



DEVELOPERS' CONTRIBUTIONS – A PROTOCOL ON WORKING ARRANGEMENTS BETWEEN THE NEW FOREST DISTRICT COUNCIL AND PARISH AND TOWN COUNCILS

1. INTRODUCTION

- 1.1 In 2002 a joint working party was set up to look into the arrangements for handling developers' contributions and in particular the transfer of public open space as part of the development process. It was decided that the production of a protocol setting out the relationship between the District and Parish/Town Councils would be useful. It considered this at several meetings which included inviting and hearing the views of the main local Councils involved.
- 1.2 The draft protocol was reported to the Corporate and Finance Review Panel on 12th September 2002 when they recommended, subject to some minor amendments, that the protocol be approved by the Cabinet as Council policy. Further amendments have been made following discussions with the main local Councils involved and these are incorporated into the final document.

2. THE PROTOCOL DOCUMENT

- 2.1 The final version of the draft protocol is attached as Appendix 1 to this report. The Cabinet are asked to approve the document as Council policy, which will then guide future working arrangements between this Council and local Councils in respect of public open space and other matters related to developers' contributions.

3. IMPLICATIONS

- 3.1 There are no financial implications arising from this report as all of the procedures described can be carried out within existing budgets.
- 3.2 There are no direct environmental or crime and disorder implications arising because this report deals with procedures. However, the effective provision of well designed public open space is an essential component of a well planned and safe built environment.

4. PORTFOLIO HOLDER COMMENTS

These will be reported at the meeting.

5. RECOMMENDATION

- 5.1 That the Cabinet approve the attached protocol document to guide future working arrangements between New Forest District Council and local Parish and Town Councils.

For further information contact:

Chris Elliott
Head of Development Control
Tel: 023 8028 5310
E-mail dev.control@nfdc.gov.uk

Background Papers:

None

**DEVELOPERS' CONTRIBUTIONS – A PROTOCOL ON WORKING
ARRANGEMENTS BETWEEN NEW FOREST DISTRICT COUNCIL AND LOCAL
PARISH AND TOWN COUNCILS**

1. PUBLIC OPEN SPACE ADOPTION ARRANGEMENTS

2. ALLOCATION AND USE OF DEVELOPERS CONTRIBUTIONS

1. PURPOSE

1.1 This document sets out the agreed procedures which will be followed when a developer offers public open space as part of the planning process. In particular, it sets out the detailed working arrangements which will be followed by New Forest District Council and the Town or Parish Council in which the site is located.

1.2 Experience has shown that when land is offered as public open space, the best arrangement is that it is taken into public ownership and managed by the Town and Parish Council for the benefit of the residents of the area.

2. BACKGROUND

2.1 When new residential development of more than 3 dwellings is proposed, it is a planning requirement (under Local Plan Policy DW-R3) that arrangements are made for the provision of public open space.

2.2 The general formula is that 2.8 hectares of open space should be provided for every 1000 additional people, based upon the number of bedrooms in a development. Each bedroom equals one person. Of this 2.8 hectares, 1.7 hectares will be for the provision of formal open space eg playing fields, but this will only be provided on site in the largest schemes. As an alternative, this can be provided by means of a financial contribution to either provide or upgrade existing facilities in the area.

2.3 The remaining 1.1 hectares will be for the provision of informal open space with the presumption that this will be provided on site wherever possible. However, very small areas of land (eg less than 400 square metres) may not serve a useful function and can be relatively expensive to maintain, and in such circumstances a financial contribution in lieu may be a more practical solution.

2.4 In all cases, open space provision requires consideration on a site by site basis, and both the amount required and the manner in which it is provided will depend on a number of factors. The main ones are:

- (a) the overall amount of existing open space in the vicinity of the site and the Parish as a whole
- (b) the nature of the accommodation being provided and the likely type of occupant
- (c) the size of the development and whether a satisfactory provision can, in practical terms, be achieved on the site
- (d) other factors such as the desirability of protecting landscape features, promoting new pedestrian and/or cycle routes

through an area and whether adjacent development might provide future possibilities for enlarged or linked provision.

2.5 The standards of open space provision and the circumstances in which open space contributions are required are set out in Appendix G6 of the New Forest District Local Plan.

3. EARLY CONSULTATION WITH THE PARISH/TOWN COUNCIL

3.1 When a planning application is received which involves the provision of public open space, there will be two separate consultations with the relevant Town or Parish Council. The first is the normal consultation on a planning application. This will be via the Parish List and the copy of the planning application sent to them for consultation purposes. The general scale and disposition of public open space to serve the residents of the new development will be a material consideration in the planning decision on the application. Developers should ensure that there is early consultation on these issues and full details are provided of such details as landscaping and fencing. The planning case officer will be able to explain the relevant planning considerations in relation to the type of issues set out in paragraph 2.4

3.2 The second consultation, in a separate letter, will be for the Parish or Town Council to comment on their willingness or otherwise, in principle, to accept the transfer of the open space at a later stage. This is not a material consideration in the determination of the planning application, and as such must be kept separate from comments on the planning application itself. It is nevertheless important for New Forest District Council to know at an early stage if the Parish or Town Council see a problem in principle with a later transfer. Even if there is no objection in principle, there will be a need for later consultation on important issues such as landscaping and boundary treatment. If concerns are expressed, can allow early discussions to see if issues can be resolved before the planning application is determined. If this is not possible, New Forest District Council may need to make other arrangements, possibly with the developer, such as the setting up of a residents' management company to look after the land. It is stressed that this is seen as a very poor alternative option, particularly in the light of the performance of such companies in the past.

4. CONTRIBUTIONS IN LIEU OF ON-SITE PROVISION AND FOR MAINTENANCE PURPOSES

4.1 New Forest District Council's approach on financial contributions is based upon a formula approach. This is important for transparency and probity in the planning process.

4.2 Where a financial contribution is accepted in lieu of provision on site, this will be in accordance with a formula, updated from time to time, based upon the average cost of laying out new open spaces and associated facilities. This figure, which is periodically updated, has just been increased to £275,400 per hectare.

APPENDIX 1

- 4.3 Maintenance contributions are also calculated on a formula basis. These are also updated from time to time, but in accordance with current planning guidance, can only be a contribution towards maintenance costs and cannot seek to cover entire maintenance costs in perpetuity. The current standard rate for maintenance contributions is £46,600 per hectare, with special provision to take account of the higher unit costs for sites of 400m² or less.

5. LEGAL AGREEMENTS

- 5.1 The arrangements for the handover of areas of public open space and/or financial contributions, will be contained in a legal agreement which must be completed before any planning permission is granted. New Forest District Council will monitor the progress of development sites covered by such agreements and ensure the developer complies with the arrangements which have been made.
- 5.2 These legal agreements (normally under Section 106 of the Town and Country Planning Act) are public documents and can be inspected by any interested party.

6. ADOPTION PROCEDURES

- 6.1 This section and part of section 7 is an edited version of Annex One of the Landscape Requirements Supplementary Planning Guidance. For further details please consult that document.
- 6.2 As part of the process leading up to the grant of a detailed planning permission, developers will submit their proposals for the laying out and landscaping of public open space areas. These will be approved as part of the planning process and it will be a requirement of the legal agreement (Section 106) that the land will not be adopted until these works have been carried out to a satisfactory standard. There will also normally be a three year maintenance period during which the developer will need to remedy any defects before a scheme can be adopted. Laying out work is normally required to be supervised by an appropriately qualified landscaping professional and New Forest District Council can require inspection (in the Section 106 Agreement) at key laying out stages. This work, at New Forest District Council, is carried out by the Landscape and Open Space team.
- 6.3 After completing the ground works and planting as required by the approved scheme, the developer maintains the scheme for the first year ie throughout the defects liability period. During this year the site will be inspected jointly by the New Forest District Council and the relevant Parish or Town Council. Any defects will be remedied and satisfactory completion will be confirmed.
- 6.4 The developer will continue to maintain the land, in accordance with the agreed specification, throughout the establishment period, which is normally a further two years. During the final growing season, prior to adoption, the scheme will again be jointly inspected by New Forest District Council and the Town or Parish Council. Again, any defects will be made good and a final joint inspection will take place. If all is in order the legal handover procedures will be commenced. The Parish/Town Council will normally take the responsibility to maintain the land as soon as the maintenance contribution is released and it will aim to complete the legal transfers within three months whenever possible.

7. LEGAL HANDOVER

- 7.1 The Council's Chief Solicitor will be instructed in respect of the handover procedures. This will result in the land being transferred to the Town or Parish Council, together with the relevant maintenance contribution. It is essential at this stage that the transfer is accompanied by accurate as-built site plans based on re-survey if necessary so that the Parish or Town Council know exactly what they are taking over.
- 7.2 The Parish or Town Council will then maintain the land in accordance with the long term landscape management objectives which will have been agreed with the developer at an early stage when a landscape strategy or concept is being discussed.

8. SPENDING DEVELOPER'S CONTRIBUTIONS ON OTHER OPEN SPACE SCHEMES

- 8.1 This section refers to the money collected from developers in lieu of them making full provision for open space on their development sites. It includes both formal and informal provision. It is important that schemes to spend these contributions come forward in a timely fashion. New Forest District Council has recently been criticised by the District Auditor for holding large balances over a prolonged period. In certain circumstances developers could ask for their money back if it is not spent on an appropriate scheme in a reasonable timescale.
- 8.2 The first stage is for New Forest District Council and an individual Town or Parish Council to draw up a mutually agreed schedule of open space schemes in an area. If these are new schemes they will normally be identified in the adopted Local Plan. This does not prevent other schemes coming forward when opportunities arise for proper consideration.
- 8.3 All schemes must achieve approval from New Forest District Council before they can be implemented. An important part of this process is agreement that they are an appropriate scheme in terms of the national planning guidelines which cover the collection and use of developer's contributions. These may change as a result of proposals in the recent Planning Green Paper and a consultation draft of a new PPG 17. The normal process for achieving Member approval will be:
- (a) Town or Parish Council indicate wish to progress a scheme from the agreed list or to meet an agreed objective.
 - (b) Discussions take place between officers of both Councils and a proposal is drawn up and costed.
 - (c) Town or Parish Council agree a scheme and submit a request for the allocation of funds.
 - (d) Request is considered by New Forest District Council Cabinet.
 - (e) Scheme is committed and appropriate arrangements are made for implementation.
- 8.4 As part of planning in advance, New Forest District Council can assist Parish or Town Councils in investigating the likely costs (or difficulties) of implementing different schemes on the agreed schedule. The costs of such

APPENDIX 1

studies can be met from developer's contributions, and would be awarded following the same process as for a capital project (para 8.3)

- 8.5 There will be occasions eg a suddenly arising opportunity, when the normal process cannot be followed. In these circumstances the principle will be that what goes forward is jointly agreed, and can be shown to meet the guidelines for which the money was collected, and the policy context which guides that area of provision. The provisions of para 8.3 will still apply.
- 8.6 As set out in the introduction to this section it is important that all Parish and Town Councils give prompt consideration to the identification and implementation of schemes in their area which they wish to see pursued. Officers at New Forest District Council will co-operate fully in moving projects forward as it is important that the funds are used in an effective and timely manner.

9. ALLOCATION OF CONTRIBUTIONS

- 9.1 Whilst open space issues are predominant, there are other aspects of developers contributions and this protocol provides information about how to progress schemes under all headings. All matters pertaining to contributions have a relationship to the District Local Plan. A summary of contacts and method is set out below:

CATEGORY	CONTACT	METHOD OF IDENTIFYING PROJECTS
Affordable housing	Simon Maggs	Housing Strategy
Allotments	Martin Devine	Mutually agreed schedule of open space schemes
Car parking	John Bull	Individual project basis
Community facilities	Martin Devine	Mutually agreed schedule of community schemes
Cycleways	Neil Williamson	Local Plan/Mutually agreed schedule of cycleways
Drainage	Doug Wright	Individual project basis
Environmental Improvements	Neil Williamson	Local Plan/Individual project basis
Highways	Nick Hunt	NF Transport Strategy and then on an individual project basis.
Open space	Martin Devine	Mutually agreed schedule of open space schemes.

- 9.2 The criteria that will be applied to projects seeking use of developers contributions are:

From the Head of Development Control:-

- (a) Is the proposed scheme directly related to the development which it proposes to serve?
- (b) Does the need for the scheme arise from the development and is it relevant to it?
- (c) Does the scheme conform to the adopted Local Plan and Development Briefs for the areas and fall within the terms of the S106 Agreement?

From the Director of Community Services:-

- (a) Can the scheme be shown to meet the needs of the people in the development area?
- (b) Does the scheme complement or improve existing or planned facilities in the catchment?
- (c) Can the request be accommodated within the funds available, given the known and anticipated requirements within the area for which contributions are held?
- (d) Is the proportion of funding from contributions reasonable, given the nature of the scheme?
- (e) Is there financial need on behalf of the promoter of the scheme?

10. CONCLUSIONS

- 10.1 The timely and appropriate use of all types of developer contributions relies on effective partnership working between New Forest District Council and the appropriate Town or Parish Council. This document sets out many of the important principles which will guide this working and has been jointly agreed to reinforce the partnership.