

1. Introduction

- 1.1 The purpose of this paper is to review the current Local Development Plan (LDP) policy approach to developer contributions and make recommendations in light of changes in national policy and the local context. In this case the policy under review is LDP Policy 9 Developer contributions.

2. Background

- 2.1 Policy 9 reflects the guidance provided by Planning Circular 1/2010: Planning Agreements (now superseded by Planning Circular 3/2012: Planning Obligations). Developer Contributions can provide measures of mitigation by way of a financial payment or in kind to compensate for any negative impact which may be caused as a result of the development. Agreements can be formalised by Section 75s when it is necessary to ensure that successors in title continue to contribute throughout all phases of the development.
- 2.2 Circular 3/2012 sets out the following tests, all of which must be met, before a planning obligation can be entered into.
- necessary to make the proposed development acceptable in planning terms;
 - serve a planning purpose;
 - relate to the proposed development ;
 - fairly and reasonably relate in scale and kind to the proposed development; and
 - be reasonable in all other respects
- 2.3 Circular 3/2012 is clear that the development plan should be the point at which consideration of the potential need for and use of, planning obligations begins. Plan formulation provides an opportunity to involve the local community and development industry in the process of development plan policy development, including supplementary guidance, and to highlight early in the process the expected costs of any contributions that might be sought from developers.
- 2.4 Planning authorities may take into account the cumulative impact of a number of proposed developments, and use obligations to share costs proportionately.

Strategic/Regional Context

- 2.5 The Aberdeen City and Shire Structure Plan 2009 does not refer to developer contributions. Planning advice was published by the Strategic Planning Authority in 2012 relating to contributions towards a strategic transport fund and a commitment is given to translating this to Strategic Supplementary Guidance in the Proposed Strategic Development Plan.

3. Existing Policy Approach

- 3.1 The aim of Policy 9 is to ensure that developers fairly contribute financially or in kind for any on or off site facility which is negatively impacted by the development. For allocated sites in the plan, this is achieved through Schedule 3 which identifies the strategic infrastructure required to allow development to proceed through various phases. The infrastructure requirements in Schedule 3 are broadly categorised as follows:
- Strategic transportation;

- Local transportation infrastructure;
- Strategic drainage and water supply;
- Primary education;
- Secondary education;
- Community facilities;
- Waste and recycling;
- Health facilities;
- Affordable Housing (in exceptional circumstances, this is usually achieved under Policy 6: Affordable housing).

In all cases, the level of contribution will be reviewed according to the circumstances at the time the application is submitted. For non-allocated sites each proposal will be assessed on its own merit.

3.2 Policy 9 includes the following supplementary guidance which provides specific information on how the aims of Aberdeenshire Council in relation to developer contributions can be achieved:

- SG DC1: Developer contributions;
- SG DC2: Access to new development;
- SG DC3: Water and waste water drainage infrastructure;
- SG DC4: Waste management requirements for new developments.

4. Drivers of Change

4.1 The content of Circular 3/2012 is broadly similar to Circular 1/2010 but attaches more weight to the viability of developments. Developers now have the opportunity to re-negotiate developer contributions previously agreed and attached via a Section 75 should they consider that the level of contributions is causing a barrier to development. However this advice has been issued to reflect the sluggish nature of the economy in Scotland generally. Aberdeenshire and the north east continue to experience a fairly buoyant economy and the uptake for business and residential land remains positive in many areas. In order to continue to accommodate the required level of growth, it is considered reasonable and fair to continue to seek appropriate developer contributions for infrastructure on a site-by-site basis and as identified in Schedule 3. It is considered that the policy remains compliant with the aims of Circular 3/2012. While parts of Aberdeenshire, such as the Buchan coast for example, are experiencing a harsher economic climate this is already reflected in the level of obligations required. All contributions for strategic transportation requirements are sought from within the Aberdeen Housing Market Area, a part of Aberdeenshire which is continuing to experience economic growth. Other contributions sought towards such facilities as education and waste management are considered to be acceptable.

5. Recommendations

5.1 The general aims of Policy 9 has not changed in spite of the need to consider the level of developer contributions sought in light of Circular 3/2012. The final paragraph of the policy requires to be amended to reflect the introduction of the new Circular. This modification is not of such significance that it may require to be discussed within the Main Issues Report.

- 5.2 SG DC1 Paragraph 2) refers to the payment of fair and reasonable developer contributions towards facilities and infrastructure already provided by Aberdeenshire Council. Consideration may also need to be given to facilities and infrastructure currently under construction as well as committed. Clarification should be provided in the policy as well as the SG in the interests of clarity. The following additional paragraph should be added:

“The developer must not only retrospectively make a fair and reasonable contribution to the cost of infrastructure or facilities already provided by Aberdeenshire Council but also towards any cost for committed infrastructure and those currently under construction. All infrastructure or facilities provided must be directly related to the cumulative impact of the development”.

This modification is not of such significance that it may require to be discussed within the Main Issues Report.

6. Summary of Main Points

- 6.1 The general aim of Policy 9 has not changed in spite of the need to consider the level of developer contributions sought in light of Circular 3/2012. The final paragraph of the policy requires to be amended to reflect the introduction of the new Circular. This minor amendment is not considered to be a main issue.

- 6.2 The associated supplementary guidance (SGDC:4) advises that if new development leads to a requirement for new or additional infrastructure, the cost of this is met by developer and not the general public. This includes infrastructure already provided by Aberdeenshire Council. It is considered that contributions should also be sought for committed infrastructure and those currently under construction. The following action is proposed:

- An additional paragraph needs to be added to the policy advising that developers may need to contribute towards the cost of not only facilities and infrastructure provided by Aberdeenshire Council but also towards works that are under progress or committed.

This minor amendment is not considered to be a main issue.

7. Bibliography

Planning etc. (Scotland) Act 2006 (APS17)
Planning Circular 1/2010: Planning Agreements
Planning Circular 3/2012: Developer Contributions