

**Addendum to CIL Regulation 122(2) Compliance Statement: Justification for open space maintenance contribution and background to maintenance contribution sought**

**Appeal Ref: APP/C1570/W/22/3296426 - Land South of Radwinter Road, Saffron Walden - UTT/21/2509/OP**

The starting point is policy GEN6 (Infrastructure Provisions to support development) of the Uttlesford DC local plan. This states that development will not be permitted unless it makes provision for community facilities, school facilities public services transport provision drainage and other infrastructure that are made necessary by the proposed development. This in turn is supported by GEN2 of the UDC Local Plan that requires the development design to provide an environment which meets the needs of all potential users.

The Proposals would provide public open space.

A maintenance contribution is sought, payable to Swards End Parish Council should the Parish Council agree with the Owners to take on maintenance responsibility for the Appeal Site public open space.

The most up to date guidance and justification for open space maintenance contributions is found in the UDC Developers Contribution Supplementary Planning Guidance (draft) 2022. The draft SPD builds on the Council's Open Space Standards Paper 2019, which is concerned with identification of deficiencies/surpluses. The draft SPD provides a section on landscape and open space as follows (the "stewardship" paragraphs are the most relevant):-

*Provision*

*"4.33. The Uttlesford District Council Open Space Standards Paper (OSSP) 2019 (Open space standards paper) identifies the deficiencies and surpluses in existing and future open space provision. It informs an approach to securing open space facilities through new housing development and helps form the basis for negotiation with developers for contributions towards the provision of open space. Part 5 of the OSSP sets out advice and recommendations regarding when on-site provision or offsite contributions would be appropriate.*

*4.34. One piece of advice in the OSSP is those small areas of open space hold less recreational use and value. They may also add to existing pressure on maintenance regimes and safety inspections. Table 5.3.2 of the OSSP sets out the minimum site area required to be provided and the house numbers needed to warrant on-site provision opposed to off-site contributions. This table is set out in Appendix C. Mostly, it is anticipated that developments will need to provide open space via offsite contributions.*

*Stewardship*

*4.35. The Council considers that the best owners and maintainers of landscaping and/or open space are the appropriate town/parish council. Developers should open pre-application discussions with these bodies at the earliest opportunity, assisted by council officers. It is vitally important to agree the specification of any planted and/or seeded areas, and any play equipment prior to submitting a planning application so that maintenance implications are*

*known and agreed. This should avoid subsequent delay in or refusal of asset transfer, which can occur if town/parish councils feel that they are being presented with a fait accompli.*

*4.36. On completion of the on-site provision, and prior to occupation of the first home (or such other time as agreed), the developer will notify the Council in writing. Council officers will convene a site inspection to ensure that all requirements of the planning permission have been met. Upon completion of works to the written satisfaction of the Council, the transfer of the landscaping and/or open space will be arranged to the appropriate town/parish council together with the maintenance contribution. The developer will pay the legal costs for both parties of the transfer. The developer will be responsible for maintenance until such time as the transfer takes place*

*4.37 The maintenance contribution will be site specific and ringfenced. It will be for a 15-year period and will cover the initial establishment period and the maintenance of the land through to early maturity when the design intentions are beginning to be realised. The rates to be applied for the maintenance operations are based, in the 21 main, on current measured rates set out in SPON'S External Works and Landscape Price Book, which is an industry recognised pricing book. The anticipated operations for each year of the maintenance period are costed. The sums are then adjusted year on year applying the current LIBOR swap rate for interest rate and the RPI for inflation at the time the calculations are made. The total sum is then indexed linked using RPI up to the day the land is conveyed. Applying this method is perhaps the most accurate and fairest means to arrive at an appropriate sum for individual development sites and has been approved by the Council. Where SuDS are to be managed as part of the public open space, the same calculation can be applied. Beyond this, future maintenance and other recurrent expenditure will be borne by the town/parish council to which the asset has been vested.*

*4.38. If a planning application is submitted in outline, a rough maintenance calculation can only be provided by the Council if an illustrative landscape masterplan has been provided. In all instances, it would save time if the developer can do the calculations and table them for the Council to consider.*

*4.39. Where the landscaping and/or open space is to remain in the ownership of the developer, or under the ownership of a management company, an agreement will be required to ensure that the site is adequately maintained and will be retained as recreation open space with public access. The details of the management company will be agreed between the developer and the Council."*

As the draft SPD sets out, maintenance requirements for public open space are site specific. This is inevitable, as the type and amount of maintenance varies from public open space to public open space. There are underlying rates for work that are industry-accepted (the SPON'S External Works and Landscape Price Book). But it involves an exercise of judgment to arrive at a figure for a particular open space in terms of the particular type and amount of maintenance required.

The Council's Landscape Officer and the Appellants considered the public open space proposed here.

The open space proposed in this outline application is sizeable and an overprovision when measured against policy. Out of the 18.3 hectares of total site area roughly 10.3 hectares would be given over to publicly accessible open space including play areas and parkland on higher ground. The open space also holds the drainage systems. The Appellants suggested the figure of £1,400 per dwelling, which the Landscape Officer considered and, applying judgment to the space proposed, considered fair and reasonable given the nature of the space, provided the figure was indexed.

The maintenance contribution of £1,400 per dwelling is for Swards End Parish Council, not the Council, and if it should be unacceptable to the Parish Council (though the Parish Council has indicated at the Inquiry that £1,400 per dwelling figure is acceptable), or if the Parish Council is unwilling to take on the open space for some other reason/cannot come to terms with the Owners, then the fallback is maintenance by a management company established by the Owners.

The Council considers the maintenance contribution meets the CIL Regulation 122(2) tests.

If, however, the Inspector is not satisfied regarding the £1,400 per dwelling figure, the Council suggests that the way forward would be for the s.106 to be adjusted so that the Parish Council and the Owners are left to come to terms regarding the maintenance contribution, as well as regarding terms generally.