Growth, Infrastructure and Environment Policy Committee

Tuesday 4 October 2016

2:00pm, Colman Room
South Norfolk House, Cygnet Court, Long Stratton,
Norfolk, NR15 2XE

If you have any special requirements in order to attend this meeting, please let us know in advance
Large print version can be made available

Contact Sue Elliott on 01508 533669 or democracy@s-norfolk.gov.uk
Members of the Growth, Infrastructure and Environment Policy Committee:

Cllr B Stone (Chairman)
Cllr J Larner (Vice-Chairman)
Cllr P Broome
Cllr M Dewsbury
Cllr K Kiddie
Cllr T Lewis
Cllr K Worsley

This meeting may be filmed, recorded or photographed by the public; however anyone who wishes to do so must inform the chairman and ensure it is done in a non-disruptive and public manner. Please review the Council’s guidance on filming and recording meetings available in the meeting room.
Agenda

1. To report apologies for absence and identify substitute voting members (if any);

2. To deal with any items of business the Chairman decides should be considered as matters of urgency pursuant to Section 100B (4) (b) of the Local Government Act, 1972. Urgent business may only be taken if, "by reason of special circumstances" (which will be recorded in the minutes), the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency;

3. To receive Declarations of Interest from Members; (see guidance attached page 6)

4. Minutes of the meeting of the Growth, Infrastructure and Environment Policy Committee held on 21 June 2016; (attached – page 7)

5. Proposed Community Assets Strategy. Further consideration of issues relating to future adoption of Public Open Space and SUDS schemes; (attached - page 10)

6. Date of Next Meeting - 1 November 2016 at 2pm

* Market Towns Initiative - Next Phase
Working Style of Cabinet Policy Committees

Member Leadership
Members of the Committees will take the lead in understanding the direction provided by Cabinet and delivering work to Cabinet requirements. Whilst recognising political allegiances, members will work in a collaborative manner with officers and cabinet portfolio holders to consider the relevant issues when developing Council policy.

Collaborative Working
All meetings of the Committees will be constructive and conducted in a spirit of mutual respect and trust. Officers will commit to supplying meetings with information relevant to making informed decisions on policies and matters. Members will commit to thoroughly reading and understanding papers, raising questions that are pertinent to the issues at stake. Members will, where feasible, agree definable actions to be taken forward by officers to develop policy, rather than having items for noting or simply to discuss.

Frequency and Nature of Meeting
Each Committee would usually have 3 formal, public meetings per year. In assessing items delegated by Cabinet for review, the Committee may decide that it wishes to meet on a more or less frequent basis.

The Committee may also hold informal meetings should it require in order to progress specific items in detail. However, if the Committee is meeting to determine whether to refer items for Cabinet approval, the meeting should follow the Council’s Standing Orders and thus be subject to a formal agenda, be held in public and the meeting recorded.

Informal meetings may be held in any manner suitable for conducting business (e.g. via meeting, conference call, circulation of information via e-mail, or site visits); while relevant information will be supplied by officers where appropriate, these meetings will not be subject to a formal agenda or minutes. Where business of the Committee is undertaken through informal meeting, all members of the Committee will be provided opportunity to participate. Members will expect to be able to participate in a free and frank exchange of views when deliberating subjects.
Training
Members commit to undertaking development – for example, attending formal training sessions, or reading relevant background material, in order to properly equip themselves to deliver their expected role fully.

Accountability
The Policy Committees will be accountable to Cabinet. They will not be able to make decisions themselves, but can recommend decisions to Cabinet. Cabinet may review whether the Committees are discharging their duties effectively, and may receive progress reports on how the Policy Committee is working to discharge its duties.

Work Programmes
The Work Programmes for the Policy Committee will be established by Cabinet. Members of the Committee will not be able to raise items to be included in the work programme. Where topics have been identified for inclusion in the work programme, the Committee will work to identify how it will discharge its responsibilities, including the resources required to do so.

Managing Time
However the Committee is meeting, it will attempt to conclude the business of each meeting in reasonable time. The Chairman will be responsible for ensuring the meeting stays focused on pertinent issue, and does not become side-tracked on issues that are not relevant to the policy under consideration, or those that should be discussed by a separate committee.
DECLARATIONS OF INTEREST AT MEETINGS

Members are asked to declare any interests they have in the meeting. Members are required to identify the nature of the interest and the agenda item to which it relates.

- In the case of other interests, the member may speak and vote on the matter.
- If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed.
- If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting.
- Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.
- In any case, members have the right to remove themselves from the meeting or the voting if they consider, in the circumstances, it is appropriate to do so.

Should Members have any concerns relating to interests they have, they are encouraged to contact the Monitoring Officer (or Deputy) or another member of the Democratic Services Team in advance of the meeting.
Growth Infrastructure and Environment Policy Committee

Minutes of a meeting of the Growth Infrastructure and Environment Policy Committee held at South Norfolk House, Long Stratton on Tuesday 21 June 2016 at 2:00pm

Committee Members Present: Councillors B Stone (Chairman), P Broome, M Dewsbury, K Kiddie, T Lewis and K Worsley

Apologies: Councillor J Larner

Ex Officio: Councillor K Mason Billig

Officers in Attendance: The Head of Environmental Services (B Wade) and the Community Assets Team Leader (A Sheppard).

(One member of the public was also in attendance)

1. MINUTES

The minutes of the Environment and Regulation Policy Committee meeting held 14 March 2016 were agreed as a correct record, and signed by the Chairman.

CW – GIE 21/06/2016
2. DECLARATIONS OF INTEREST

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>ITEM</th>
<th>REASON</th>
<th>INTEREST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cllr P Broome</td>
<td>Proposed Community Assets</td>
<td>Member has previously held discussions with the Council with regard to the Tree Belt adjacent to his property.</td>
<td>Other</td>
</tr>
<tr>
<td>Cllr T Lewis</td>
<td>Proposed Community Assets</td>
<td>Chairman of the Venta Icenorum Joint Advisory Board.</td>
<td>Other</td>
</tr>
</tbody>
</table>

3. PROPOSED COMMUNITY ASSETS STRATEGY

Members considered the report of the Head of Environmental Services, which presented the Committee with the draft Community Assets Strategy (CAS) for comment and final approval by Cabinet.

The Head of Environmental Services presented the draft Strategy, explaining that the purpose of the document was to detail and lay down the future management of its community assets. The document was a new Strategy for the Council and aimed to create a more sustainable approach to asset management.

During his presentation, the Head of Environmental Services explained that a number of Management Plans, covering Tree Management, Street Lighting, Playgrounds and Play Equipment, Public Open Spaces and Common Land, would sit beneath the main Strategy. These Management Plans would provide a strategic approach, focussing on robust maintenance, infrastructure, opportunities for divestment and cost reduction, and community input and sharing.

Members were reminded that the Strategy had been subject to a public consultation exercise, the results of which were highlighted at paragraph 3 of the report. Members noted that the number of responses to the consultation had been disappointing, but the Strategy had been amended to take into account the issues raised in the responses received.

In response to a query, the Head of Environmental Services confirmed that the Strategy also included odd parcels of land that were not currently being used and other assets, such as wells. Referring to page 3 of the Strategy, officers agreed to amend the document to include an additional asset group; “Miscellaneous Assets”.

Officers responded to a number of questions on points of detail. In response to queries regarding street lighting, members were informed that this was a complex issue. Some lights were owned by the Council, some by Parish/Town Councils, with the responsibility for the management of lights varying across the District. These detailed issues would be the subject of a future Management Plan.
The Head of Environmental Services explained that officers were currently working through all the assets owned by the Council so that members would have available a definitive list of assets, split by ward. It was hoped that this would enable members to play a role in the divestment of assets, and encourage local communities and parish councils to become involved.

Considerable discussion followed, after which members concluded that further work was required before the Strategy was ready for consideration by Cabinet. In particular, the issue of the future adoption of open spaces and other infrastructure as part of the development management process warranted further consideration. Parish participation and community involvement was to be encouraged and members supported a further consultation exercise, before consideration by Cabinet. Members recognised that this was a huge cross cutting exercise, which would involve other officers of the Council.

**RESOLVED:** That the Strategy be redrafted, and a further consultation exercise take place, before consideration by Cabinet

(The meeting closed at 2.56 pm)

----------------------------------------------
Chairman

Report of the Head of Environmental Services
Cabinet Member: Cllr K Mason Billig, Portfolio holder for Environment and Recycling

CONTACT
Bob Wade
bwade@s-norfolk.gov.uk
1. Introduction

1.1 Following consultation with Members, Parish/Town Councils and submission of the draft Community Asset Strategy (CAS) to the Committee on 21 June, 2016 this report is referred back to the Committee for consideration regarding the following key issues:

1. This Council’s future approach regarding the adoption under S106 of public open space, playgrounds and SUDS schemes (Sustainable Urban Drainage Schemes).

2. If this Council continues to adopt such infrastructure schemes this Council’s future approach towards future S106 financial contributions made by developers towards the costs of maintaining and replacing such infrastructure.

3. In addition given there has been a change in policy by Norfolk County Council (NCC) into their adoption of street lighting schemes associated with development. Given this, clarification is sought on this Council’s approach to adoption of street and footway lights in these circumstances.

2. Background

2.1 The draft CAS details a new strategy relating to those assets that provide, in the main, public amenity value - open spaces, play areas, commons but also footway lights and other non-commercial assets. The draft strategy proposes, amongst other things, more sustainable and progressive management regimes, encouraging community involvement with attendant benefits to health and wellbeing, enhanced biodiversity and opportunities for increasing local devolvement. Given the likely future funding challenges our aim is to create a more sustainable approach to our asset management.

2.2 The draft Strategy has been subject to consideration by Members of the former Environment and Regulation Policy Committee and was the subject of a 6-week public consultation including all Parish and Town Councils, the Broads Authority and Norfolk County Council amongst others. The draft Strategy was also available on the Council’s website for public consideration. A report was submitted to the Growth, Infrastructure and Environmental Policy Committee on the 21.06.16 which identified the following key issues requiring further consideration:

a) Public open space and play equipment provision and funding – how best to fund and manage future public open space and playground equipment provision relating to new developments (e.g. 4 options for future funding including developer
funding and management, existing 10 year s106 funding, management company charging and other forms of funding such as special expense levies).

b) Public open space maintenance - how best to manage existing and future provision of public open space – maintain current regimes, less intensive regimes and other uses to the benefit of the community.

2.3 The current policy with regards to public open space/playground provision is covered by the 1994 South Norfolk Recreational Open Space Requirements for Residential Areas which states:

- Where developers wish the District Council to assume ownership of open spaces, a contribution for maintenance in the form of a 10 year commuted lump sum is required. The appropriate Town or Parish Council will be asked to assume ownership but where this is not accepted the District council will accept ownership and maintenance responsibility.

- If a developer does not wish to convey open space to the District/Parish/Town Council it is assume the developer or residents will carry out future maintenance.

2.4 As it stands around 30% of new open spaces and playgrounds are adopted by Parish/Town Councils with similar proportions to this Council and management companies. Management companies servicing new developments are increasing in popularity with developers retaining playground ownership and charging residents a management fee/service charge.

2.5 Whilst options other than the District Council assuming ownership and responsibility exist, a significant proportion of public open space infrastructure is set or could transfer to the Council. Exact details are difficult to predict as developers retain the option to transfer and sometimes do not divulge their intention until completion and there are a number of developments in the pipeline.

2.6 The current position with regards to so called section 106 provision can be summarised as follows:

i. Existing policy dates back to 1994 and requires updating given the evolving backdrop.

ii. For the areas and features that the Council currently ends up adopting, we receive a lump sum for infrastructure transferred equating to 10 years cost. Since 2000 some 51 sites have been adopted by the Council (this includes public open space, SUDS, playgrounds) for which commuted sums equating to £2.1 million have been paid (equates to an average of £42,000 per site).
2.7 Following changes to the requirements for sustainable drainage schemes associated with development there are a number of balancing ponds and other features that are coming forward as part of the Development Management process which may have significant cost and other liabilities which need to carefully considered for adoption. On average it costs approximately £50,000 to renew the play equipment at one site (typically after circa. 10 years) whereas refurbishment of a SUDs scheme incorporating large infiltration/filtration ponds and drainage infrastructure could run into £100,000’s. Current charging regimes do not specifically cover this Council’s long term costs, the assumption being that costs will be met from Council funds. Arguably with existing and likely budgetary constraints and competing demands existing budgetary shortfalls are set to increase against a backdrop of increased liabilities. Whilst the Council could decide not to replace play equipment once developer funding had ceased this Council would have to maintain SUDS and other drainage features in perpetuity in the absence of any other adopter which is highly unlikely in view of the residual liabilities.

2.8 Streetlights – a recent development has been a decision by the County Council to no longer adopt street lighting on new developments apart from to support highway safety. This has meant that there could be an expectation from new communities for either the Town/Parish Council or this Council to adopt non highway safety lighting schemes. It should be acknowledged that our duties under community safety legislation could place some calls for limited lighting in some circumstances. We currently have no agreed approach to this situation that has arisen.

3.0 Countywide approach

3.1 Given the situation we find ourselves in, the Development Manager has sought information on the approaches to these issues by other Authorities across the County. At the time of writing not all authorities have responded but most seem to be reviewing their approaches and policies. Others are wary of SUDS features in particular given liabilities.

3.2 It is apparent that up until now, albeit they are reviewing their approaches, a number of authorities have sought 15 year commuted sums under s 106 agreements rather than our 10 years to fund management and maintenance costs.

4.0 Legal advice

4.1 Legal advice has been sought on our obligations in relation to the Development Management process and SNC’s wider legal obligations relating to taking on the responsibility for public amenity/open spaces. We have been advised that the Council is under no legal option to accept ownership and maintenance responsibility for such infrastructure.
5.0 Risks and implications arising

5.1 There are a number of potential issues and risks associated with moving to a policy of non-adoption of open spaces, lighting, etc. as part of the Council’s proposed Community Asset Strategy. Those risks, potential implications and mitigations are summarised below:

<table>
<thead>
<tr>
<th>Risk</th>
<th>Issue</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensuring high quality design of future community assets</td>
<td>The Council will need to continue to ensure schemes are high quality and designed properly at an early stage given that well-designed community assets e.g. drainage basins, SUDS and flood alleviation schemes for example, are all features that pose particular risks for the adopter.</td>
<td>The Council will seek to work with developers at an early stage to ensure open spaces etc. are fit for purpose and in-keeping with our planning policy and design standards in terms of local community benefit, health and wellbeing. Development Management will co-ordinate input and seek the views from the relevant statutory bodies in terms of local requirements, risk management and good design.</td>
</tr>
<tr>
<td>The provision of adequate ongoing maintenance</td>
<td>Open spaces and other public amenity assets are not maintained to the standard expected of residents. This would be a significant change to our approach which, by way of mitigation, will need to be managed positively with interested parties to safeguard communities by supporting best practice. It may also lead to the Council being</td>
<td></td>
</tr>
<tr>
<td></td>
<td>As part of the planning process, Development Management and community assets will work with the developer to understand and agree how open spaces are to be maintained. A number of options are available such as the development of a maintenance agreement discharged via: Formation of residents' association, a form of community trust and/or a management or maintenance company in perpetuity or</td>
<td></td>
</tr>
</tbody>
</table>
asked to intervene to rectify areas perceived sub-standard e.g. grass cutting, weed control, lighting repairs etc. arrangements via the relevant Parish/Town Council.

Equalities

The Council will need to continue to ensure that there is no impact on disadvantaged groups in relation to use of and access to open spaces and community assets. It is not considered that there is likely to be a negative impact on disadvantaged groups. Arguably with more community involvement and sound local management decision making, this could have benefits for South Norfolk’s social capital and community cohesion.

Crime and disorder

The Council will need to ensure it continues to guide the development of open spaces that support safe environments. It is not considered that crime and disorder will be negatively impacted.

### 6.0 Options

#### 6.1 In view of the future approach to adoption under the Community Assets Strategy the possible options could include:

**Option 1** – The Council continues with the existing policy (10 year commuted sum) accepting responsibility for all sites where the developer or Parish/Town Councils do not wish to own.

**Option 2** - The Council continues to accept responsibility for sites as in option 1 but dramatically increases commuted sum charges (say to at least 15 years) to represent the long term ownership and maintenance costs of inherited infrastructure. This would need to be taken forward as part of the Development management policy work and may have an uncertain outcome. There are also inherent difficulties in this approach (as with option 1) with regard to being able to accurately identify at the time of drafting a S106 agreement the long term costs of maintaining certain infrastructure such as SUDS schemes.
Option 3 – This Council will accept no further transfer of S106 infrastructure (other than those developments currently in the pipeline and being considered as part of the development management process) unless the infrastructure is considered to have an overarching community benefit at district level or benefits existing and adjacent council owned assets. In general the Councils expectation being that, in the first instance, the developer is expected to make arrangements for the adoption of open spaces, etc as part of the development management process. As is currently the approach, Parish/Town Councils can be offered the transfer of S106 infrastructure on the basis of the existing 10 year (or longer) commuted sum arrangements. Following on, in the event that Parish/Town Councils reject ownership transfer developers will be expected to arrange long term robust management and maintenance strategies to cover all future maintenance responsibilities.

7.0 Recommendation

7.1 The Committee is requested to consider the contents of this report and in particular the options identified in paragraph 6.1 and indicate the view of the committee on next steps. On this basis it is proposed that the draft Community Assets Strategy will be amended and a further 3 week consultation will be undertaken on the same basis as the previous consultation with the intention to refer the draft strategy to Cabinet thereafter.