and how those issues have been addressed in the SPD. It is currently anticipated that the final SPD will be presented to Members in February 2020.

Strategic Environmental Assessment

- 2.16 Under the requirements of the European Union Directive 2001/42/EC and Environmental Assessment of Plans and Programmes Regulations (2004), certain types of plans that set the framework for the consent of future development projects, must be subject to an environmental assessment. It is therefore a requirement that the Council undertakes a Screening Assessment to determine whether the draft Open Space, Sport and Recreation SPD should be subject to a Strategic Environmental Assessment.
- 2.17 The Council's draft Screening Statement concludes that the draft SPD is unlikely to have significant environmental, social or economic effects beyond those of the District Plan policies it supplements; does not create new policies and only serves to provide useful guidance on how to effectively and consistently implement the District Plan policies and therefore does not require a Strategic Environmental Assessment.
- 2.18 The Regulations require that the Council consults three statutory bodies in reaching this determination. Consultation has therefore been carried out with the Environment Agency, Natural England and Historic England. At the time of writing this report, Historic England has confirmed that they have no comments; no other responses have been received, though no contrary view is anticipated. The Screening Statement attached at **Essential Reference Paper 'E'** is therefore provided in draft, pending the receipt of consultation responses.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

East Herts District Plan, October 2018:

<https://www.eastherts.gov.uk/districtplan>

Playing Pitch strategy (August 2017), Built Facilities Strategy (July 2017); Open Space Strategy (July 2017):

<https://www.eastherts.gov.uk/evidencebase>

Essential Reference Papers

- ERP 'A':** Implications/Consultations
- ERP 'B':** Draft Open Space, Sport and Recreation Supplementary Planning Document (SPD)
- ERP 'C':** Draft Appendix C: Calculation Worked Examples
- ERP 'D':** Draft Consultation Statement
- ERP 'E':** Strategic Environmental Assessment Screening Statement

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