



Winchester
City Council

**ENVIRONMENT SCRUTINY PANEL
REPORT EN14**

25 January 2006

**Report by the Chairman,
Councillor Pearson**

OPEN SPACE FUND

SCRUTINY REVIEW – OPEN SPACE FUND

REPORT OF OPEN SPACE FUND INFORMAL SCRUTINY GROUP

1. Introduction
- 1.1 The Informal Scrutiny Group was set up by the Environment Scrutiny Panel in order to review the Open Space Funding System at the request of the Director of Development, Steve Tilbury.
2. Background to the Study
- 2.1 The City Council's Open Space funding system has operated since 1994. Its purpose is to ensure that all new build development makes recompense for the loss of 'open space' which is the result of the growth. Funding is gained through Section 106 Agreements and this money is used make provision for additional facilities for sport and active recreation to serve the area where that development takes place.
- 2.2 The Town and Country Planning Act 1990 as substituted by the 1991 Act defined Open space as land laid out as a public garden, or used for the purpose of public recreation, or land which is disused burial ground.
- 2.3 Updated definitions are now to be found in Parliamentary Planning Guidance Note 17 – Sport, Open Space and Recreation. This was first published in 1991 but has been subsequently revised after consultation (March 2001) and re-published in July 2002.
- 2.4 The ODPM has also produced Assessing needs and opportunities: A companion guide to PPG 17
- 2.5 A Statutory Instrument 1996 No. 1817 amends the Town and Country Planning (General Development Procedure) Order 1995(b). This amendment requires local planning authorities to consult Sport England about developments that affect land used as playing fields.
- 2.6 Planning Obligations, specifically the Section 106 elements were defined in Government Circular 1/97. This has now been superseded by Circular 05/2005. It is this document that defines the Section 106 agreements. Its Annex B para B3 says that they are **intended to make acceptable development which would otherwise be unacceptable in planning terms** and lay down possible obligations that might be used to **prescribe** the nature of the development; **compensate** for loss and damage created by the development; or to **mitigate** a developments impact.
- 2.7 The Government, in Circular 05/2005 (Annex B para B25) states that this should be a Plan-Led System to allow developers to predict as accurately as possible the likely contributions they will be asked to make.

- 2.8 The City Council's planning policies are to be found in 'Chapter 9: Recreation and tourism', of the Winchester District Local Plan Review. The Inspectors' Report published September 2005, called for wording changes but the essential aspects remain intact. These Proposed Modifications – all accepted by the Winchester District Local Plan Cttee, and Cabinet were published in January 2006. They may also be found on the City Council's web-site.
- 2.9 Winchester City Council has an Open Space Strategy (approved November 1994). The Strategy is reviewed annually in consultation with Parish Councils and the City Council's Community Services Department.
- 2.10 The Document not only describes the background of the Strategy but also how the City Council operates as required by PPG 17.
- 2.11 Open Space Contribution Scales are described in the Open Space Strategy document. There is also a leaflet that contains details and scales, a Guide to the Open Space Funding System to explain the 'system in simple terms' and a Technical Paper that explains why the system was introduced.
3. Terms of Reference and Work Plan
- 3.1.1 To review the legal and planning guidance on which the open space funding system is based and to consider whether any changes may be necessary in the light of new Government guidance.
- 3.1.2 To review the effectiveness of existing systems for the administration and operation of the open space system, including the making of Section 106 Agreements, and to consider whether any changes should be made.
- 3.2
1. The working group met with officers (S Tilbury, S Dunbar-Dempsey, M Kirby, A Ford and H Bone) to research the background to the Strategy and its source documents
 2. Attended a meeting of the 'Five Council Forum' and invited comments from the Parishes concerned (New Alresford Town Council, Bishop's Waltham, Denmead, Whiteley, and Wickham).
 3. Invited three Hampshire County Councillors (Cllr J Porter, Cllr C Bailey and Cllr F Allgood – all present or past City Councillors) to make comments.
 4. Parish Councillor Matthews was invited to comment.
 5. Invited J Hayter (as a local resident) to make comments.
 6. Produced this report.
4. Findings
- 4.1 Planning Policy Guidance 17 paragraph 33 states that 'it is essential that local authorities have undertaken detailed assessment of the needs and audits of existing facilities' in order to set 'appropriate standards' and to justify planning obligations. New Forest District Council has conducted a survey. They suggest

that it would take some 12 to 15 months to conduct at a possible cost of £40,000. We are advised that this might possibly be funded out of the Planning Delivery Grant. East Hampshire District Council is about to do such a survey.

- 4.2 The policies relating to Recreation and Tourism contained in the Winchester District Local Plan Review have been considered and by the Inspector's Inquiry dated 8th June 2004 to 17th March 2005. Amendments were recommended and subsequently accepted by Council. These will go to a six week public consultation exercise starting 26th January 2006. This process is unlikely to impact upon the Strategy.
- 4.3 There is a Government Consultation on the proposed 'Planning Gain Supplement' launched as a result of the Chancellor's Budget Statement November 2005. This proposes a new tax on land which planning permission has been granted in order to finance infrastructure requirements of the new development. This will be collected by central Government and then re-distributed to Local Authorities. The mechanism of this and how it would meet the needs of specific developments is unclear. If adopted, the tax would replace current Section 106 Agreements in relation to off-site infrastructure costs, including those associated with the Open Space Funding System. The consultation suggests that, if approved, the new scheme could be introduced from about 2008.
- 4.4 Changes to the H3 settlement policy could reduce new build in rural settlements because many are not deemed to be sustainable settlements. While this is speculation, if it proves to be correct there would be a subsequent decline in open space contributions and thus an impact on the rural parishes.
- 4.5 Some Parishes want to purchase land through the use of a Compulsory Purchase Order. We were advised that this would be a lengthy process with the Open Space Fund also needed to cover the legal and other professional costs involved. Officers confirmed that reservations had been included in the Local Plan to facilitate this approach. Leasing the land (provided it was for at least 15 years) might be an alternative approach.
- 4.6 One Parish commented on 'clustering' in order to allow pooling of funds to finance a larger facility in the central place. The clustering suggested was based on Parish boundaries whereas Officers were looking at clustering based on a 20 minute travel distance. It was noted that the Parish Councils involved would also need to agree amongst themselves how revenue costs of running the larger facility, in particularly maintenance costs and insurance, could be shared.
- 4.7 It was noted that large developments rarely contain provisions for field sports e.g. football, hockey and cricket pitches. It was also noted that while such facilities were part of secondary school sites they were frequently in accessible during the school holidays.
- 4.8 Capital works to buildings could be financed through the OS Fund but only when this is ancillary to the use of the outdoor recreational facilities – such as changing rooms.

- 4.9 Footpaths required for access to open space or outdoor facilities may be provided through the OS Fund.
- 4.10 Major items of 'fixed' equipment that were capital in their nature – such as goal posts or outdoor basketball rings may be financed but moveable equipment e.g. hockey sticks and nets, could not be financed through this source.
- 4.11 It was noted that the following points raised were not covered by the scheme at present, but could be covered by the scheme in future under the provisions of PPG 17 (2002), subject to identifying of a 'need' (see below)
- Allotments – although it was noted that these are not listed as part of the open space standard in the Local Plan;
 - Indoor sports facilities;
 - Footways and paths in their own right, as the definition of 'sport' used in PPG 17 covers walking and riding.
- 4.12 The Group noted that the following issues raised in representations were not currently within the scheme and could not be included in future either because they fell outside the criteria of PPG 17 or because the costs were revenue in nature. It was explained that revenue costs would be met from local taxes.
- Sports equipment that is not capital in nature – e.g. footballs or kit for teams;
 - Equipment that is ancillary to the open space – e.g. mowers;
 - Payment for maintenance costs or insurance costs;
 - Wider leisure pursuits, e.g. bird watching;
 - Private activities – e.g. allotments could be covered but not 'gardening'. The broader issue of facilities provided through OS Funding being used by private clubs was raised and Officers indicated that there may be some scope to include conditions to ensure such clubs were accessible for all to join;
 - Pump priming funding – it was noted that there were other potential sources for such funding, including Council grants and lottery funds;
 - Bus services to take people to or from sports facilities in other communities;
 - Web-sites providing information on the availability of outdoor sports fields.
 - Smaller rural communities want to have open spaces provided as part of the scheme, rather than have to build up contributions that were sometimes difficult to spend effectively. It was noted that the Council considered that 15 properties was the minimum to make a local play facility viable. However it was pointed out that central play sites in rural parishes were of limited value as they could be difficult for small children to reach. In contrast it was noted that the provision of a large number of local play areas was causing concern in larger communities e.g. Denmead, as it gave a scattered provision and finance was not available for larger play facilities.

- 4.13 Developers are now seeking a time limit on the use of their contributions. This may create difficulties were some Parishes are 'saving' contributions finance 'larger' schemes.
- 4.14 Winchester Town was treated in the same way as a Parish so far as the scheme is concerned. It was noted that while the Town Forum did not have the same powers as a Parish on the use of funds, Members were satisfied that the Town Forum could influence the decisions reached by Cabinet.
5. Conclusions
- 5.1 There is information available to describe the City Council's Open Space Strategy. This comes with a leaflet illustrating the Contribution Scales, a Guide, and a Technical paper for Parish Councils and developers.
- 5.2 Parish Councils containing the smaller rural settlements have issues regarding the availability of land for recreation and the amount of money they gain from development. Accordingly they take a long time to accumulate enough funds to provide facilities. They also may be isolated by distance from the larger facilities in their central place. This is compounded by limited public transport.
- 5.3 The clustering of Parish Councils around a larger central place would seem to be desirable but accessibility would still be an issue. Local recreation committees would have to be established in order to administer such clusters and to share costs.
- 5.4 The definitions of 'Open Space' contained in the Open Space Strategy would seem to be at variance from those contained in the current edition of PPG 17.
- 5.5 Most Parish Councils would seem to be satisfied with the Strategy and how it operates even though we only consulted a small sample. Nevertheless some Parishes have problems in spending there contributions while others argue that there is never enough.
- 5.6 While there is an annual Assessment of play areas and sports grounds this is far short of the audit required under PPG 17. This audit looks into not only adequacy but also community benefit and accessibility.
- 5.7 A survey is being undertaken to identify facilities throughout the District and to illustrate spatial distribution. From this 'clusters' may be defined using a '20 minute travel time' as factor. A Venn diagram could then be produced to reveal gaps.
- 5.8 The Council would need to draw a line under the present Funds if there were any changes in the Strategy and Contribution method and scale. Existing Funds would then have to be spent under the 'old' Strategy, while new moneys collected would come under any new system.

6. Recommendations

- 6.1 That the definitions contained in PPG 17 should be adopted by the Open Space Strategy;
- 6.2 That an audit as described in the PPG 17 companion guide be conducted as a matter of priority. This would establish best value by assessing accessibility, quality, multi-functionality, primary purpose and quantity of recreation and sports facilities within the District;
- 6.3 That a policy of clustering should be considered to promote the results of the audit.
- 6.4 That East Hampshire District Council be approached with the possibility of a joint audit to ensure consistency across the area covered by the proposed South Downs National Park.
- 6.5 That consideration be taken as to the possible impact of the H3 policy change and its Supplementary Guidance on the Open Space Funding stream in the rural parishes.
- 6.6 That consideration be made regarding the possible impact of changes in the Section 106 Agreements emanating from the Chancellor's 'Planning Gain Supplement'.
- 6.7 That the Cabinet considers amending/re-writing the Open Space Strategy with regard to the above.

End.