

**SURREY COUNTY COUNCIL****CABINET****DATE: 18 DECEMBER 2012****REPORT OF: MR JOHN FUREY, CABINET MEMBER FOR TRANSPORT AND ENVIRONMENT****LEAD OFFICER: TREVOR PUGH - STRATEGIC DIRECTOR FOR ENVIRONMENT & INFRASTRUCTURE****SUBJECT: ENABLING NEW DEVELOPMENT - THAMES BASIN HEATHS SPECIAL PROTECTION AREA – SUITABLE ALTERNATIVE NATURAL GREEN SPACES (SANGS) - POLICY REVISION****SUMMARY OF ISSUE:**

The restrictions imposed upon new development to prevent likely significant effect upon the habitat of certain ground nesting bird species in the Thames Basin Heath Special Protection Areas has led to a regime of avoidance measures known as Suitable Alternative Natural Green Spaces (SANGS).

SANGS are areas of land that are required to be made available by developers in perpetuity for the leisure use of the occupiers of new developments, the intention being to reduce visitor pressure, and therefore mitigate the impact, upon the Thames Basin Heath Special Protection Areas.

The lack of available SANGS in the areas of the County affected by the restrictions, prevents new development, the purpose of the report being to utilise County Council land as SANGS to assist new development secure planning permission and both create new, and enhance existing, County Council green space land.

The Cabinet is asked to consider alterations to the existing policy that allows County Council land to be considered as possible SANGS and agree the new landowner charges that will be sought from new development.

**RECOMMENDATIONS:**

It is recommended that:

1. the County Council alters its current Policy by the removal of the requirement that proposals for SANGS are to be considered in the light of whether new housing development is being proposed on land in the Green Belt or on land covered by any other protective or environmental designation, including Sites of Special Scientific Interest, ancient monuments, Area of Outstanding Natural Beauty or Areas of Great Landscape Value; such issues being left for determination by the relevant local planning authority;
2. the County Council alters its current Policy by the removal of the requirement that an uplift payment is to be negotiated upon a site by site basis and instead a standard landowner charge per development be secured for the use of its land as SANGS, in addition to the on site costs of bringing the land up to the required Natural England standards for use as SANGS in perpetuity with the necessary capital, maintenance and management costs, all being secured

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through developer payments;

3. the question of whether future SANGS should be provided on individual County Council sites to continue to be considered and approved by the Cabinet Member for Transport & Environment, in consultation with the Strategic Director for Environment and Leader of the Council, on a site by site basis; and
4. the County Council adopts the Policy as set out in Annex 2.

#### **REASON FOR RECOMMENDATIONS:**

The potential benefits of SANGS assist in the protection of the bird species which are considered to be at risk due to the ability of SANGS to influence the behaviour of heathland visitors;

As a result of the use of County Council land as SANGS capital, maintenance and management improvements can be undertaken on the land, at no cost to the County Council through developer payments, at the same time as supporting those affected local authorities in achieving their housing targets;

Use of County Council land as SANGS releases land for new development for which the County Council will receive a landowner charge in recognition of the uplift in value that the SANGS bestow on the proposed development sites.

#### **DETAILS:**

1. The Cabinet is asked to consider alterations to the existing policy relating to County Council land being made available as SANGS.
2. The legal and historic background of the Thames Basin Heath Special Protection Areas, the European Directive and the habitat protection regime introduced to protect the ground nesting birds, is attached as **Annex 1 and Annex 1 Appendix A**.
3. A plan showing the extent of the Thames Basin Heath Special Protection Areas, and the local planning authority areas affected, is to be found at **Annex 1 Appendix B**.
4. SANGS are areas of land that are required to be made available by developers in perpetuity for the leisure use of the occupiers of the new development, the intention being to reduce the numbers of visitors to the Special Protection Areas (SPAs), in turn reducing the impact and damage to the ground nesting birds habitats.
5. On 5 May 2010 the Cabinet Member for the Environment agreed a policy, regarding the use of County Council land as SANGS in perpetuity, subject to the following conditions-
  - The County Council makes available appropriate land owned by the Council to be used as Suitable Alternative Natural Green space (SANG) where necessary capital, maintenance and management costs are agreed as developer contributions.
  - Such SANG sites should not relate to proposals for new housing development on land in the Green Belt or on land covered by any other protective or environmental designation, including Sites of Special Scientific Interest, ancient monuments, Areas of Outstanding Natural Beauty or Areas of Great Landscape

Value, and

- Agreement of County Council land as SANG sites be considered on a case by case basis and to be subject to:
  - the Council receiving additional payment in recognition of the uplift in value that releasing the land would bestow on the respective development site;
  - a thorough assessment of all relevant financial issues including potential future commercial value; and
  - the approval of the Cabinet Member for Environment.
- 6. On 16 February 2011 the Cabinet Member subsequently agreed that Valley End, Chobham be approved for use as a SANG in conjunction with new residential development at Fairfield House, Sunningdale.
- 7. On 11 July 2011 the Cabinet Member further agreed that Valley End, Chobham be approved for use as a SANG in conjunction with new residential development at Summerwood and Pucksfield, Charters Road, Sunningdale Ascot.
- 8. Following the adoption of the County SANGS Policy concerns were subsequently expressed by three local authorities, Guildford BC, Rushmoor BC and Surrey Heath BC, in addition to Natural England, that the conditions attached to the Policy led to uncertainty in relation to whether the County SANGS could be provided for individual applications and the high level of contributions that would be sought on a site by site basis.
- 9. Officers have considered and discussed the representations at length and agreed that the Policy could be altered to accommodate the concerns expressed; this in turn ensuring that the County SANGS are then available to support new development in the affected local planning authority areas.
- 10. A number of proposed changes have been considered by officers, the changes also being the subject of a consultation with the affected local planning authorities, and a copy of the proposed revised draft policy is to be found at **Annex 2**.
- 11. This report requires two issues to be addressed, the first is the need to revise the existing Policy to meet the local planning authority concerns and the second is to agree the level of landowner charge that will be charged for the use of the County Council's land as SANGS in perpetuity.
- 12. As regards the first issue the concerns of the affected local authorities and Natural England have been addressed, by revising the policy in the terms as set out in **Annex 2** and removing the previous ability to prevent new housing development on land in the Green Belt or on land covered by any other protective or environmental designation, including Sites of Special Scientific Interest, ancient monuments, Areas of Outstanding Natural Beauty or Areas of Great Landscape Value which is an issue for determination by the local planning authorities.
- 13. The second issue relates to the previous requirement for a fixed uplift tariff, this tariff having previously been set at a level that it was considered would not adversely affect the ability to develop residential sites but a tariff that realised a reasonable financial uplift for County land, as a result of being utilised as SANGS in perpetuity, the tariff being in addition to the costs of the necessary works to the land to achieve satisfactory SANGS, all costs being recovered through developer contributions.

14. As a result of the concerns as to the impact of such a level of uplift on viability in less affluent development areas it was agreed to adopt a charge based upon the size of the development, a matrix of the proposed charges being set out in the proposed policy.

#### **CONSULTATION:**

15. A consultation with the affected local planning authorities has been undertaken and responses were received from eight authorities.
16. Such responses were generally positive although a range of further issues were raised which required consideration, a summary of the responses and the County Council's further clarification is set out in **Annex 3**.
17. The further clarification addresses the issues and confirms that the negotiations with each developer are intended to take place in advance of the planning application process and as a result the application process should not be delayed.
18. It is therefore considered that the revised policy will be of assistance to those developers who do not have access to alternative and available SANGS land and will in turn allow development to be brought forward which would otherwise be restrained by the requirements of the European Directive.

#### **RISK MANAGEMENT AND IMPLICATIONS:**

19. Under the European Habitats Directive if SANGS are not available to support new development in any 'zone of influence' then Natural England have no alternative but to lodge an objection to any application that it is considered will cause damage to the SPA area and its protected species.
20. The lack of available SANGS land will affect the ability of the affected local planning authorities to meet their housing targets and as a result affect their ability to support the growth agenda in Surrey.
21. The future availability of land for SANGS in Surrey is likely to be a finite resource, given the fact that each SANG has an agreed capacity of residential units that can be supported by it, and as a result the regime could have a damaging effect on the long term implications for growth in Surrey and the wider economy if an alternative regime for mitigation is not established.
22. Officers have been asked to consider all alternative mitigation measures with a view to such measures being considered and hopefully adopted by the relevant bodies and organisations, whilst bearing in mind that the mitigation is required as a result of a European Directive.

#### **Financial and Value for Money Implications**

23. Developers would be expected to pay for the access management arrangements, the capital costs incurred in bringing the land condition up to the SANGS standards and the maintenance and management costs of the land once allocated for use as a SANG, all of these arrangements being in addition to any current service level expenditure. Such capital works could include new car parks, new and upgraded footpaths and new and improved information and interpretation.

24. The specific requirements of each new SANGS site will determine the extent and design of the capital works to bring the site up to the standards required by Natural England, the costs of the works being apportioned by the level of mitigation required and paid for by the respective developers.
25. Where County Council land is made available for use as SANGS the development land which is linked to it will become developable, subject to planning permission being granted, and because the development land cannot secure a planning permission without the benefit of the SANG land the County Council will seek a landowner payment in recognition of the uplift in value that releasing the land bestows upon the related development land.
26. As SANGS are required to be maintained in perpetuity it is also necessary to ensure that any land proposed as a SANG is first assessed to ascertain whether it has any alternative commercial or other development value before the land is allocated as a SANG.
27. The adoption of a landowner charge, based on the sq m of the respective residential unit as opposed to a fixed sum per residential unit, is proposed as a result of the need to balance on the one hand a reasonable charge for the use of the land in perpetuity and on the other a landowner charge which does not prejudice the viability of new development.
28. The proposed landowner charge also reflects the fact that a large proportion of new residential development is likely to encompass smaller unit sizes and as a result the level of charge per sq m for such units has been reduced in order to reflect the lower viability thresholds of development of this size.
29. The previously utilised tariff of £10,000 per residential unit, whilst having been acceptable in relation to higher value developments, is not acceptable to the affected local authorities because future development will encompass a range of residential unit sizes and a charge of this size will clearly affect the viability of smaller residential units.
30. The landowner charges matrix has been developed to overcome this problem and as a result the income anticipated by the proposed new landowner charge, calculated on a 'per sq m' basis, is likely to be less than £10,000 per residential unit tariff where a development consists of a range of residential unit sizes of between 1 and 4 bedrooms and more than £10,000 per residential unit tariff where a development consists of unit sizes of more than 4 bedrooms, or where the residential units are larger than the average house sizes.
31. It is hoped that the new landowner charge matrix will be more acceptable to developers than the previous tariff and the likely income will be higher, in overall terms, as a result of a possible increased demand for use of County Council land as SANGS.
32. The following are suggested income calculations, based upon average dwelling sizes published by the Commission for Architecture and the Built Environment (CABE) in April 2010, using the proposed landowner charge matrix –

Studio flat	(20 sq metres)	£20 per sq m	£400
1 bed flat	(46 sq metres)	£50 per sq m	£2,300
2 bed flat	(60 sq metres)	£50 per sq m	£3,000
3 bed flat	(88 sq metres)	£50 per sq m	£4,400

1 bed house (66 sq metres)	£50 per sq m	£3,300
2 bed house (70 sq metres)	£50 per sq m	£3,500
3 bed house (94 sq metres)	£75 per sq m	£7,050
4 bed house (119 sq metres)	£75 per sq m	£8,925
5 bed house (160 sq metres)	£100 per sq m	£16,000

33. Officers are unable to accurately quantify the overall financial impact of adopting the proposed landowner charge matrix because we are unable to accurately predict the number of developments, their locations or their mix and whether a particular development will wish to utilise a County Council SANG rather than an alternative area of land.
34. However as an indication of the potential impact, if the proposed landowner charge matrix had been applied to a development of ten 2 bedroom units, prior to the adoption of this policy, the County Council would have received £35,000 as opposed to the £100,000 it actually received using the £10,000 per unit tariff. Had the development consisted of ten 5 bedroom residential units then the County Council would now receive £160,000, instead of the £100,000, using the proposed landowner charge matrix.
35. These calculations highlight the variable nature of the income, which will be dependent upon the exact number and mix of development coming forward in the future. A decision as to how this potential income stream is to be utilised by the County Council has yet to be agreed but a decision will need to be taken before the adopted policy is published and developers begin negotiations with officers in relation to the availability of County Council land as SANGS.
36. An annual review mechanism has also been incorporated within the proposed policy to ensure that the landowner charge matrix can be reconsidered should issues regarding viability require the matrix to be formally reviewed in the light of experience and any changes to market conditions.

#### **Section 151 Officer Commentary**

37. The financial impacts of the recommendations are explained from paragraph 23 onwards. In particular, the decision to adopt the proposed landowner charge could result in reduced income to the County Council. However this would depend on the number and exact nature of developments using County Council land as SANGS, which itself is difficult to predict, and in addition it is expected that the revised charges will be more acceptable to developers, which could lead to increased use of County Council land as SANGS.

#### **Legal Implications – Monitoring Officer**

38. The Thames Basin Heaths SPA is designated under European Directive 79/409/EEC and Natural England has identified that net additional development up to 5km from the designated sites is likely to have a significant effect on the integrity of the SPA and as a result the effect of new development in such areas is required to be mitigated; the SANGS regime being the strategy that has been implemented to mitigate the impacts of such development.
39. The provision of County Council land as SANGS assists those local planning authorities affected by the SANGS regime and prospective developers in mitigating the impacts of such development upon the Thames Basin Heaths Special Protection Areas.

### **Equalities and Diversity**

40. The report, which proposes strategic policy changes, does not propose changes that would have adverse impacts on any of the designated groups under the equalities legislation and it is on this basis that it is not necessary to undertake an Equalities Impact Assessment.
41. Any impacts at the level of the individual SANGS should be beneficial by providing suitable recreational space close to new development for people to enjoy access to green space etc.
42. The key issue from an equalities perspective will be to ensure that accessibility issues are taken account of on an individual site-by-site basis and any new or upgraded access facilities on future SANGS will be designed to comply with the County Council's least restrictive access principles.

### **Public Health implications**

43. SANGS potentially creates additional public open space, near to new residential development, for a variety of outdoor recreational uses, offering exercise opportunities to assist in improving the public's health.

### **Climate change/carbon emissions implications**

44. The County Council attaches great importance to being environmentally aware and wishes to show leadership in cutting carbon emissions and tackling climate change and the development of SANGS potentially creates additional open space for recreational use near to new residential development, thus reducing unnecessary private vehicle journeys to the Thames Basin Heaths Special Protection Areas.

### **WHAT HAPPENS NEXT:**

45. If the recommendations are accepted the respective local planning authorities and Natural England will be notified of the amended policy, the policy will be publicised and officers will begin the necessary work to identify and bring forward further prospective SANGS sites.

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#### **Consulted:**

Trevor Pugh, Strategic Director Environment and Infrastructure  
Ian Boast, Assistant Director Environment  
Lisa Creaye-Griffin, Countryside Group Manager  
John Stebbings, Chief Property Officer  
Affected local planning authorities in Surrey in addition to Windsor & Maidenhead RB and Rushmoor BC  
Mr Tony Samuels, Cabinet Member for Assets and Regeneration Programmes

**Annexes:**

Annex 1 and Annex 1 Appendix A - the legal and historic background of the Thames Basin Heath Special Protection Areas, the European Directive and the habitat protection regime introduced to protect ground nesting birds.

Annex 1 Appendix B - plan showing the extent of the TBH SPAs.

Annex 2 - proposed revised draft policy.

Annex 3 - summary of the local planning authority responses and the County Council's further clarification.

**Sources/background papers:**

- 5 May 2010 - Cabinet Member for the Environment Report: agreed the Policy regarding the use of County Council land as SANGS subject to certain conditions
  - 16 February 2011 - Cabinet Member for the Environment Report: agreed that Valley End, Chobham be approved for use as SANG in connection with development at Fairfield House, Sunningdale.
  - 12 July 2011 - Cabinet Member for the Environment Report : agreed that Valley End, Chobham be approved for use as a SANG in connection with development at Summerwood and Pucksfield, Charters Road, Sunningdale Ascot
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