

## **Breckland Local Plan Examination**

**In response to Topic Paper:**

**Environmental Policies June 2018**

**Response from Dereham Town Council - July 2018**

### **Outdoor Playing Space.**

#### **Background to the Town Council's interest in this topic.**

From the Breckland Open Spaces Assessments carried out between 2007 and 2015 the deficit in sports areas in Dereham increased from 7.89ha to 17.57ha and the deficit in children's playing space increased from 11.75ha to 14.22ha. It is imagined that there is a similar picture across Breckland.

During the period 2007 to 2015 Breckland has been operating broadly the same policy for the provision of outdoor playing space, with the same 25 dwelling threshold for onsite provision, clearly therefore the policy, which has been followed has not been delivering outdoor playing space and needs to be thoroughly reviewed, to ensure that the deficit does not continue to increase.

#### **From the Environment Topic paper - page 16 1<sup>st</sup> bullet point.**

The Local Standard has been replaced with FIT guidance, it is believed that this is an unnecessary change, and makes the document factually incorrect. The 2.56 ha standard is a local standard justified and supported by the Breckland Open Space Assessment. It is not FIT Guidance, FIT do not have a guidance, they have a 'benchmark' of 2.4ha per 1000 population, each local authority can use the FIT benchmark to help form their own local policy.

The specification in the original document was incorrect.

#### **Page 17 – New Provision.**

First paragraph last sentence.

It would be helpful to insert after "Assessment (2015)" the words "for developments over 25 dwellings" .

This would mean that for all developments of over 10 dwellings they would provide a playing space on site (in accordance with the first sentence of the policy) and after 25 dwellings the playing space would be split between play and sport. A 25 dwelling development would provide over 1000sqm area for sport which is equivalent to a 5 a side football pitch.

If the words "for developments over 25 dwellings" are inserted after "Assessment (2015)" then the third paragraph of the policy can be deleted as it is superfluous.

#### **Page 17 – New Provision.**

Second paragraph - Relevant standards.

The references to the Fields in Trust (FIT) standards has been replaced with "relevant" standards, this change is a regressive amendment. FIT (NPFA) have been promoting and protecting playing spaces since 1925. They created the 6 acre standard in the 1930s and produced the comprehensive Planning and Design for Outdoor Sport and Play in 2008. The FIT standards are well recognised and accepted by developers. If the FIT standards are not referenced, developers will be tempted to identify standards with lower level of provision, this will lead to disputes with parish councils and unnecessary delays in the planning process. It would be better for the policy to be clear that developers should follow the most current FIT guidance.

**Question. Why is the LPA not suggestion that FIT standards are not followed? Will the option to use other relevant standards lead to more disputes and delays in processing planning applications?**

**Page 17 – New Provision.**

Second paragraph – The 25 dwelling threshold.

The policy seems to be saying that for developments of between 10 and 25 dwellings there will be no requirement to provide outdoor playing space on site. It is not clear where the 25 dwellings figure comes from, it does not seem to be justified. If it is suggested that developments of less than 25 dwellings would not provide a meaningful playing space then this is not justified. FIT define a LAP as having a minimum area of 100 sqm, LEAP as having a minimum area of 400 sqm and NEAP as having a minimum area 1000 sqm.

As can be seen from the table below, even 10 dwellings providing a total outdoor playing space 640 sqm would easily meet the FIT standards for a children's play area and would provide a meaningful playing space, which a parish council could provide equipment for at a later date.

Indeed, this is recognised in the most recent FIT guidance 'Beyond the Six Acre Standard' (2015). Table 2 page 7 of the guidance has the threshold for providing "equipped/designated play space" from 5 dwellings. There is therefore no reason why developments of 10 or more dwellings should not provide play spaces on site.

We believe that it is as a direct result of this 25 dwelling threshold that the deficit in playing space has increased since 2005 – which is justification for its removal.

This should make no difference to viability as if playing space is not provided onsite then then a contribution to offsite provision should be made which should reflect the cost of purchasing land, laying out and 10 years maintenance costs.

Assuming an average of 3 beds per property.

dwelling	people	Play sqm	Sport sqm	Total sqm
10	25	640		640
11	28	704		704
12	30	768		768
13	33	832		832
14	35	896		896
15	38	960		960
16	40	1024		1024
17	43	1088		1088
18	45	1152		1152
19	48	1216		1216
20	50	1280		1280
21	53	1344		1344
22	55	1408		1408
23	58	1472		1472
24	60	1536		1536
25	63	500	1100	1600

### **After third paragraph.**

#### **Removal of children play space thresholds for LAPs, LEAPs etc.**

As a result of the changes to the policy, the provision for equipped play areas has been significantly reduced, there is now no requirement for any development of any size to provide equipped play areas.

In the original wording it was specified when equipped play areas should be provided i.e. over 80 dwellings, the new policy has no such requirements. The reworded policy simply states that "children's play areas" need to be provided in accordance with relevant standards.

"Children's play area" can be anything from a unequipped Local Area for Play (LAP) to a very well equipped Neighbourhood Equipped Area for Play (NEAP). LAPS, LEAPs and NEAPs are clearly defined by FIT (Planning and Design for Outdoor Sport and Play 2008), which for each type of play area specifies the number and type of equipment.

The revised wording only requires a developer to provide LAPs as an unequipped LAP would meet the legal definition of a "Children's play area".

#### **Why would a developer commit large amounts of funding towards the provision of an equipped play area if there was no policy requirement to do so?**

The reason for rewording the policy was to make the policy clearer and less ambiguous, the changes made in this section completely change the policy because this is a significant departure from the original policy and pre-submission document, it is important that all parish councils are made aware of these proposed changes because this has not been consulted on.

The criticism above could be negated if it is specified that provision must be in accordance with FIT guidance. While FIT may update their guidance, it will always be balanced guidance developed through wide consultation.

#### **Page 18 – definition of outdoor sports provision.**

This definition is too detailed and unclear. Breckland Council has obtained counsel opinion on this matter, the opinion gave a definition of an area for sport as '*an area laid out for sport which has sport as its primary purpose*' it would be simpler and less confusing to leave the definition as that provided by counsel, rather than list all the different sports.

#### **Page 18 last paragraph**

While it is recognised in both the FIT guidance and the CIRIA SuDs Manual 2015 that SuDs can serve a dual function, paragraph 7.5.1 of the SuDs manual states that

*"where SuDs are proposed in public open space, it will be necessary to ensure that the design meets the requirements of the local authority. Consideration needs to be given to the responsibilities for maintenance of any public open space where the primary function will be other than surface water management. For example, as part of the design of detention basins or exceedance storage areas that have an amenity use, a decision will need to be made regarding the optimum maintenance for surface water management versus the designated amenity use."*

The SuDs manual clearly envisages that local authorities will stipulate design requirements for SuDs proposed in public open space. Breckland District Council have not produced any design requirements. This is a serious omission if it is being written into policy that SuDs can be dual use.

The LPA should not be advocating dual use SuDs until it has technical guidance to support the policy.

The technical advice obtained for the Dereham Neighbourhood Plan recommends that where SuDs are also used for play or sport then they should be designed so as not to be inundated with water on average more than 1 year in 10.

The legal advice obtained by the Town Council for the Neighbourhood Plan identified that there needed to be wording in any section 106 agreement to ensuring that the primary purpose of any playing space is maintained, by legally protecting the area from being flooded more frequently than an average of 1 year in 10.

It is therefore recommended that where it is proposed to incorporate playing space within SuDs features (in order playing space can be retained as such in perpetuity) it must be clearly stated in all legal documents that the area should not flood on average more than 1 year in 10 so that the primary purpose of the land will be protected for sport / play and that the use of the land for SuDs shall merely be ancillary and incidental to its primary use.

#### **Page 19 exceptions to provision.**

sheltered housing and nursing homes, should not be excluded from providing outdoor playing space and areas for sport.

Such exclusion would be contrary to the Equalities Act, while people living in sheltered housing or nursing homes may not play active contact sports there would be outdoor play and sport activities which would provide meaningful benefits to the residents. Even an outdoor area to allow people to walk in a pleasant environment would be beneficial.

#### **In summary**

In order to make the policy effective the following changes need to be made to the revised policy:

1. The words "for developments over 25 dwellings" be inserted after "Assessment (2015)" in the first paragraph, then the third paragraph deleted as it contradicts the first sentence of the policy.
2. It is specified that provision of playing space must be in accordance with FiT guidance.
3. that all developments of 10 dwellings or more provide outdoor playing space on site rather than off-site.
4. that where it is proposed to incorporate Playing Space within SuDs features (in order playing space can be retained as such in perpetuity) it must be clearly stated in all legal documents that the area should not flood on average more than 1 year in 10 so that the primary purpose of the land will be protected for sport / play and that the use of the land for SuDs shall merely be ancillary and incidental to its primary use.
5. sheltered housing and nursing homes, should not be excluded from providing outdoor playing space and areas for sport.
6. there should be reference in the text to consulting with parish council's at an early stage to agree design if it is likely that the parish council will adopt the areas on completion of the development.

The policy could be simply expressed thus:

- All developments of 10 dwellings or more must provide outdoor playing space equivalent to 2.56 ha per 1000 population, the qualitative provision should follow most recent FIT guidance.
- For developments of 25 dwellings and above, the provision should be proportioned thus: children's play 0.8ha per 1000 population and areas for sport totalling 1.76ha per 1000 population, the qualitative provision should follow relevant FIT guidance.

### **Off-site contributions.**

There are concerns in relation to off-site contribution in lieu of on-site provision of outdoor playing space.

While off-site contributions should be the exception, it is possible that it will occur. Where such exceptional circumstances arise, it should be clear that the commuted sum must be calculated to include:

- the value of the area of land not being delivered on-site,
- cost of laying out the land for play or sport and
- the 10 years maintenance figure.

The value of the land should be the residual development land value. In a recent planning application the LPA omitted the residual land value and calculated the commuted sum to be £50,000, Dereham Town Council challenged this claiming that land values must be included - the develop accepted this and the final figure was nearly £250,000 for a shortfall of 2600sqm of sports areas, very different from what the LPA calculated.

It is not understood why the contribution need to be for a specific deliverable scheme? – as can be seen from the example above we could be dealing with quite large sums of money, to expect a parish council to come up with a specific deliverable scheme in a short space of time is unreasonable. The open space assessment carried out by Breckland clearly states that for most parishes there is a shortfall in outdoor playing space, the need for developers to provide playing space is therefore clear and unequivocal. Therefore rather than stating that the off-site contribution must be towards a 'specific deliverable scheme' which is named, it would be better that the contribution goes towards 'the provision and improvement outdoor playing space'. If the LPA insists on a named specific scheme then parish councils will be requesting deferments while they prepare a scheme; such requests are likely to delay the decision making process and slow down housing delivery.

I cannot see any reason why off-site contributions should not include land value or why the off-site contribution must be for a specific named project – rather than towards 'the provision and improvement outdoor playing space'. If a developer does not agree to such wording they have the option to provide the playing space onsite.