

Review of SG DC1: Developer Contributions

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 Supplementary Guidance, SG Developer Contributions1: Developer Contributions (SG DC1).

2. Background

National Context

- 2.1 SG DC1 reflects the guidance provided by Planning Circular 1/2010: Planning Agreements (now superseded by Planning Circular 3/2012: Planning Obligations).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 negotiated are only transferable to successors in title if recorded in the Register of Sasines
- 2.2 Circular 3/2012 sets out 4 tests all of which must be met before a planning obligation can be entered into. In summary these are that :
- 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 clarify early 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

- 2.2 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. Approach

- 3.1 SG DC1 reflects the aim of Policy 9: Developer Contributions but adds that developers may also require to make a fair contribution to the cost of infrastructure or facilities already provided by Aberdeenshire Council which are directly related to the cumulative impact of their development. In this way there is a caveat to allow up-front funding of infrastructure, but still recoup costs from the development industry.
- 3.2 The reasoned justification for the policy confirms that the cost of new or additional infrastructure must be borne by the applicant and not by the general public.

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.

5. Recommendations

- 5.3 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 reasoned justification to this end. This modification is not of such significance that it may require to be discussed within the Main Issues Report.
- 5.1 While the general aim of SG DC1 has not changed, consideration may need to be given to the level of developer contributions sought in light of Circular 3/2012. The new guidance suggests that, should the level of developer contributions impact negatively on the viability of a scheme, the contributions can be reduced. However this advice has been issued to reflect the sluggish nature of the economy in Scotland generally. Aberdeenshire and the northeast 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
- 5.2 Paragraph 3 of the Reasoned Justification advises that Masterplans **will** be adopted through Supplementary Guidance. This is not always the case, and most masterplans are not promoted as Supplementary Guidance. Masterplans are now approved by Area Committee. The text will need to be amended to reflect this. This modification is not of such significance that it requires to be discussed within the Main Issues Report.

6. Summary of Main Points

- 6.1 This supplementary guidance 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 policy needs to be amended to reflect Planning Circular 1/2010 being superseded by Planning Circular 3/2012 and also that Masterplans are not adopted through Supplementary Guidance but are approved by the Area Committees. The following actions are proposed:
- The reasoned justification needs to be amended to include infrastructures or facilities which are currently under construction or have been committed by Aberdeenshire Council;
 - The reasoned justification also needs to be amended to reflect the change in process for Masterplans. Masterplans are now approved by Area Committee.

Bibliography

Aberdeenshire Council (2012) *Aberdeenshire Local Development Plan 2012*
Scottish Government (2010) *Scottish Planning Policy*
Scottish Government (2009) *National Planning Framework for Scotland 2*
Scottish Government (2010) Planning Circular 1/2010: *Planning Agreements*
Scottish Government (2012) Planning Circular 3/2012: *Developer Contributions*