

# **PERTH AND KINROSS COUNCIL**

## **Scrutiny Committee**

**28 November 2018**

### **Developer Contributions**

#### **Executive Director (Housing & Environment) (Report No.18/397)**

The Committee have identified that they wish to consider the application of the Developer Contributions and Affordable Housing Supplementary Guidance to single house developments. Through a number of informal persons, the Committee was provided with information in relation to the operation of the policy and supplementary guidance.

This report provides background to the key areas which were identified for further consideration in relation to the application of the Guidance.

## **1. BACKGROUND**

- 1.1 A training session was held after the Scrutiny Committee on 12 September 2018. This provided an overview of the Developer Contributions and Affordable Housing Supplementary Guidance (the Guidance) to new built development within Perth & Kinross.
- 1.2 Members identified that the application of the Guidance to single dwellinghouse developments would be subject to a formal session of this Committee and that a briefing report should provide:
  - a background position on the basis for including single dwellinghouse developments to make a contribution;
  - the implications of excluding single dwellinghouse developments from making contribution payments;
  - other Local Authority approaches and possible other methods of application of contributions to single dwellinghouse developments;
  - the implications of excluding conversions/extensions and other options for applying contributions in these cases;
  - the implications of excluding essential workers housing and other options for applying contributions in these cases.
- 1.3 The focus of this report is on the application of the Primary Education Contributions section of the Guidance.

## 2. BACKGROUND TO BASIS FOR SINGLE UNIT DEVELOPMENT CONTRIBUTING

- 2.1 The impact of a single unit development, in isolation, on infrastructure is the same as that of a single unit which is developed as part of a larger site. The difference with regards to a larger site is that the impact is sustained by the multiple numbers of units which can have a greater concentrated impact on infrastructure at one time. However, the same position holds where the cumulative impact of a number of single house developments is considered and this could, in theory, deliver the same number of dwellings. This was the starting basis for the requirement for single dwellinghouse developments to contribute towards primary education.
- 2.2 Prior to the financial crash in 2008, 90% of housing completions across Perth & Kinross was of sites of 5+ units. With the financial crash, this level of completions dropped to 74% in 2010. The level of small scale developments of 4 or less units increased in this period while the number of large scale completions declined. At the time of developing the Primary Education Contributions Guidance, within some of the rural schools the identified capacity issues were not the result of larger scale development, but could be attributed, in part, to the cumulative impact of small scale 1 and 2 unit developments.
- 2.3 On this basis, it was decided that all new residential developments, regardless of scale would be treated the same in terms of the application of the Primary Education Contributions. This approach was carried through with subsequent contributions Guidance for the A9 Junction Improvements and the Transport Infrastructure.
- 2.4 Through the consultation of the Primary Education Contributions Guidance in 2009, two submissions raised the following point *'Small developers will be unable to afford this levy. Small developments should be excluded from inclusion.'*
- 2.5 The response included in the committee report to Enterprise and Infrastructure Committee (Report No. 09/169 refers) stated *'Restricting the policy to larger developments and developers would relieve some of the administrative burden on the department and minimise the likely impact on performance figures. However, a significant proportion of house completions in Perth and Kinross occur on sites of less than 5 units. Cumulatively, these developments can place disproportionate pressures on local infrastructure and facilities particularly in the primary school sector where rural schools are only able to accommodate a limited school role. Restricting contributions to larger developments may be seen to place an inequitable burden on those developments. Paragraph 8.2 of the Developer Contributions Policy SPG indicates that 'where substantial contributions are required that may jeopardise the commercial viability of a project, the Council will enter into negotiations to establish whether reduced contributions would be appropriate.'*

To date, no reductions in the Primary Education Contribution has been agreed on the basis of viability.

### **3. IMPLICATIONS OF EXCLUDING SINGLE UNIT DEVELOPMENTS FROM CONTRIBUTIONS**

- 3.1 The Primary Education Contributions Guidance was adopted in May 2009. Since this date, contributions towards primary education have been received from 322 developments across Perth & Kinross and ingathering approximately £2 million. Approximately £39 million has been secured through S.75 Legal Agreements payable as development comes forward.
- 3.2 The majority of the collected monies, at present, come from small scale developments as it is preferable, in terms of cost and time, for applicants to pay upfront of release of planning consent rather than enter into a Section 75 Agreement. The level of contributions which will be collected in relation to larger developments, which are generally subject to Section 75 Legal agreements, will increase in the future as these developments progress.
- 3.3 When the Primary Education Contributions Guidance was first adopted in 2009, a contribution was required, or likely to be required, depending on the scale of the development, from new residential development within the catchments of 55 primary schools. Once the Local Development Plan was adopted and a review of build rates undertaken, in 2015, the number of school catchments where contributions were sought reduced to 26. This position is reviewed annually.
- 3.4 Of the £2 million in collected contributions from May 2009 to October 2018, 261 are from single dwellinghouse developments, 37 developments of 2 – 4 dwellinghouses and 24 relating to developments of 5 or more dwellinghouses.

Number of Dwellings	Number of Contributions	% of Total	Contributions Attributable to Development Size Based on £2m collected
1	261	81	£1,620,000
2 - 4	37	11	£220,000
5+	24	8	£160,000

- 3.5 In August 2018, a revised list of schools where contributions would be sought was published based on a review of school projections and taking account of the Local Development Plan 2. This list removes a number of the more rural schools and concentrates the contribution requirement on schools within the larger population centres where the majority of new development is identified. The number of schools where contributions are required now stands at 15 and Appendix 1 includes the revised list.

- 3.6 It is identified that a larger percentage of single unit developments come forward within the more rural catchments. In order to provide a projection of the level of contributions which may be collected in the future from each size of development, based on the August 2018 schools list, the table below has been updated to only take account of contribution collected from schools on the August 2018 list. Using this approach, 121 of the collected contributions are from single dwellinghouse developments, 13 developments of 2 – 4 dwellinghouses and 24 relating to developments of 5 or more dwellinghouses. The total contributions collected would also reduce to £1,035,000.

Number of Dwellings	Number of Contributions	% of Total	Contributions Attributable to Development Size Based on £1,035,000 collected
1	121	72	£745,200
2 - 4	22	13	£129,800
5+	24	15	£300,000

- 3.7 The above table shows that by removing the more rural schools, in line with the current approach, the level of single dwellinghouse developments reduces but they still form the majority of sites where contributions will be collected.
- 3.8 The past is not a guide to future projections and when the sites which are subject to Section 75 Agreements progress, the level of income attributable to larger sites is likely to increase. However, based on the historic position single dwellinghouse developments contribute the vast majority of primary education contributions received to date.
- 3.9 At the moment, a move away from asking for contributions for single dwellinghouse developments will have a significant impact on the funding available.

#### **4. OTHER LOCAL AUTHORITY APPROACHES**

- 4.1 A review of the approach by other local authorities across Scotland to the application of Primary Education Contributions to new developments has been undertaken.

4.2 A summary of the different approaches have been grouped together in the following table.

Local Authority	Method of Application
Perth & Kinross Dumfries and Galloway East Dunbartonshire Edinburgh Loch Lomond & Trossachs National Park Scottish Borders Stirling West Lothian	Contributions apply to all residential development.
Aberdeenshire	Contributions apply to all residential development. Individual contributions for different school catchments. Contribution level based on number of bedrooms within each dwelling. 1 bed properties exempt; 2 bed 20% reduction; 3 bed 100% cost. 4+ Bed +20% per bedroom.
Aberdeen City	Contributions collected from all new dwellings within the Development Masterplan Zones with each zone setting out contribution requirement. Out with zones no contributions required.
Clackmannanshire	Contributions apply to all residential development. Contribution level based on number of bedrooms within each dwelling. 2 bed - £3,500; 3 bed - £5,000; 4 bed - £7,000; 5 bed + - £8,500.
Dundee	Contributions apply to all residential developments on Greenfield Sites. Individual contributions for different school catchments. Brownfield sites generally exempt.
East Renfrewshire	Applies to residential development of 4+.
East Lothian Falkirk	Applies to residential development of 5+.
Fife	Applies to residential development of 10+.

Local Authority	Method of Application
Mid Lothian	Exemptions for first 2 units in development up to 9 units. 10+ unit development all units contribute.
Highland	Contributions apply to all residential development. Reduction for 1 – 3 unit developments. 1 unit – 80% reduction; 2 units – 75% reduction; 3 units – 70%; 4 units – no reduction.
Moray	Contributions apply to all residential development. 1 unit - 80% reduction; 2- 4 units – 60% reduction; 4+ units – no reduction.

- 4.3 The above table shows that across Scotland there are various ways of applying contributions to new development. The most common approach is to apply contributions to all new residential units, as is the approach taken by Perth and Kinross. The other common approach is to apply a reduction based upon the number of bedrooms within each dwellinghouse. This approach has previously been considered by Perth and Kinross. However, the consensus, at the time, was that it would introduce an additional level of administrative work and complication to securing of contributions, as the size of properties within development sites are often subject to change to suit market demands. A single unit contribution level provides clarity at the outset and allows for changes in house type and design to be considered without having to review the contribution level. Through discussions with Aberdeenshire Council, it has been confirmed that applying a contribution rate based on number of bedrooms is more time consuming in implementation than a single flat rate per dwelling.
- 4.4 A number of other authorities set a higher threshold only applying contributions to larger sites. Section 2 of this report provides an overview as to why this approach was not taken forward by Perth and Kinross. It is worth noting that while Highland Council has introduced a reduction for 1 – 3 dwellinghouse developments, this is to reflect that previously contributions were only sought from developments of 4+ dwellinghouses and that applying contributions to smaller scale developments may cause viability concerns in the short term. It is envisaged that through the next review of their Guidance these reductions will be removed or reduced.
- 4.5 A high level assessment of the financial implications of some of the approaches to applying contributions taken forward by other local authorities if these were applied in Perth & Kinross has been undertaken. This is based on the current collected contribution level of £2 million.

Local Authority Approach	Estimated Budget Implications
Aberdeenshire – Rates per bedroom size	N/A – This approach is very labour intensive and has been discounted as outlined in paragraph 4.3.
East Renfrewshire – Applies to 4+ units	This approach would reduce collected contributions by £1,782,445
East Lothian – Applies to 5+ units	This approach would reduce collected contributions by £1,840,000
Mid Lothian – Exemption for first 2 units in developments of up to 9 units.	No detailed work undertaken on this approach but may warrant further detailed investigation. It would result in a reduction in the level of contributions secured.
Highland – Reduction for 1 – 3 unit developments.	This approach would reduce collected contributions by £1,500,000

- 4.6 A change in approach to the securing of contributions may have an impact on the level of contributions ingathered. The Midlothian Council approach to have an exemption for the first 2 units in developments up to 9 units secures contributions from larger developments while providing an allowance for smaller scale proposals. This approach would still reduce the level of contributions secured but could be tailored so that these are reduced in comparison to a blanket approach such as that taken by East Lothian or East Renfrewshire.

## **5. IMPLICATIONS OF EXCLUDING CONVERSIONS/EXTENSIONS**

- 5.1 The Guidance currently requires a primary education contribution within identified primary school catchments where a proposal seeks to convert a single bedroom dwellinghouse to a 2+ bedroom dwellinghouse. This approach reflects that single bedroom dwellings do not attract contributions towards primary education. It stops applicants from seeking consent for a single bedroom dwellinghouse then adding an extension at a later date in order to circumnavigate the primary education requirement.
- 5.2 Single bedroom dwellings are generally considered to be affordable due to their market value. Across the small number of relevant proposals, a contribution is only required if the extension is of a size whereby the property could no longer fall under the affordable category. The decision is made in consultation with the Affordable Housing Enabler.
- 5.3 An alternative approach is one where an extension is proposed to extend a single bedroom dwelling house to a two bedroom dwellinghouse then it would be exempt. Larger extensions would have the contribution apply within the first 7 years of the property being completed. After the 7 year period has expired, then any extension would be exempt from contributing towards primary education.

- 5.4 There is no exemption for conversion of non-residential buildings to residential in terms of the primary education contributions. This is on the basis that these proposals will create a new dwellinghouse which was not previously there and would have the same impact as a new build on primary education capacity. Reductions are applied in terms of the Transport Infrastructure as this takes account of the buildings previous use and the existing impact it would have on the transport network. If a viability issue is identified which is stopping the delivery of the required accommodation, then the applicant can provide a viability statement in order to seek a reduction in the contribution level.

## **6. IMPLICATIONS OF EXCLUDING ESSENTIAL WORKERS HOUSING**

- 6.1 A review of all planning applications which related to Manager or Farm/Key Worker accommodation submitted between May 2009 (the date of adoption of the Guidance) and November 2018 was undertaken.
- 6.2 Across this time period, a total of 21 planning applications were lodged which included Manager or Farm/Key Worker accommodation.
- 13 applications consented;
  - 8 applications refused consent;
  - Properties range from 1 bedroom to 6 bedroom dwellings;
  - Of the consented applications, 3 were required to make primary education contributions.
- 6.3 Where a proposal for a new dwellinghouse is required to support agriculture or a business, then the applicant will submit a labour report which will provide the justification for the new dwellinghouse. The majority of the refused applications have been on the basis of lack of suitable justification and/or the location of the proposed dwelling is not suitable.
- 6.4 The majority of Manager or Farm/Key Worker accommodation proposals fall within the more rural areas where primary schools do not have identified capacity issues. This trend is likely to continue as the revised list of schools where contributions are required, published on 1 August 2018, removes the majority of the rural schools.



- 6.5 Manager and Farm/Key Worker accommodation is treated the same as all private residential dwellings in terms of the application of the Guidance. Historically, planning consent for this type of dwelling would have an occupancy restriction condition applied which would restrict the occupancy of the dwelling to those who are related to the business. Under the 2011 review of the Primary Education contributions Guidance, it was considered that where an occupancy restriction was put in place then the dwelling could be exempt from contributions, indeed this approach was used in relation to a Manager's Property where a contribution is secured through a Section 75 Agreement but only payable if the property is no longer tied to the business (Ref 12/00476/FLL). In 2011, the Chief Planner wrote to all Local Authorities identifying that the use of occupancy conditions restricting houses to land is not appropriate. Perth and Kinross Council no longer applies occupancy restriction conditions to planning consents as a result. On this basis, while a property may be justified on a labour basis to support a business, there is no restriction on the final occupier. It is on this basis that no exemption is applied for these types of dwellings.
- 6.6 Where a proposed dwelling is considered affordable or contains communal facilities, units would be exempt from the Guidance in terms of primary education. If a viability issue is identified which is stopping the delivery of the required accommodation, the applicant can provide a viability statement in order to seek a reduction in the contribution level.

## **7. CONCLUSION/RECOMMENDATIONS**

- 7.1 It is recommended that the Committee:
- (i) scrutinises and makes comments on the content of the report and
  - (ii) highlights any areas they would ask the Planning MOWG to consider
  - (iii) requests the Executive Director (Housing & Environment) to report back to Scrutiny Committee on the outcome of discussions with the Planning MOWG.

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**Approved**

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Barbara Renton	Executive Director (Housing & Environment)	15 November 2018

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## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	<b>None</b>
Corporate Plan	<b>None</b>
<b>Resource Implications</b>	
Financial	<b>None</b>
Workforce	<b>None</b>
Asset Management (land, property, IST)	<b>None</b>
<b>Assessments</b>	
Equality Impact Assessment	<b>None</b>
Strategic Environmental Assessment	<b>None</b>
Sustainability (community, economic, environmental)	<b>None</b>
Legal and Governance	<b>None</b>
Risk	<b>None</b>
<b>Consultation</b>	
Internal	<b>None</b>
External	<b>None</b>
<b>Communication</b>	
Communications Plan	<b>None</b>

### 1. Strategic Implications

#### Community Plan/Single Outcome Agreement

- 1.1 *This section should set out how the proposals relate to the delivery of the Perth and Kinross Community Plan/Single Outcome Agreement in terms of the following priorities:*

- (i) *Promoting a prosperous, inclusive and sustainable economy*
- (ii) *Creating a safe and sustainable place for future generations*

#### Corporate Plan

- 1.2 *This section should set out how the proposals relate to the achievement of the Council's Corporate Plan Priorities:*

- (i) *Promoting a prosperous, inclusive and sustainable economy*
- (ii) *Creating a safe and sustainable place for future generations*

### 2. Resource Implications

#### Financial

- 2.1 Not available (N/A).

### Workforce

2.2 Not available (N/A).

### Asset Management (land, property, IT)

2.3 Not available (N/A).

## **3. Assessments**

### Equality Impact Assessment

3.1 Assessed as **not relevant** for the purposes of EqlA.

### Strategic Environmental Assessment

3.2 Not available (N/A).

### Sustainability

3.3 Not available (N/A).

### Legal and Governance

3.4 Not available (N/A).

### Risk

3.6 Not available (N/A).

## **4. Consultation**

4.1 Not available (N/A).

## **5. Communication**

5.1 Not available (N/A).

## **2. BACKGROUND PAPERS**

- Developer Contributions and Affordable Housing Supplementary Guidance 2016
- Primary Education and New Housing Developer Contributions Policy 2009
- Enterprise and Infrastructure Committee 25 March 2009; Report 09/169 - FINALISED PRIMARY EDUCATION AND NEW HOUSING CONTRIBUTIONS POLICY

## Appendix 1 – Primary Education Requirements

### Developer contributions requirements for individual schools

Version 3: 2018

Next Review: 2019

To assist applicants with the preparation of development costs, the following schedule showing the school catchment areas where contributions will be sought.

This schedule is based on schools which are currently operating at above 80% and the cumulative impact of extant planning permissions and Local Development Plan allocations result in the school projected to be operating at or above 100% of total capacity.

Where the Council has invested in Primary Schools to support future development a contribution will be sought from new development within the relevant primary school catchment. Where investment has taken place this is identified below:

Primary School	Primary School Capacity	Investment
<b>Breadalbane Academy Cluster</b>		
N/A	N/A	N/A
<b>Crieff High School Cluster</b>		
Crieff	466	New School built with capacity for extension
<b>Auchterarder CS Cluster</b>		
Auchterarder	514	Identified for future investment
Dunning	125	Identified for future investment
<b>Pitlochry High Cluster</b>		
N/A	N/A	N/A
<b>Blairgowrie High Cluster</b>		
Newhill	423	Identified for future investment
<b>Kinross High Cluster</b>		
Kinross	566	New School built
Milnathort	257	Identified for future investment
<b>Perth Grammar Cluster</b>		
Luncarty	194	Identified for future investment
Ruthvenfield	91	Identified for future investment – Developments of 20+ units will be considered on an individual basis to determine whether a contribution will be required.
Tulloch	434	New School built
<b>Perth Academy Cluster</b>		
Robert Douglas Memorial	462	Identified for future investment
<b>Perth High Cluster</b>		

Abernethy	283	Extension to school built
Dunbarney	207	Identified for future investment
Errol	316	Extension to school built
Inchture	264	Extension to school built
Kinnoull	203	Extension to school built