

## **Examination Breckland District Local Plan 2011-2016)**

### **Written Statement Issues and Matters.**

#### **Dereham Town Council**

The Town Council would like to participate at the Hearing on this Matter.

## **Matter 12 Environment**

### **Policy ENV 01**

#### **12.1**

This policy does not give green infrastructure any protection. In 5.8, by defining green infrastructure as everything other than buildings, no priority green infrastructure or green corridors are identified in Breckland.

In 2008, in partnership with Norfolk County Council and Breckland District Council, Dereham Town Council commissioned a detailed Green Infrastructure Study for the town. In 2017 Breckland, with all other district councils in Norfolk, commissioned a Countywide Strategic Green Infrastructure Study. This study identified strategic green corridors. Dereham Town Council has commission work on the back of this county wide study to refresh the 2008 Dereham corridors map, for its Neighbourhood Plan. There are therefore a number of detailed, robust and up-to-date green infrastructure studies which the Planning Authority could have used to support a policy which would protect identified green infrastructure.

In order for the policy to be positive towards biodiversity, the policy must:

1. Acknowledge that there are Green Infrastructure studies and strategies that must be taken account of.
2. Recognise that the integrity of green corridors and other identified green infrastructure should be protected.
3. Ensure development near to recognised green corridors provides enhancements to ensure net gains in biodiversity.
4. Recognise that very local green infrastructure networks may be identified as part of Neighbourhood Plans. The Local Plan policy should not prevent these local networks from being recognised.

#### **12.2**

Yes - a network of Green Infrastructure should be identified; this point has been raised by the Town Council on a number of occasions. Countywide strategic networks along with local networks have been identified.

#### **12.4**

The Policy as written is not justified, effective or compliant with the NPPF para 114. The policy needs to be reworded to take existing and future Green Infrastructure networks into consideration.

## Policy ENV 04 -

### Policy ENV 04 New Provision of outdoor playing space.

Issues have arisen recently with the corresponding current policy DC11. The issues have resulted in developers, the Planning Authority and the Town Council obtaining Counsel Opinions, and a much-needed development being delayed. In order to provide greater clarity and certainty to potential developers, modifications to the wording of ENV 04 are recommended.

- 1) There is no clear definition of what “an outdoor area for sport” is. To avoid confusion “area for sport” should be defined within the glossary.

The definition for area for sport should be:

*the whole of a site which encompasses at least one playing pitch;*

*“playing pitch” means a delineated area which, together with any run-off area, is of 0.2 hectares or more, and which is used for association football, American football, rugby, cricket, hockey, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo or cycle polo;*

This definition is the same as in The Town & Country Planning Act (Development Management Procedure) (England) Order 2010 and NPPF. Because the minimum area is 0.2 ha, it would be logical to include an area for sport for developments of any development of more than 80 dwellings. If the area for sport threshold is retained at 200 dwellings then the minimum size should be defined and it is suggested that a minimum size should be 0.4 ha rather than 0.2 ha.

The first line of ENV04 states that

*“All new residential development is expected to provide a contribution towards outdoor playing space equivalent to 2.56 hectares per 1000 population”.*

This is the overarching requirement and wholly justified by the evidence in the 2015 Open Spaces Assessment. While this quantum of outdoor playing space has been challenged by some agents, the figure is justified on the basis that The Fields in Trust 2.4 ha figure is a benchmark figure not a minimum or maximum and is non statutory. Fields in Trust are very clear that it is for local policy makers to set their own policy based on local circumstances.

Since the first Breckland Open Spaces Assessment in 2007 to the most recent Assessment in 2015 the amount of outdoor playing space per 1000 people has actually decreased significantly. This justifies the increased quantum from the previous policy and also justifies a more robust wording of the policy.

### **Improved wording of the policy ENV 04 New Provision**

- In the first line of the second paragraph, “open space, sports and recreation facilities” should be replaced with “outdoor playing space”. The same replacement should be made to the first paragraph on page 161.
- In the third paragraph, everything after “dwellings” on the second line should be deleted as this last part of the sentence could be construed to mean that developments of less than 200 dwellings only need to provide outdoor playing space equivalent of 0.8 ha per 1000 people rather than 2.56 ha per 1000 (first sentence of the policy). While the policy as written does not require the provision of an ‘area for sports’, it does not mean that the amount of land required for outdoor playing space should be less than 25.6sqm per person.

In essence policy ENV04 is there to ensure that new developments provide an appropriate amount of outdoor playing space. Even though a development, because of its size, may not be able to deliver formal sports pitches, it should still contribute to the land required by the population to play and participate in active games.

### **3<sup>rd</sup> Paragraph, list of thresholds.**

Developers are using the word ‘minimum’ in the old DC11 policy to try and provide the quantum of playing space as a number of small amenity areas rather than larger areas, for example:

Under the current wording a development of 199 dwellings (giving a population of say 500 people) would require  $2.56/2 = 1.28$  ha or 12,800 sqm of outdoor playing space. Because of the word ‘minimum’ in the policy, a developer could provide a LEAP of 400 sqm (this being the minimum size of a LEAP) and 124 LAPs (the minimum size of a LAP is 100sqm). The Fields in Trust guidance is clear that the minimum areas in their guidance are a minimum and there should be plenty of space of children to “run around and express their natural exuberance and play tag type games”. Using the word ‘minimum’ in the policy could easily lead to interpretations which are not the best for play.

The word “minimum” should be replaced with “the area required should generally comprise” so that the policy reads:

- On sites of 25 dwellings and above the **area required should generally comprise** of 1 Local Area for Play (LAP)
- On sites of 50 dwellings and above the **area required should generally comprise** of 2 LAPs (or equivalent provision as 1 large LAP).
- On sites of 80 dwellings and above the **area required should generally comprise** 1 LEAP and 1 area for sport.
- On sites of 200 dwellings and above the **area required should generally comprise** 2 LEAPS and 1 area for sport.
- On sites of 400 dwellings and above the **area required should generally comprise** 1 NEAP and 2 LEAPs and 1 area for sport.

This revised wording still gives the flexibility to provide the playing space in different ways; for example, if a site is bisected by a road or a river, it might be appropriate to provide the same type of playing space on either side of the road/river, but it avoids developers abusing the wording and avoiding the provision of quality playing spaces.

The reason for the revision in the final bullet point is to allow play equipment to be dispersed throughout the development to meet minimum walking distance requirements detailed in FIT guidance.

There should be a clear statement that the level of play equipment required for LEAPs and NEAPs must be proportionate to the number of people in the development. For example, a LEAP for 80 dwellings would need to meet the minimum detailed in the FIT guidance. A LEAP for 199 dwellings would need to be at least 2.5 times the minimum detailed in the FIT guidance. Without such wording a development of 199 dwellings will have the same play equipment as a development of 80 dwellings.

#### **Dual use outdoor playing space and SUDs.**

It is becoming increasingly common for developers to incorporate outdoor playing space as part of a SUDs scheme (an attenuation basin or similar). There needs to be some clear guidance as to what is and is not acceptable, which use is the primary function, and how possible increased use of the SUDs in the future will be dealt with.

The inclusion of outdoor playing space within SUDs raises some difficult question. It is clear that SUDs can include outdoor playing space. The question is how can the primary purpose as a play space be protected?

The following issues need to be addressed:

People have a legal right to discharge into a water course. Use of land as an outdoor playing space is by consent and is not a right. If a SUDs feature is a water course, people have the legal right to discharge water into it. How therefore can the playing space be protected as the right to use the water course would presumably override the use as an outdoor playing space?

Dual use SUDs that receive water in 1 in 100 years may well be acceptable, but if SUDs are designed to receive water in, say, 1 in 30 years and due to building of extensions, conservatories and patios etc a greater discharge is received so that the dual use SUDs start to receive water every time it rains, then they will frequently be unavailable for play. It is unlikely that the discharge of water could be restricted. If play spaces could not practically be protected within SUDs, then they should not be included within them.

The 2008 FIT guidance 'Planning and Design for Outdoor Sport and Play' states that:

*5.5.4 "there is, on occasion, a tendency to place outdoor facilities for sport, play and recreation on areas subject to flooding and flood damage. Such areas provide an excellent opportunity for enhancing open space generally but they should not normally be used for siting play or formal sports facilities".*

Policy ENV 04, either in the body or in the supporting text should state something akin to

"outdoor playing space can only be incorporated within SUDs where it can be clearly demonstrated that the outdoor playing space will not be compromised by the drainage and can be legally protected as an outdoor playing space in perpetuity".

#### **Policy ENV06. Trees and Hedgerows**

This policy does not seem to meet the requirements of the NPPF which has the objective to deliver net gains in biodiversity.

The policy states that only trees need to be replaced (where they are removed). Hedgerows make a significant contribution to biodiversity as well as contributing to ecological networks and should also be replaced if they are removed.

The replacement of a mature tree with space for another tree seems to go against the spirit of the NPPF as it would lead to a net loss of bio-diversity. Earlier wording of this policy stated that the same biomass should be replaced. This wording was acceptable and recognised that a sapling did not have the same bio-diversity value as a mature tree or mature hedgerow.

It should be clear that the space for the tree or hedgerow to grow would be in addition to the area provided of outdoor playing space.