

Report

Report subject: Update on Policy R2

Report to: Planning and Economic Development Overview and Scrutiny Panel

Date: 30th August 2005

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Report Summary:

The purpose of the report is to update members on the progress made on the widening of the scope of R2.

1 Background

At the last Parish and town council liaison meeting in April, there were a number of comments about what R2 can be spent on. The chief executive promised that the current scope of R2 would be looked at, to ensure maximum flexibility.

2 Policy Background

Policy R2 enables us to ensure that
“... new development will be required to make provision for recreational open space (comprising communal outdoor sport and children’s play) in accordance with a standard of 2.43 hectares per 1000 population.”

The policy applies to all new dwellings and where on-site provision is not appropriate involves a financial contribution in accordance with a published scale based on the size of the dwelling.

Indoor community and leisure facilities or a contribution towards such facilities can be required under policy R4 where a development is of sufficient size to generate an identifiable need. This only applies to larger developments and there is no published scale of contributions. Contributions would be based on a specific project.

Policy R2 is based on the open space surveys that were carried out, which demonstrate the need for open space and outdoor recreation and is robust enough to stand up at appeal. The policy is well accepted locally by developers, who have confidence in the open robust and fair system.

The money is secured with a section 106 Agreement. The wording of the agreement reflects the policy wording, stating that the money can be used for “ providing improving and / or maintaining adult or children’s

sport play or recreation facilities or installing and / or maintaining equipment in connection with such facilities on land certified by the head of development servicesas being directly relevant to the proposed development". There is also a repayment clause in the agreement, which is 5 years from the date of the agreement, or in more recent agreements, 5 years from the date of commencement of development.

If an applicant observed that the money had not been spent in accordance with the legal agreement, then they could seek the return of their contribution through the courts or through a complaint to the ombudsman. Therefore there needs to be careful monitoring and records kept of how the money is spent or the Council risks having to pay the money back without any ability to retrieve the money from the parish council.

3 Issues with R2

- a) Administration. In the past, the parish councils criticised the administration of R2 and that they were not updated frequently with the funds available, and as a result some funds expired and were returned to the developer. This has now been resolved with the creation of the "developer contributions officer" post, with is funded via an administration fee levied on all section 106 agreements. This has now resulted in a dedicated officer, who can send out up to date statements to the parishes, and monitor when money will expire, so that the parishes can spend the money before this date.
- b) Policy and Scope of R2. The parishes have also expressed concerns over what R2 can be spent on. As part of the new Local Development Framework system, it will be possible to review the existing policy, and possibly have a new policy for community facilities. The evidence gathering for this policy work will be undertaken in the autumn. However, there will still be an overlap between the existing policy and section 106 agreements and the new policies, as and when they come into force. The chief executive has asked officers to look at the existing system to see what flexibility can be applied when considering schemes put forward by the Parish Councils.

4 Flexibility and application of the policy.

There are a number of ways in which the current policy is looked at flexibly.

For example we do allow the money to be spent on

- Buildings, where the building enhances the outdoor use, for example, changing rooms.
- Fencing, for example to fence off a new children's play area, to keep the children in and the dogs out, or to higher a fence to stop balls from going onto a road.
- Seating for adults, where it is to supervise children in the playground.
- Footpaths / cycle ways, providing that there was some added recreational value being given. This could be with the provision of a trim trail / fitness trail / nature trail that could encourage people to use the route for fitness and recreation rather than merely getting from a to b. It would not fall within the provisions of the agreement to just repair / upgrade a footpath.
- Mowers, Rollers, line painters and any other capital expenditure that is linked with the outdoor space.

Where the parish council had identified a project that is not strictly in accordance with the terms of the legal agreement, it is possible to seek the original signatories' consent to use the money for this purpose. However, care needs to be taken not to undermine the policy, and if a parish council cannot identify a recreational need on which to spend the money then the developer could argue that we should not have taken the money in the first instance and future developers in that settlement would be able to argue that there was no justification for R2 contributions.



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Also if at the planning application stage, the parish council has identified a specific project that they would like the money to be spent on, then the wording of the agreement could be widened to include that project. This happened in Mere parish and the housing development at Clements Lane. The parish had identified a need for a new pavilion on the recreation ground and the wording of the section 106 was amended to allow the R2 contribution to be used for the pavilion.

5 Long-term improvements.

As discussed above, survey work is shortly to be carried out looking at community facilities to see whether we can justify a similar policy to R2 for community facilities. If there is evidence of a shortfall in community facilities, then the next step will be to formulate a policy that will enable us to collect money on behalf of the parishes, even on individual dwellings to be spent on community facilities.

However, the policy will have to be scrutinised and no doubt developers will contest the inclusion of such a policy in the plan, as it will increase the financial obligations that will have to be made for each development. If this is the case the robust evidence will have to be put to an independent planning inspector to make a decision.

Recommendation

That the contents of this report be noted

Background Papers:

Implications:

Legal: Outlined in the report

Financial: None

Personnel: None

Environmental: None

Human Rights: None at this stage

Council's Core values: Excellent Service; Fairness and Equality; open, learning Council and a willing partner; communicating with the public; supporting the disadvantaged.

Parish / Wards Affected: All