



HEARING STATEMENT – MATTER 12

Examination of the Breckland District Local Plan (2011 – 2036)

On behalf of:

Orbit Homes (2020) Limited

In respect of:

Land off Greenfields Road, Dereham

Date:

August 2018

Document Reference:

Reference: GA/DJ/05217/S0003

1.0 INTRODUCTION

1.1 This Hearing Statement has been prepared on behalf of our client Orbit Homes (2020) Limited (henceforth 'Orbit Homes') in response to Matter 12 of the Inspector's Questions on the Additional Work and related Proposed Modifications (Document Reference EX.86). It is intended to assist the Inspector's consideration of the soundness of the Plan and aid discussion at the hearing session on 20th September 2018.

Background

1.2 Orbit Homes have owned the Land at Greenfields Road, Dereham (henceforth 'the site'), for over 2 years. The site is allocated for the development of 220 dwellings by Policy D2 of the Council's Site Specific Policies and Proposals Development Plan Document (2012). Policy D2 is proposed to be 'not superseded' by the emerging Local Plan and will therefore remain part of the adopted development plan.

1.3 Since we last appeared in front of the inspector, Orbit Homes' application on the site (Ref: 3PL/2016/1397/F) has still not been determined and the key issue remains the interpretation of Core Strategy Policy DC11 which sets the current standards for outdoor playing space provision.

1.4 This statement follows the hearing statement we prepared on behalf of Orbit Homes ahead of the previous hearing session on Matter 12 in May 2018 (Ref: RS.4) which, in summary, made the following points:

- It is inappropriate for the Council to apply Fields in Trust's (FIT) guidance for quantity of provision in rural areas of 25.6m² per person to urban areas where they recommend 24m² per person; and
- Policy ENV 04 fails to provide sufficient clarity on the type of open spaces that it considers can count towards outdoor playing space provision. In this respect, there is a need for the policy to include more information on the dual use of Sustainable Drainage Systems (SUDs) as outdoor playing space provision and the definition of 'outdoor sports area'.

1.5 At the hearing session on Matter 12 in May 2018, there was an acceptance by all parties that Policy DC11 was **not fit for purpose** in its current form and that the council would go away and **comprehensively re-write** it to ensure that it sets **clear standards on the quantum of outdoor playing** space required, while reflecting the **need for flexibility** in responding to local circumstances/needs. The Council's **tweaked version of the policy is unacceptable** as it misses the whole point of the previous discussion. We therefore request that prior to the hearing session on 20th September, the Council produce a genuinely comprehensive revision to the policy to enable proper discussion. Despite these comments, we now turn to the specific question posed by the Inspector on Policy ENV 04.

2.0 MATTER 12 – ENVIRONMENT

Policy ENV 04 – Open Space, Sport and Recreation

Question 1.55 – Is Policy ENV 04 and its supporting text (as modified in the Environment Topic Paper) justified and in accordance with national policy?

- 2.1 In the context of the above, this statement sets out Orbit Homes' comments on the modified wording of Policy ENV 04 and its supporting text contained in the Environment Topic Paper (Ref: EX.77). The aim of these comments is to help the Council achieve a policy for outdoor playing space provision that is justified, consistent with national policy and above all is clear, flexible and not subject to excessive interpretation.
- 2.2 It was agreed at the previous hearing that the key element of the policy that needed to be retained is the requirement for a quantum of outdoor playing space per person. Other than this, it was agreed: that the other requirements of the policy (and in particular the thresholds set for the provision a LEAPS, NEAPS, Outdoor Sports Areas) don't reflect the need for flexibility in responding to local circumstances/needs. In this respect the Council's changes to not go nearly far enough. The revised policy fails to provide clarity on key issues, is too often confusing, contradictory and inflexible. To take the most prominent examples:
- **Contributions as an Exception:** Policy ENV 04 states that "*contributions in lieu of on-site provision will be the exception and will need to be supported by robust evidence from the applicant that on-site provision is not appropriate/viable*". This requirement contradicts statements elsewhere in the policy that "*There is a presumption that for developments comprising of 25 dwellings or more that outdoor playing space will be provided within the development site*". This implies that for developments of between 10-25 dwellings, off-site contributions will be the norm, but the policy only allows for this as an exception. We do not consider this requirement to be sound in that it is contrary to paragraph 204 of the previous NPPF (2012)¹ which requires planning obligations to be fairly and reasonably related in scale to the development. The provision of outdoor sports areas on-site for schemes of 10-25 is clearly an unreasonable request as these areas would either be too small to be of any use, or the requirement would force smaller sites to deliver a larger area than the policy strictly requires.
 - **Restriction on Larger Facilities:** The restriction placed on contributions in lieu of on-site provision

¹ The revised NPPF at paragraph 214 states that the previous NPPF "will apply for the purpose of examining plans, where those plans are submitted on or before 24th January 2019". However, it is also clear that on adoption of the new Local Plan, the weight attributable to its policies will be according to their consistency with the revised NPPF (paragraph 213). The revised NPPF is therefore a key material consideration in the examination of the Local Plan.

is unjustified as it would restrict the delivery of larger facilities in areas where several smaller developments are allocated. For example, in a case where housing growth in a village creates a need for a new full-size football pitch at 0.74ha, it would require 168 x 3 bedroom homes to create a requirement large enough to provide this pitch (168 x 2.5 people per house = 420 people x 17.6m² = 7,392m²) and this could be provided if the 168 homes were all delivered on one site. However, if the most sustainable approach to development in the village were to allocate several smaller sites of c.50 dwellings, these sites would each provide a smaller area for outdoor sports and there is no mechanism within the policy to allow for off-site contributions to provide a football pitch instead (unless on-site provision is not appropriate/viable). The former wording of the policy allowed for off-site contributions in cases where on-site provision is not preferable which is a much more justified and flexible approach.

- **Specific Deliverable Scheme in Consultation with the Parish Council:** As set out above, it is reasonable to expect that in order to deliver larger areas of outdoor sports provision, it may be necessary to pool contributions from several developments (in line with CIL regulations) and as such it may be necessary to receive a contribution from one development before a specific deliverable scheme requiring several contributions can be identified. As such, we consider that this requirement could result in planned development being stalled which would be wholly unreasonable. The policy is therefore contrary to paragraph 182 of the previous NPPF.
- **Types of Outdoor Sports Provision:** The inclusion of a definition of types of outdoor sports provision is welcomed, but we consider that further examples are needed of the types of space that can be counted as outdoor sports provision. The examples given are MUGAs, skateboard parks, sports playing pitches, bowling greens and tennis courts, but considering that developments of just 25 dwellings are required to provide outdoor sports provision on site, there is a clear need for flexibility in how small areas can be designed for outdoor sports. At the extreme end of the scale, a development of 25 x 1 bedroom flats would result in a population of just 37.5 (1 x 1.5 people per flat) and an outdoor sports requirement of just 660m² or 0.066ha (37.5 x 17.6m² per person). This is just large enough to accommodate a single tennis court with no surrounding land or facilities and could potentially be large enough to accommodate a skatepark (although off-set distances to properties would likely preclude this option). It is clear that these two options will not always be appropriate or desired and we would therefore recommend that further examples of smaller high quality spaces for physical recreation are included such as trim trails, outdoor gyms and small grassed areas with fixed football goals, etc... This would result in a more appropriate and therefore sound strategy as it would ensure provision can be provided on small sites close to people homes.
- **Calculating Off-Site Contributions:** At no point does Policy ENV 04 or its supporting text provide any guidance on how off-site contributions are to be calculated. This is a critical omission that needs

to be rectified. There is reference in the policy to criteria in the Breckland Open Space Assessment (2015) being used to calculate management contributions, but even this is insufficient as it is contained in a supporting document that has not been examined and is not part of the development plan. In order for off-site contributions and management costs to be justified, it is critical that the criteria for calculating these costs is set out in the text of the Local Plan.

2.3 In light of the above comments, we recommend the policy is amended as follows:

<p>Policy ENV 04 Open Space, Sport and Recreation</p> <p>New Provision</p> <p><u>Requirement:</u></p> <p>All new residential development of 10 or more dwellings will be expected to provide a contribution towards outdoor playing space equivalent to 2.56 hectares per 1,000 population*, which equates to 25.6m² of outdoor playing space per person. As set out in the Open Space Assessment (2015), this 25.6m² is broken down to 17.6m² of outdoor sport area and 8m² of children's play space.</p> <p><u>The requirement for outdoor playing space is broken down into:</u></p> <ul style="list-style-type: none"> • <u>8m² of children's play space per person which will be defined in accordance with Fields in Trust (FIT) guidance as comprising Local Areas for Play (LAPs), Locally Equipped Areas for Play (LEAPs) and Neighbourhood Equipped Areas for Play (NEAPs). The mix of equipped and unequipped areas will be flexibly determined on a site by site basis, but where possible 2.5m² per person should be equipped in line with FIT guidance.</u> • <u>17.6m² of outdoor sports areas per person which are defined as forms of outdoor sports provision and ancillary features with natural or artificial surfaces which are used for sport as their primary purpose. They can include, but are not limited to: multi-use games areas (MUGAs), skateboard parks, sports playing pitches, bowling green, tennis, courts, trim trails, outdoor gyms and informal grassed areas with fixed sport equipment such as goals.</u> <p><u>On-site provision:</u></p> <p>There is a presumption that for developments comprising of 25 dwellings or more that outdoor playing space will be provided within the development site. Where on-site provision is provided, the space should be of an appropriate type to serve the needs of the development, well related to the proposed residential properties and in accordance with relevant standards.</p> <p><u>25 or more dwellings:</u></p> <p><u>On sites of 25 or more dwellings, the provision of outdoor playing space on site will often be preferred. However, for outdoor sports areas in particular, it is recognised that there will be situations where</u></p>
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contributions to off-site provision will be preferable. For example: where it would enable the provision of higher quality or larger facilities in the local area; where provision on-site would not be appropriate due to specific site characteristics or constraints; or where provision on-site would affect the viability of development proposals. In such situations, priority for on-site provision will be given to children's playing space and off-site contributions will be encouraged to meet any shortfall in overall provision.

10-25 Dwellings:

On sites of 10-25 dwellings, the provision of outdoor playing space on-site will often not be preferable. On-site provision will be encouraged where possible, but it is recognised that off-site contributions will be the norm.

~~Within a residential developments priority should be given to the provision of children's play areas since the facility is most likely to be required within an easy reach of dwellings and will be required to conform to the 0.8ha per 1000 people standard in provision of children's play area.~~

~~It is recognised that there may be cases where the direct provision of outdoor playing space on-site is not the preferred option. It may be that outdoor playing space does not represent an efficient use of land in the context of the site location or that there is a deliverable opportunity to secure a more meaningful area of outdoor playing space that better serves the whole community in close proximity to the application site. Contributions in lieu of on-site provision will be the exception and will need to be supported by robust evidence from the applicant that on-site provision is not appropriate/viable. Any contribution will need to be towards a specific deliverable scheme in consultation with the relevant parish council and the developer contributions policy in this document. It will be secured through a section 106 agreement. The contribution will be required to name a specific scheme.~~

Off-Site Contributions:

Off-site contributions will be calculated in accordance with the method set-out at Appendix X.

Maintenance Costs:

~~In addition to the on-site and off-site contributions, a contribution will be required for 10 years maintenance of the facility. The contribution will be calculated using the method set-out at Appendix X, proportional to the type of facility provided and will be calculated in accordance with the criteria set out in the Breckland Open Space Assessment (2015) which will be reviewed periodically.~~

~~* The population resulting from a particular development is calculated using the occupancy rates set out in the below table. Using these occupancy rates it is possible to calculate the level of outdoor playing space needs for any given development.~~

New Appendix – Methodology for Calculating Contributions to Outdoor Playing Space:

- 2.4 Orbit Homes are currently in the process of negotiating a financial contribution to off-site outdoor playing

space provision and maintenance. In this process, we have been keenly aware of that the current requirements set-out at Appendix E to the Core Strategy and Appendix 5 to the Open Space Assessment (2015) are not fit for purpose. They are not clear regarding how the contribution should be calculated, whose responsibility it is to calculate it and the sources of information that should be used for laying out and maintenance costs. In this context, we consider that for Policy ENV 04 to be effective, the Local Plan must contain a clear methodology for calculating financial contributions to outdoor playing space so that the Inspector can rule on the soundness of the overall approach to outdoor playing space provision. This methodology should cover:

- **Land Purchase Costs:** Key questions here are:
 - Should this be based on residential land value as set out in the Core Strategy or an average of residential and recreational land values as set-out in the Open Space Assessment (2015)?
 - What source should be used for land values?
 - Will it be necessary for the District Valuer to be involved?
 - Is it the Council's responsibility to maintain up-to-date information on land values?

- **Laying Out and Maintenance Costs:** Key questions here are:
 - Should there be a set-cost per m² based on an average cost for laying out and maintaining different types of provision, or should the contribution be specific to the type of provision needed (e.g. the costs of providing and maintaining a MUGA)?
 - If a specific contribution to the type of provision, how will flexibility be built-in for situations where the specific type of provision is unknown?
 - What sources of information should be used to find the most up-to-date costs (e.g. Sport England and the individual governing bodies for sports provide useful guidance)?
 - Whose responsibility is it to calculate these costs?