

**PERTH AND KINROSS COUNCIL****Enterprise and Infrastructure Committee****7 September 2016****Developer Contributions and Affordable Housing Supplementary Guidance****Report by Director (Environment)**

This report provides an update on the response of Scottish Ministers to the notice of intention to adopt the Developer Contributions and Affordable Housing Guidance submitted to Scottish Ministers on 29 March 2016. Ministers have issued directives requiring changes and the Developer Contributions and Affordable Housing Guidance has been modified in line with these.

**1. BACKGROUND / MAIN ISSUES**

- 1.1 The Enterprise and Infrastructure Committee on 23 March 2016 (Report No. 16/133 refers) agreed to the proposed terms of the Guidance and their submission to Scottish Ministers. The Guidance was submitted to Scottish Ministers on 29 March 2016.
- 1.2 Scottish Ministers provided their final response to the Council on 31 May 2016. A Direction was issued in relation to the Guidance that it may not be adopted as Supplementary Guidance until specified modifications are incorporated. This Direction required minor revisions to paragraphs 2.1 and 2.4. It also required a revision to paragraph 6.4 to reflect ongoing dialogue with Transport Scotland.
- 1.3 These modifications are minor and improve the clarity of the Guidance. They have been incorporated in the updated document attached in Appendix 1.
- 1.4 This report takes account of the recent Court of Session decision on the Aberdeen City and Shire Councils' Strategic Transport Fund. The Council's Head of Legal and Governance's opinion is that the Council's approach to securing Developer Contributions towards Transport Infrastructure is substantially different from the City and Shire Councils' Strategic Development Fund and is therefore more robust. However, the possibility of a similar challenge cannot be discounted.
- 1.5 Accordingly, it is recommended that the reviewed Guidance is only adopted as Supplementary Guidance after the 42 Day period of challenge has lapsed. The Guidance should be adopted as Statutory Supplementary Guidance as of 1 February 2017. Until the adoption of this revised guidance, the current Statutory Guidance adopted on 8 October 2014 will remain in force.

## 2. PROPOSALS

- 2.1 During the consideration of a number of planning applications, the Council has discussed the issue of contributions towards improvements at Broxden and Inveralmond with Transport Scotland. These junctions do not fall under the scope of the Transport Infrastructure Contribution approved by the Council and they relate to a separate and subsequent requirement of Transport Scotland. The revised guidance makes it clear that additional contributions may be required, over and above those required by the Council.
- 2.2 These directions do not impact on the overall content of the guidance, but clarify the content in line with government policy.

## 3. CONCLUSION AND RECOMMENDATIONS

- 3.1 This report provides an update on the Scottish Ministers' response to the Council's notification to adopt Supplementary Guidance on Developer Contributions and Affordable Housing. Ministers have made three directions in relation to the Guidance. These do not change the purpose of the Guidance, but provide additional clarity.
- 3.2 It is recommended that the Committee:
- (i) approves the modifications to the Supplementary Guidance reflecting the direction from Scottish Ministers.
  - (ii) formally adopts the Guidance and Statutory Supplementary Guidance on 1 February 2017.

### Author

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### Approved

Name	Designation	Date
Barbara Renton	Director (Environment)	19 July 2016

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## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION.

<b>Strategic Implications</b>	
Community Plan / Single Outcome Agreement	<b>Yes</b>
Corporate Plan	<b>Yes</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>Yes</b>
External	<b>None</b>
<b>Communication</b>	
Communications Plan	<b>Yes</b>

### 1. Strategic Implications

#### Community Plan / Single Outcome Agreement

1.1 The Perth and Kinross Community Planning Partnership (CPP) brings together organisations to plan and deliver services for the people of Perth and Kinross. Together the CPP has developed the Perth and Kinross Community Plan which outlines the key things we think are important for Perth and Kinross.

- i) Giving every child the best start in life
- ii) Developing educated, responsible and informed citizens
- iii) Promoting a prosperous, inclusive and sustainable economy
- iv) Supporting people to lead independent, healthy and active lives
- v) Creating a safe and sustainable place for future generations

1.2 It is considered that the strategy and related actions will contribute to the following objectives:

- (iii) Promoting a prosperous, inclusive and sustainable economy
- (v) Creating a safe and sustainable place for future generations

## 2. Resource Implications

- 2.1 The Head of Finance has been consulted in the preparation of this report. There are no financial implications arising directly from the recommendations of this report.

## 3. Assessments

### Equality Impact Assessment

- 3.1 An equality impact assessment needs to be carried out for functions, policies, procedures or strategies in relation to race, gender and disability and other relevant protected characteristics. This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new and existing policies.
- 3.2 The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- i. Assessed as **not relevant** for the purposes of EqIA

### Strategic Environmental Assessment

- 3.3 Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies (PPS).
- 3.4 The matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and pre-screening has identified that the PPS will have no or minimal environmental effects, it is therefore exempt and the SEA Gateway has been notified. The reason(s) for concluding that the PPS will have no or minimal environmental effects is that The SG provides a methodology for the calculation of Developer Contributions towards funding Primary Education, A9 Junction Improvements, transport infrastructure and securing Affordable Housing. It is not directing development or adding to any other part of the adopted Local Plans or Proposed Plan.

### Sustainability

- 3.5 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 3.6 The proposal contained within the report are assessed to have a positive impact on sustainability, particularly with regard to delivering transport infrastructure including Park and Ride thus encouraging sustainable modes of transport.

## Legal and Governance

- 3.7 The Head of Legal and Governance Services has been consulted and no legal implications have been identified.

## Risk

- 3.8 None.

## **4. Consultation**

### Internal

- 4.1 The Head of Legal and Governance Services, the Head of Finance and the Head of Democratic Services have been consulted on the preparation of this report

## **5. Communication**

- 5.1 Upon adoption of the Supplementary Guidance, a notification will be sent to interested parties. The Supplementary Guidance will be forwarded to Scottish Ministers. The Supplementary Guidance will be placed on the Council website.

## **2. BACKGROUND PAPERS**

- 2.1 The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above report:

- Planning Circular 3/2012: Planning obligations and Good Neighbour Agreements
- TAYplan Strategic Development Plan 2012
- Perth and Kinross Local Development Plan February 2014
- Developer Contributions Supplementary Guidance August 2014
- Developer Contributions Transport Infrastructure Supplementary Guidance August 2014
- Affordable Housing Supplementary Guidance August 2014
- Report No 15/534 to Council 18 November 2015
- Report No. 16/133 to Enterprise and Infrastructure Committee 23 March 2016

## **3. APPENDICES**

- 3.1 Appendix 1 – Revised Developer Contributions and Affordable Housing Supplementary Guidance.

