

**TEIGNBRIDGE DISTRICT COUNCIL**  
**Executive Committee**  
**13.05.2021**  
**PART I**

<b>Report Title</b>	<b>Open Space Delivery &amp; Management in new housing developments</b>
<b>Purpose of Report</b>	To:  A: Provide a review of what happens now in Teignbridge and what our neighbours do to manage open space  B: Identify the extent to which management of open spaces in new developments can be influenced by TDC  C: Consider options for future management of open space in new developments
<b>Recommendation(s)</b>	Executive RESOLVES to:  (1) prepare Interim Council Policy on open space provision and management standards;  (2) create a Template S106 obligation that reflects the Policy; and,  (3) further investigate procuring a panel of preferred open space management providers who can deliver against the Policy.
<b>Financial Implications</b>	See section 3 and 4.2 for financial implications Martin Flitcroft - Chief Finance Officer & Head of Corporate Services Email: martin.flitcroft@teignbridge.gov.uk
<b>Legal Implications</b>	This report was provided at the report print deadline without having being referred to Legal Services for legal implications to be considered. The Monitoring Officer has advised she will consider the report and update the Executive under separate cover prior to the meeting.
<b>Risk Assessment</b>	See 3.3 of Report Ros Eastman Business Manager – Strategic Place
<b>Environmental/ Climate Change Implications</b>	See 3.4 of Report Ros Eastman Business Manager – Strategic Place
<b>Report Author</b>	Ros Eastman Business Manager – Strategic Place Email: roselyn.eastman@teignbridge.gov.uk
<b>Executive Member</b>	EM for Planning / Gary Taylor & EM for Sport, Recreation & Culture / Andrew MacGregor
<b>Appendices / Background Papers</b>	<a href="#">Teignbridge Local Plan</a> <a href="#">Teignbridge New Developments Residents' Satisfaction survey 2020</a> <a href="#">Langford Bridge S106 Agreement</a> <a href="#">TCPA Practical Guides - Guide 9: Long-term Stewardship   Town and Country Planning Association</a> <a href="https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1468/full-report.html#heading-8">https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/1468/full-report.html#heading-8</a>

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## 1. INTRODUCTION / BACKGROUND

### **A: Current Practice in Teignbridge and elsewhere for Open Space Delivery & Management in new housing developments**

- 1.1 Public open space (POS) delivered alongside new developments is not “Adopted” by Teignbridge and has not been for some time.
- 1.2 Rather, obligations within S106 Agreements entered into alongside planning permissions require developers to contract with / establish management companies to undertake management and maintenance of such spaces within the site.
- 1.3 POS is not adopted by Teignbridge as the funding available through “commuted sums” has historically been found to be inadequate to ensure ongoing management and maintenance in accordance with our expectations and standards. This is compounded at present by a very low interest rate meaning sums invested generate limited returns. The cost for providing a commuted sum that is meaningful and doesn’t leave the LA with a long-term burden on their budget would be significant and would mean that developers would be unlikely to be able to meet other policy requirements, including affordable housing etc, as this specific approach to open space management has not tested as part of our current Local Plan viability work. Previous budget work to support Executive decisions has indicated that the Authority would require twice the initial investment sum compared to private / third sector bodies who may have different investment criteria or opportunities available to them.
- 1.4 In addition, restrictions on Council Tax increases hamper our ability to recover increasing costs.
- 1.5 In preparing this Report, South West authorities have been canvassed with regard to their usual approach and no authority has indicated that a different approach is taken. We are though aware of a number of lower tier authorities that undertake some open space management including Bovey Tracey Town Council and Cranbrook’s new Local Council.
- 1.6 POS encompasses features such as semi-natural green space, formal parks and gardens, children & young person’s play space, sustainable urban drainage system ponds and other above ground wetland features, allotments and playing pitches. Without good-quality management with appropriate understanding of the multiple needs of each particular site, benefits for communities, and environmental benefits, can be lost or decreased.
- 1.7 There have been a concerns raised directly to Teignbridge Councillors about the quality of delivery of public open space (POS), quality of ongoing management of POS by management companies, and the scale of resident fees for POS management in relation to developments consented over the last 10-15 years and delivered over the last 5-10.
- 1.8 We recognise that there may be a need for standardisation of approach with clarity of our requirements if open space is to fulfil its potential, including in offering greater benefits socially and environmentally.
- 1.9 Satisfaction with open space provision on new developments is measured through our “post occupancy” survey of new homes and is reported to Members annually (see background papers). Whilst around 60% of residents were satisfied / very satisfied with provision in 2020, less than 10% were dissatisfied / very dissatisfied with provision. A large proportion of residents are neutral on the issue. This is an improvement on the previous year where just

under 25% were very / dissatisfied with provision. We are however keen to increase the proportion of residents (and the consistency of positive responses) of new homes that are satisfied / very satisfied with provision.

- 1.10 Good-quality public open space is essential for our residents, the environment, and to support initiatives and projects for good place-making to attract external support such as via Garden Communities. The Town & Country Planning Association (TCPA) has compiled a useful guidance document including case studies in relation to good-quality POS maintenance (see background papers).
- 1.11 The House of Commons committee twelfth report on leasehold reform (published 19.03.2019) is also relevant to this issue (see section 4 on Service Charges). This highlights that many leaseholders nationally are reporting concerns about the level of service charges set by management companies, worries about one-off bills and the imbalance in power if the dispute system is followed. The Leasehold Advisory Service (LEASE) calls received during 2017-18 included 29% relating to concern about service charges, and their 2016 survey found 40% of leaseholders strongly disagreed that service charges represented value for money.
- 1.12 The current Teignbridge Local Plan includes Policy WE11 Green Infrastructure a) – h) ‘To achieve the maintenance and expansion of a comprehensive green infrastructure network, promoting good *accessibility to green infrastructure for all, the following will be promoted through determination of planning applications, infrastructure investments and by partnership working*’. This sets the expectations in terms of the quantum of open space to be delivered and anticipates good quality POS delivery and ongoing management.

## **2. A REVIEW OF OPTIONS**

### **B: Teignbridge Influence on Open Space Delivery & Management**

- 2.1 As noted above, most developers transfer land ownership of POS to a Management Company once they have finishing building out their development (or in Phases as they build-out if a large development). They will have a legal agreement with the Management Company which is then responsible for managing the POS long-term. The specifics of how tightly new residents are locked in and any requirements on resident fees should be in this legal agreement.
- 2.2 At present TDC do not promote / provide guidance on any particular preferred option/s for long-term management of POS. Details of the intended management regime for new POS and proposed arrangements for its ongoing management are not presently required from the developer until after Reserved matters or Full planning has already been approved. We have recently reviewed our template obligations to raise expectations around information, specification, delivery and management. The Langford Bridge Obligation (Background Papers) is a recent example.
- 2.3 Some Public Open Space is adopted / vested by relevant public organisations who have the expertise to maintain them long-term, such as Sustainable Urban Drainage Systems (SUDS) by South West Water (who have a new Sewers for Adoption criteria that allows for taking on some above ground features if designed and delivered to the prescribed standards), and Highways by Devon County Council if designed and delivered to prescribed standards (which may include hedgerows / grassy verge areas) seeking, often, easy to maintain / replicate provision rather than locally specific treatments.
- 2.4 Options currently open to developers for securing long-term maintenance of POS include:

- transfer to a commercial, for-profit management company. The management company would be the decision maker and would need the appropriate expertise; they may opt to facilitate residents' feedback to help to inform and guide decisions, but this would not be obligatory.
- transfer to a charity / not-for-profit instead of for-profit company. The management company would be the decision maker and would need the appropriate expertise; they may opt to facilitate residents' feedback to help to inform and guide decisions, but this would not be obligatory. This may offer greater social and environmental benefits due to the lack of pressure from shareholders for instance.
- transfer to a Residents' Management Company. The Directors of this Company would be new residents, potentially alongside the developer, but more frequently the residents alone would own the green space. This allows for greater input of residents via a direct involvement in decision making, in shaping the future of the greenspace based on changing needs as a community. However, the risks include lack of sustained resident engagement due to apathy or lack of time (this may go through peaks and troughs and may not remain fully representative of the community as a whole), and residents would be making decisions that encompass specialist aspects potentially without the appropriate knowledge (such as sustainable urban drainage systems that mitigate flood risk relating to development, or/and the needs of ecological species conservation balanced against recreational/amenity needs). This is likely to be more appropriate for minor developments.
- transfer of POS to the Town or Parish Council. This would negate the need for resident fees in the typical sense, as the Town or Parish Council are able to raise their precept to cover costs. This would mean that all residents within the Parish boundary would be contributing towards the ongoing management of the POS, and not only new residents. This could help towards creating more of a feeling of 'shared green space' between new and existing residents, which has been reported as an issue in some new developments but could also lead to concerns re rising costs.
- Teignbridge District Council are not presently offering to take ownership of POS and could not take land with a commuted sum because it would be a liability for long-term management costs as they are unable to recover sufficient costs via taxes and a commuted sum would only cover earlier years and then would fall onto Council budget, which is restricted due to national budget setting with limited opportunity for increases.

2.5 Each of these options is possible under current practice and would need to be negotiated / agreed with applicants.

#### ***Public Open Space Management Company Fees***

- 2.6 Teignbridge does not currently set in place any specific stipulations, monitoring or regulation on Management Company fees for POS.
- 2.7 Our template S106 clauses have however been amended and are considerably more specific in relation to both initial specification and management provisions for open space than they were.
- 2.8 There is some risk that residents could potentially be charged above a reasonable threshold by a Management Company for provision of POS. This may be less likely to happen with a non-for-profit Management Company that has strong community and environment objectives and this more local approach is endorsed in our emerging Draft Local Plan.
- 2.9 It is not reasonable to require developers to ensure the POS is transferred to a non-for-profit land owning organisation for ongoing management in new development, due to allowing for an open and competitive market.
- 2.10 However, the update of the Local Plan and policies for Green Infrastructure are being designed to more robustly cover the ongoing management requirement for good-quality. The Recommendation suggests that consideration be given to Interim Guidance produced

through extracting relevant emerging policies. This could have some limited weight in the decision making process in advance of the new Local Plan being Adopted. The limited weight of the guidance would be offset by providing clarity for applicants and a stronger negotiating platform for officers. It could address:

- Specification;
- Delivery timing / triggers;
- Management specification; and
- Cost recovery.

2.11 In addition, the Recommendation suggests a further review of our S106 template obligations against this Guidance document to ensure the two align.

### **C: Options for future management of Open Space**

2.12 As outlined above, financial constraints mean it is not feasible for Teignbridge to Adopted new open space on housing developments at present however we can exert our influence over it more effectively using the tools outlined above and additionally there may be scope for the creation of a panel / framework of preferred open space management organisations. This would require a procurement - type process to identify, in a fair manner, organisation/s that can reliably offer a good quality of POS management. The final recommendation above encompasses this point

2.13 Quality standards could be defined via the proposed public open space Guidance document, and a preferred partner / framework organisation would need to demonstrate the ability to manage green space to a good standard with reliability, transparency, and clear social and environmental benefits. TDC could then highlight these organisations to developers as being confident that they can meet our requirements and have sufficient knowledge and understanding for good-quality ongoing management of POS and the multiple needs of each specific site. There would not be a guarantee of work for the preferred partner / Framework provider.

2.14 In order for an organisation or company to be included on the preferred POS providers list they will need to meet certain criteria that provides evidence that they are able to deliver good-quality public open space maintenance long-term, which benefits local communities and the environment.

## **3. IMPLICATIONS, RISK MANAGEMENT & CLIMATE CHANGE IMPACT**

### **3.1 Financial**

3.1 Changes to the way we require new developments to deliver open space could have resourcing implications for the team or could impact on wider budgetary constraints.

3.2 A further review of Planning monitoring fees and charges is underway that could recover some of the associated monitoring costs of increased expectations through S106 Obligations but this will need to be kept under review.

3.3 Any changes would need to be cost neutral to Teignbridge (at worst).

### **3.2 Legal**

3.4 It is important to ensure that any new policy is pursued at the right time and with the right consultation to ensure it is legally robust. At present, the Guidance document proposed would not represent formal Local Plan Policy as it is intended to be produced and consulted on ahead of the Local Plan, which reduces its weight.

3.5 Careful consideration of procurement guidance / guidance regarding the establishment of a framework of providers will also be required.



### **3.3 Risks**

- 3.6 There are no risks in relation to recommendations 1 and 2 provided that Council policies and procedures are followed.
- 3.7 There is a risk in relation to Recommendation 3 that not enough suitable POS maintenance providers are identified. This would mean lack of competition but also possibly lack of any provider for maintenance purposes. This can be mitigated by ensuring that the requirements for qualifying are suitably robust but not excessively stringent.

### **3.4 Environmental/Climate Change Impact**

- 3.8 Delivery of good quality open space can help to increase community resilience, flood risk management and reduce urban heat island effects. These are all related to the design of the open space though rather than specifically its delivery and management that is the key consideration here.
- 3.9 Maintenance of new public open green space by conscientious, transparent organisations whose core objective include community wellbeing and environmental quality, and who reinvest into these objectives, will enable positive outcomes for the environment and the local communities living in those environments.

## **4. ALTERNATIVE OPTIONS**

- 4.1 **Do nothing:** This would mean there is not appropriate policy / guidance or enhanced practice in place to protect residents. This option is not recommended.
- 4.2 **Revert to Teignbridge Adopting all POS on new developments:** This option is not recommended for the reasons given in the Report above – the financial burden on the Authority is too great when there are more cost-effective means of achieving the same outcome as outlined in the report.

## **5. CONCLUSION**

**Executive is recommended to support the further work as outlined above.**