

Swaffham Town Council

PLANNING OBLIGATION POLICY

Planning Obligations are currently negotiated by Breckland Council as the Planning Authority through Section 106 or Section 38 agreements, where a commuted sum is transferred, in other authorities the Community Infrastructure Levy (CIL) is used.

There is 'no statutory duty or obligation' placed upon the Town Council to take on any Street Lights, Play Areas and Open Spaces, or other Community facilities.

N.B. Some developers prefer to use a Management Company or Residents Association in order to deliver the planning obligation to the developed site. The potential advantages and disadvantages are set out in the Policy narrative below.

STREET LIGHTING DESIGN and MANAGEMENT

1. Introduction

- 1.1** This policy details how Swaffham Town Council shall provide and maintain parish lighting on footpaths and open spaces. The Council owns and maintains over 800 parish lights in the town.
- 1.2** There is no legal obligation for the council to provide new parish lighting. The council provides and maintains existing parish lighting where an identified need exists. This is based on a set of criteria contained in this policy.
- 1.3** The council is committed to providing and maintaining safe and energy efficient street lighting whilst also exploring opportunities to further reduce our environmental impact and on-going maintenance costs.

2. Lighting Criteria

- 2.1** The Council shall only provide and maintain parish lighting where it meets one or more of the following criteria:
 - i) Footpath or public space (other than an adopted highway) for the identified benefit of residents and users.

- ii) Area where there is a fear of or identified issue with crime or anti-social behaviour.

- iii) Asset or land owned by the Council.

3. Environmental Impact

3.1 The Council is committed to achieving and maintaining the provision of all street lighting with energy efficient LED lamps.

3.2 Any maintenance works resulting in lamp or unit replacement shall use energy efficient LED lamps.

3.3 To comply with the Swaffham Neighbourhood Plan 2016-2036

ENV5 – Dark Skies:

“All parish lighting and the lighting of residential dwellings or businesses should be environmentally efficient, sympathetic in design and limited where adjacent to the countryside”.

3.4 Any new installations shall use energy efficient LED fittings.

3.5 The Council will embrace new technologies that help further reduce the environmental impact of parish lighting. Where appropriate, new energy efficient technologies may be trialled to test effectiveness, quality, and cost.

4. Heritage and Conservation

4.1 The Council shall ensure that any works undertaken to street lighting, including the installation of new lighting, is fully compliant with all relevant legislation relating to the historic environment.

4.2 The Council shall consider the style and design of street lighting when replacing or installing new equipment.

4.3 The Council shall not install, remove or change the design of street lighting where doing so would adversely impact heritage assets, the setting of heritage assets or the character of any Conservation Area, as defined by Swaffham Town’s Conservation Area appraisal.

5. Commuted Sums – negotiated with Developers.

5.1 To reflect a minimum 30-year life of the street lighting columns, the Commuted sum for street lighting for 2020/2021 to be £2500 per light, with an annual review for addition of the RPI percentage, at the time of the budget. The sum reflects a replacement capital cost that can be invested for the future provision. The negotiation of a satisfactory commuted sum, will also be dependent on the appropriate design and management conditions being met by the developer.

6. New Street Lighting Request Procedure

6.1 The Council may receive requests from local organisations, businesses, and residents to install and provide additional street lighting. Requests shall be considered subject to meeting the Street Lighting Criteria (Section 2) and the necessary funding being identified.

6.2 The Council does not budget for new street lighting installations. It would be expected that any new request shall need to include identified external funding for installation and on-going maintenance and operation.

6.3 A new request must be made in writing to the Council identifying the location, reasons for the request, how it meets the Street Lighting Criteria and what funding source shall be used.

7. Review Procedure

7.1 The Council shall conduct a full review of all street lighting every 5 years. When completing a full review, streetlights can be reviewed individually or by geographical areas.

7.2 The Council can conduct additional reviews, as necessary. Additional reviews may be required to make decisions following a request from a local council or complaints received from residents.

7.3 Any review shall assess the following:

- i) Parish Lighting Criteria (Section 2)
- ii) Costs of maintenance
- iii) Compliance to standards
- iv) Complaints or other local issue
- v) Updated technology and efficiency measures

7.4 Based on the findings of the review one of the following options shall be selected:

- i) Continue to maintain **or replace**
- ii) Relocation
- iii) Removal
- iv) Light dimming or modification

NEW Open Spaces

Introduction

This proposed Policy aims to encourage developers, who have provided Open Spaces to Council standards, to opt for Council adoption so that the Open Space will be maintained in perpetuity for public benefit. It allows an alternative option for developers to make private maintenance arrangements for some areas of Open Space (**by using a Management Company or Residents Association**) but only where criteria to safeguard the public, Council and residents' interests are met. The required payments from developers to the Council (the Commuted Sum) should ensure Council adoption is affordable and sustainable.

Good developments not only house people but support a wide range of activity. Through the careful use of land, developments should be designed to accommodate a range of housing, local retail, leisure facilities, and high-quality green spaces which are attractive, rich in biodiversity and well connected. Open Spaces are vitally important to the health and wellbeing, and identity of communities and includes parks, play areas, sports areas, paths (which are often incorporated within 'green corridors'), woodlands and can also include natural water features or sustainable urban drainage schemes (SUDS) and other locally distinctive landscape features. These areas provide for amenity, recreation, social exchange and encourage people to have healthier lifestyles.

****In practice the legal adoption is often incomplete at handover and sometimes remains so for years, despite the Council's efforts to chase up outstanding transactions. In addition, the Council will sometimes be obliged, through planning agreements, to adopt poorly designed Open Space which usually requires more costly and inefficient maintenance.**

Where developers have not provided good Open Space, which is not adopted by the Council, the residents lose out and maintenance issues can develop in the longer term such as trees overshadowing properties, overgrown shrub beds and failing play standards. Although the Council has not adopted these areas, in some cases the concern generated by residents who have been 'abandoned' by the developer, or their appointed private maintenance company, has required the Council to take remedial action often at the residents' cost. (See Appendix 3)

Policy Aims

This policy aims to:

1. Ensure new residential developments include good quality, well designed Open Space to Council **standard which is adequately maintained in perpetuity to contribute to creating safe and attractive places to live and visit.
2. Ensure adequate resources are secured to maintain Open Space adopted by the Council and that the adoption process is clear and efficient.
3. Ensure the long-term quality standard of Open Space: equipped play areas for all ages, sports and leisure facilities and informal spaces, through Council adoption.
4. Ensure the Council, public interest and house buyers are protected where private factoring arrangements are permitted.

Open Space Policy

The key principle is that the Council wants to ensure that good quality Open Space is provided and maintained in perpetuity for public benefit and to contribute to enhancing Swaffham's reputation for quality places and landscapes. The best way to achieve this is through Council adoption of Open Space which meets Council standards.

1. The Council adopts all Open Space in new developments. In this case the flat rate of **£0000 per square metre** commuted sums will be paid by the developer to Swaffham Town Council.
2. Where there is a planning requirement for exceptionally large Open Space areas, such as a country park, the Council reserves the right to apply a site-specific Commuted Sum calculation for these areas.
3. Areas of amenity planting and small open spaces which do not benefit the public will not be adopted by the Council.
4. Council will carry out site inspections of open spaces with the developer (or their agent) to ensure Council standard applies prior to handover.
5. No Council maintenance should be carried out unless the agreed commuted sum (CS) has been paid.

A Security Initial Payment which is calculated as a percentage of the Commuted Sum is also required to ensure that all Open Space meets Council standards prior to adoption. Although developers can opt for private arrangements for some areas, Council adoption of all Open Space within a development is preferred. It also has the benefit that after adoption, developers and residents are relieved of all future maintenance responsibilities which will be attractive to all prospective house buyers.

(Appendix 2 provides details of the Security Initial Payment).

Council Adoption

The Commuted Sum figures given below are based on the 2018/19 maintenance costs, however the CS will be uplifted annually on 1 April in line with the retail price index (RPI) and the appropriate CS will be applied at the time of adoption.

- For general OS, the CS continues to be based on a 'flat rate' average estimated maintenance cost per dwelling and the period over which it is applied is 20 years (doubled from the 10 year period in the current 2001 policy) so is £770 per dwelling at 2018 prices. In addition the separate CS per play areas is required.
- The separate CS for equipped play areas continues to be based on the 'flat rate' average estimated maintenance cost per play area. This is also for a 20 year period (doubled from 10 year period in the current 2001 policy) and now includes a contribution to the replacement cost (as this will occur during the 20 year CS period). There will be 2 different CS rates related to the age range/size of the play area being £96,000 per LEAP and £126,000 per NEAP/REAP (see Appendix 1 for details).
- The developer is required to ensure OS meets Council maintenance standard prior to adoption. If minor OS remedial works is required on adoption the Council will do this at the developer's expense (using the Security Initial Payment as explained in appendix 2).
- [Appropriate facilities provided by developers within adopted OS, such as allotments and sports and leisure facilities, will be made available for community management.](#)
- [SUDS should be integral to OS providing attractive amenity and biodiverse features.](#)

Conclusion

This policy has been developed to ensure the sustainable future provision and maintenance of good quality, accessible public open spaces as part of new housing developments. It requires all priority public open spaces which will be used by the wider public, to be adopted by the Council for the appropriate commuted sum and for the land title to transfer to the Council.

It is accepted that alternative private arrangements can be made through a Private Management Scheme for open spaces which are largely of benefit to specific residential areas. It will be the responsibility of the residents' association to ensure the standards of maintenance for the open spaces.

Appendix 1 Calculation of Commuted Sum (CS) for 20 Year Period

[NOTE **Need to add in the pages here on what STC calculations are. If you refer to the Scottish policy there are some examples of LEAPS, NEAPS and REAPS etc. Ours are currently divided into 4 areas: Informal Spaces, Children's Play areas equipped, Older Children's recreational facility and Sports and Leisure Facilities.](#)

Appendix 2. Calculation of the Security Initial Payment (SIP)

The SIP will be 10% of the CS for any development up to 100 dwellings. For larger developments which are phased the SD will be payable as 10% of the CS for each phase.

The SD has been introduced in response to difficulties with the title transfer process and to guarantee that OS within developments are at adoptable standards prior to the Council accepting maintenance responsibility. It incentivises the developer to ensure adoptable standards are met and the adoption process is concluded. In rare cases where a developer consistently fails to meet standard the Council may adopt the OS (on condition that title and full CS is transferred) and use the SIP to fund remedial works. Adoption is intended to be completed in one year following the initial inspection site meeting undertaken by Council and the developer. This period is required to ensure all planting and other landscaping is successfully established and transfer land title. Immediately after this initial inspection, the developer must initiate the title transfer process and must ensure that the OS meets the required Council standard until title transfer is completed and the CS has been received. The Council will deduct any estimated and/or incurred costs from the SIP including any remedial works and further 'snagging' inspection site meetings undertaken by the Council. Any remaining portion of the SIP subsequently, will be deducted from the CS balance payable by the developer.

The SIP is intended to guarantee the Council has sufficient funds to carry out any OS remedial works required.

Appendix 3 Potential Advantages and Disadvantages of a Private Management Company for Open Spaces maintenance.

Robust planning safeguards are required to protect the interests of residents, the Council and the public within any managed OS sites and must ensure that:

- OS is created and maintained to a good standard.
- OS remains accessible to everyone.
- Collectively residents are empowered to manage the **factor** so that fees do not escalate significantly without valid reason.
- OS title remains with a single body and not individual residents.
- There is a mechanism for another party (including the Council) to adopt the OS if **factoring** fails with title transfer and payment of the prevailing CS.

There are potential disadvantages of private maintenance arrangements for OS which are risks to the Council and its reputation including:

- Possibility of falling standards in long term through inability or unwillingness of residents or maintenance companies to pay for OS, leading to unsightly and/or unsafe OS areas.
- Possibility of reduced public access to OS due to residents viewing areas they pay for as 'private'.
- Loss of Council ability to ensure a consistent and equitable long-term standard of OS provision and maintenance throughout the town.
- Loss of Council ability to facilitate requests from community groups seeking to hold events in parks or develop amenity facilities on OS through community empowerment.
- Inequality between those paying for OS maintenance and most residents in Swaffham Parish who contribute only through the Precept.
- Financial burdens (in addition to Council Tax) for residents regardless of income or ability to pay.
- House purchasers may not be aware if they will be required to meet the maintenance costs of OS at the point of sale.
- Loss of Council ability to take over responsibility of failing OS caused by the necessity for complicated legal title transfer or permissions from multiple house owners and the payment of Commuted Sums.
- Large costs being incurred by residents when open space infrastructure including play areas are vandalised or need to be refurbished or replaced.