

PERTH AND KINROSS COUNCIL

Environment, infrastructure & Economic Development Committee

31 May 2023

DEVELOPER CONTRIBUTIONS AND AFFORDABLE HOUSING SUPPLEMENTARY GUIDANCE UPDATES

Report by Head of Planning and Development
(Report No. 23/170)

1. PURPOSE

- 1.1 This report presents proposed updates to the [Developer Contributions and Affordable Housing Supplementary Guidance \(2020\)](#) (DC&AH SG).
- 1.2 The DC&AH SG is required to support Policy 5 (Infrastructure Contributions) and Policy 20 (Affordable Housing) of the adopted [Local Development Plan 2 \(2019\)](#) (LDP2). The DC&AH SG was approved by the Council's Strategic Policy and Resources Committee on 29 January 2020 ([Report No. 20/25](#)), and subsequently approved by Scottish Ministers and adopted as statutory supplementary guidance.
- 1.3 There is a need to update various aspects of the guidance as a monitoring action; and importantly to revise contribution rates in line with construction inflation. The updates that are proposed for the DC&AH SG shall remain within the existing policy framework of the adopted LDP2, and this is important. New contributions methodologies are therefore not currently being proposed for inclusion.
- 1.4 A copy of the draft guidance document is appended to this report (Appendix 1).

2. RECOMMENDATIONS

- 2.1 It is recommended that Committee:
 - i) notes that the paper was discussed and supported by the Affordable Housing Member Officer Working Group
 - ii) approves the recommended updates to the Developer Contributions and Affordable Housing Supplementary Guidance to initiate a period of public consultation in June 2023;
 - (iii) agrees to a report made back to this Committee on the outcomes of proposed public consultation, with any further changes to the Supplementary Guidance, prior to submission to Scottish Ministers for adoption.

3. STRUCTURE OF REPORT

3.1 This report is structured over the following sections:

- Section 4: Background/ Main Issues
- Section 5: Proposals
- Section 6: Conclusion
- Appendices

4. BACKGROUND / MAIN ISSUES

4.1 The Developer Contributions and Affordable Housing Supplementary Guidance (2020) (DC&AH SG) includes the legal and policy background for developer contributions to mitigate the impact of consented new development and details the Council’s Affordable Housing requirement. It provides guidance relating to developer contributions for Primary Education, the Auchterarder A9 Junction Improvements, and Transport Infrastructure around Perth.

4.2 Developer contributions can either be physical delivery on site or through a financial payment. Developer contributions will only be sought where they meet the tests of [Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements](#). In order to support the LDP2 policy implementation, the Council developed this statutory Supplementary Guidance which is now being reviewed and is the subject of this report. The following is an example of how a development proposal may be assessed for developer contributions and affordable housing.

Table 1: Example of developer contribution calculation

Proposed Development	Affordable Housing		Primary Education*	Transport Infrastructure*
	Provision	Location		
8 dwellinghouses	Minimum 2 units: to be determined preferably onsite but offsite if deemed desirable	Onsite	6 dwellings	6 dwellings at full rate, 2 dwellings at reduced rate
		Offsite/ Commuted Sum	8 dwellings	8 dwellings at full rate
* Assumes the proposed development is in a location which qualifies for assessment of these developer contributions.				
Notes: Affordable housing commuted sums are in place only to facilitate the delivery of affordable housing, in lieu of onsite delivery. Where required, primary education and/or transport infrastructure contributions would therefore still apply.				

- 4.3 The current version of the DC&AH SG was approved by the Council's Strategic Policy and Resources Committee on 29 January 2020 (Report No. 20/25) and it is the view of officers that there is a now a need to update the guidance, particularly to reflect construction inflation.
- 4.4 The project team working on the updates to the DC&AH SG comprises officers from the Development Plans and Housing Strategy teams within Planning & Development.
- 4.5 The paper was discussed and supported by the Council's Affordable Housing Member Officer Working Group.
- 4.6 Subject to Committee approval, the intention is to undertake public consultation prior to submitting the revised guidance to Scottish Ministers for approval, which is necessary in order to retain 'statutory' status. If approved, the proposed changes would then take effect legally.
- 4.7 In summary, the key modifications to the current adopted Developer Contributions and Affordable Housing Supplementary Guidance being proposed are:
- Presentation of the guidance document in two sections: Developer Contributions and Affordable Housing
 - Relevant updates to the Affordable Housing section, as listed from section 5.6 of this report
 - Revised Affordable Housing Commuted Sum rates, Primary Education, and Transport Infrastructure rates in line with inflation/ project costs
 - Provision to allow for the Primary Education and Transport Infrastructure rates to be revised routinely in line with inflation/ project costs without the need for further formality
 - Updated Appendix 1 of the existing guidance, detailing the list of relevant primary schools
 - Rewording of "Principles of guidance" section of the existing document relating to Auchterarder A9 Junction Improvements
 - Insertion of paragraph in the Transport Infrastructure section of the guidance, relating to Site MU70 (Perth West) infrastructure costs.

5. PROPOSALS

- 5.1 Best value is continuous improvement in the performance of the local authority's functions. This review ensures the Developer Contributions and Affordable Housing Supplementary Guidance (2020) (DC&AH SG) remains up-to-date and secures best value.

Affordable Housing

- 5.2 The proposed DC&AH SG update was discussed at a meeting of the Affordable Housing Member Officer Working Group. Feedback relating to the implementation of the Affordable Housing policy and supplementary guidance,

received from officers and Elected Members, has been used to inform the updates to the DC&AH SG.

- 5.3 One area of feedback focused on opportunities to more effectively highlight the Affordable Housing guidance, when used by officers and customers of the planning service. Therefore, the first key update to the DC&AH SG is the physical presentation of the document. Presently, both sections (Developer Contributions and Affordable Housing) are contained within the same document. It is now proposed that the DC&AH SG will be published in two sections ('Part 1: Developer Contributions' and 'Part 2: Affordable Housing') in order to improve the accessibility of the guidance on Affordable Housing and emphasise the purpose of the guidance in its own right; not as a subsection of Developer Contributions.
- 5.4 The DC&AH SG provides information on the delivery of the affordable housing obligation as set out in LDP2 Policy 20: Affordable Housing. With growing focus on how to deliver a wider range of affordable homes as directed by the recently approved [Local Housing Strategy 2022-27](#) (LHS), a review of the guidance has been undertaken to reflect current Scottish Government policy, including [National Planning Framework 4](#) (NPF4), which became effective from 13 February 2023, and now forms part of the statutory development plan. Findings from the Housing Needs and Demands Assessment (HNDA), which informs the LHS, were reported to the Council's Housing and Social Wellbeing Committee on 15 March 2023 ([Report No. 23/82](#)).
- 5.5 A greater emphasis is now placed on the sequential approach for the delivery of affordable housing. This, in turn, aims to remove the perception that the affordable housing obligation can automatically be met through a financial commitment rather than onsite provision. It will clarify what type of provision is best suited to a particular development proposal in order to meet policy requirements. These changes will help implement Local Housing Strategy actions to support an increase in overall new build affordable housing delivery, including rural sites.
- 5.6 The following changes are proposed to the affordable housing guidance. Please also refer to Appendix 1, Part 2, of this report:
 - 5.6.1 The guidance has been restructured and updated in terms of its references to Scottish Government and PKC policies. This aims to create a more fluid document that provides an overview of what affordable housing is and how the policy should be implemented.
 - 5.6.2 The section of the existing DC&AH SG relating to the 'Affordable Housing Credit System' has been removed. This approach allowed housebuilders to group sites, provided the overall 25% affordable housing requirement was ultimately met across a number of sites. However, it has not been well utilised and has proven difficult to implement and monitor. It was also found to undermine the sequential approach to the delivery of affordable housing. Any confirmed Credits currently agreed with developers will continue to be valid until their expiry dates, but no further Credits shall be awarded.

- 5.6.3 Part 2, page 7, includes the circumstances in which payment of a commuted sum may be acceptable in lieu of on-site delivery; the point relating to high concentrations of existing affordable housing has been deleted from this list.
- 5.6.4 Insertion of section (Part 2, page 8, of the draft guidance) highlighting the five-year utilisation period for commuted sum payments, moved from 'Part 1'.
- 5.6.5 The calculation of commuted sums has been reviewed by the District Valuer as of January 2023 to reflect the most recent plot values by Housing Market Area (Part 2, page 8 of the draft guidance). The guidance currently allows for commuted sum rates to be routinely updated to reflect inflation and housing markets without further formality. As advised on the Council's website, the revised commuted sum rates were effective from 01 April 2023 and are now applied to planning applications validated from that date. The updated DC&AH SG document will contain those latest rates.
- 5.6.6 A section has been added on the 'tenure blind' approach to provide more clarity on what this means for a development (Part 2, page 10, of the draft guidance). The aim of this section is to ensure that affordable housing is considered at the very beginning of the design process and complements the market housing, contributing to a mixed community and integration within the development.
- 5.6.7 The percentage in terms of households living in private rental accommodation has been updated to reflect the most current national data (Part 2, page 11, of the draft guidance).
- 5.6.8 The average house prices for the PKC area have been updated to reflect the most recent averages and highlight the significant increase in house sale value compared to other Tayside partners (Part 2, page 12, of the draft guidance).

Primary Education

- 5.7 The main update to the Primary Education section of the DC&AH SG is the uplift in the contribution rate, presently £5,164. This rate is applied to new Open Market dwellinghouses proposed within primary school catchments that demonstrate a 'capacity issue'. A capacity issue is defined in the guidance as being "*where a primary school has been operating at over 80% for 5 out of the previous 7 years and is likely to be operating following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity*". It is proposed that, to better reflect current industry costs, Building Cost Information Service (BCIS) General Build Cost Indexation will be applied for the period since the rate was previously approved by the Council (January 2020) as follows:

(a / b) x c
 'a' means the Index for the month March 2023, the month which precedes the date of this report (440.0)
 'b' means the Index for the month of January 2020, the month in which the DC&AH SG was approved (359.8)
 'c' means the sum to be indexed (£5,164)
 1.22 x £5,164 = **£6,300**

Table 2: Change in Primary Education contribution rate

Primary Education Contribution	Current (2020) Rate	Proposed (2023) Rate	Difference
Per Open Market Dwelling	£5,164	£6,300	+£1,136

5.8 The list of schools that qualify as having a capacity issue, contained within Part 1, Appendix 1, of the DC&AH SG is also updated in consultation with Education & Children’s Services. The guidance currently includes provision to allow this update to be made annually without the need for further formal procedure. It is proposed that similar provision be included in the updated guidance to allow the contribution rate to also be refreshed in a similar way to include any uplift resulting from inflation without need for further formal procedure.

Auchterarder A9 Junction Improvements

5.9 The Auchterarder A9 Junction Improvements section of the DC&AH SG sets out the basis in which Perth & Kinross Council will seek to ensure contributions from developments within the Auchterarder and wider Strathearn housing market area towards meeting the cost of delivering the A9 Junction Improvements that are required in the interests of road safety. The zone for which these contributions are sought is shown in Part 1, Appendix 2, of the draft guidance.

5.10 The circumstances in which a development proposal is assessed for a contribution requirement is set out from Part 1, page 12, of the draft guidance. It is proposed that the wording is amended for non-residential development proposals. Presently, the guidance will only be applied to proposals that require a Transport Assessment. The proposed change in wording will enable non-residential development proposals that result in an increased trip generation equal to or higher than a dwellinghouse to be considered on a case-by-case basis.

Transport Infrastructure

5.11 The Transport Infrastructure section of Part 1 of the draft guidance sets out the basis in which Perth and Kinross Council will seek contributions from developments in and around Perth towards the cost of delivering the transport infrastructure improvements which are required for the release of all development sites and to support the growth of Perth and Kinross. The

Council seeks contributions for the Perth Transport Futures projects A9/A85 Crieff Road junction improvements and the Cross Tay Link Road (CTLR). The developer contribution rates are calculated on the basis of these project costs. Revised project costs for the CTLR were reported to Finance & Resources Committee on 07 September 2022 at a sum of £150,469,000. This updated project cost will now form the basis of the Transport Infrastructure contribution rates.

- 5.12 Traffic modelling undertaken for the preparation of LDP2 identified that 50% of future traffic growth is associated with new development sites contained in the LDP. The contribution level is therefore calculated on the basis of 50% of the total project costs (identified above) and the remainder being sought through other mechanisms. The 'Full' Contribution Area rate applies to all development which is defined by settlements in this area having more than a 19% impact on the transport infrastructure. The 'Reduced' Contribution Area rate applies to development in this area having a 12%-19% impact on the transport infrastructure. The 'Full' and 'Reduced' Areas are shown on the map at Appendix 3 of the guidance. Only the contribution rates, as a result of updated project costs, is proposed for change. The contribution areas will remain as existing.
- 5.13 It is proposed that, as with 5.8 of this report with regards to primary education, similar provision be included in the revised guidance to allow the transport contribution rate to be updated on the basis of reported project costs in a similar way, as required, without need for further formal procedure.
- 5.14 The updated contribution rates are as follows, with comparative change from the current adopted rate. All sums are rounded to the nearest whole pound.:

Table 3: Full Contribution Area

Land Use	CTLR	A9/A85	New Total	Current Total	Change
Retail (m ²)	£139	£46	<u>£185</u>	£154	+£31
Employment (m ²)	£13	£4	<u>£17</u>	£14	+£3
Other Non-Residential (m ²)	£43	£14	<u>£57</u>	£48	+£9
Residential Open Market (per unit)	£3,288	£1,079	<u>£4,367</u>	£3,657	+£710
Residential Affordable (per unit)	£1,644	£540	<u>£2,184</u>	£1,828	+£356

Table 4: Reduced Contribution Area

Land Use	CTLR	A9/A85	New Total	Current Total	Change
Retail (m ²)	£104	£34	<u>£138</u>	£115	+£23
Employment (m ²)	£10	£3	<u>£13</u>	£10	+£3
Other Non-Residential (m ²)	£33	£11	<u>£44</u>	£35	+£9
Residential Open Market (per unit)	£2,466	£810	<u>£3,276</u>	£2,742	+£534
Residential Affordable (per unit)	£1,233	£405	<u>£1,638</u>	£1,370	+£268

- 5.15 Insertion of a new paragraph is also proposed in this section of the guidance relating to LDP2 Site MU70 (Perth West). The following shall be inserted in Part 1, page 14, of the draft guidance after paragraph 6.4:

“Following appropriate assessment, proportionate contributions or mitigation will be sought toward the infrastructure to be delivered at LDP2 Site MU70 (Perth West), including an A9 underpass to address site severance. Early discussions are recommended to establish specific requirements from landowners/developers within MU70.”

Next Steps

- 5.16 The proposed next stage for the DC&AH SG is a period of statutory public consultation, following the presentation of this report, from June 2023. This will be carried out via online consultation, using Consultation Hub. It is anticipated that, as the consultation will coincide with the summer holiday period, the consultation will run for a minimum of 8 weeks. Corporate social media channels will also be used to promote the consultation as appropriate.
- 5.17 Following the period of public consultation, the responses will be collated and reviewed by the project team. The updated guidance will then be brought back to Committee for approval prior to submission to Scottish Ministers for formal adoption.

CONCLUSION

- 6.1 This report provides an overview of the key updates and clarifications being made to the currently adopted Developer Contributions and Affordable Housing Supplementary Guidance.
- 6.2 The guidance is to remain within the policy framework of the adopted statutory Local Development Plan 2 (2019), with future policy changes being

considered as part of the Council’s development plan review for “Local Development Plan 3”.

- 6.3 It is recommended that the Committee agree these proposed changes and approve the draft DC&AH SG (Appendix 1 of this report) as the basis for a period of public consultation.

Author

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Approved

Name	Designation	Date
Barbara Renton	Executive Director (Communities)	23 May 2023

APPENDICES

- Appendix 1 – *Draft Developer Contributions and Affordable Housing Supplementary Guidance (Parts 1 and 2)*

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
Corporate Plan	Yes
Resource Implications	
Financial	Yes
Workforce	No
Asset Management (land, property, IST)	No
Assessments	
Equality Impact Assessment	No
Strategic Environmental Assessment	No
Sustainability (community, economic, environmental)	Yes
Legal and Governance	Yes
Risk	No
Consultation	
Internal	Yes
External	Yes - required
Communication	
Communications Plan	No

The Impact & Value Assessment (IVA) has been designed to screen every Council project, strategy or proposal against statutory and non-statutory environmental, social and economic requirements. It has replaced the previous existing Integrated Appraisal Toolkit (IAT).

[DC&AH SG updates - Committee Annex Checklist](#)

[DC&AH SG updates - Impact Assessments](#)

[DC&AH SG updates - Strategic & Resource Implications](#)

1. Strategic Implications

Community Plan/Single Outcome Agreement

1.1 This report supports the following priorities within the Community Plan 2022-27:

- (i) Mental and physical wellbeing
- (ii) Skills, learning and development

Corporate Plan

- 1.2 This report supports the objectives within the draft new Corporate Plan:
- (i) Children and young people grow up safe, respected, well-educated, and confident in their ability to realise their full potential;
 - (ii) People and businesses are increasingly able to prosper in a local economy which support low carbon ambitions and offers opportunities for all;
 - (iii) People can achieve their best physical and mental health and have access to quality care and support when they need it;
 - (iv) Communities are resilient and physically, digital and socially connected;
 - (v) Perth and Kinross is a safe and vibrant place, mitigating the impact of climate and environmental change for this and future generations.

2. Resource Implications

Financial

- 2.1 The subject of this report does not introduce new commitments for revenue or capital funding. The subject of this report does not require revenue or capital funding. Any income ingathered via payment of developer contributions and affordable housing commuted sums is a financial consideration, however the use of these funds are clearly defined in the relevant Local Development Plan policies, in the supplementary guidance, and in legal agreements, where applicable.
- 2.2 The Head of Finance must be consulted on all proposals with financial implications. No report with such implications should be presented at a meeting when this has not been done and it should be explicitly stated that the Head of Finance has been consulted, and has indicated agreement with the proposals.

Workforce

- 2.3 There are no workforce implications resulting from this report. The Corporate Human Resources Manager must be consulted on all proposals with workforce implications. No report with such implications should be presented at a meeting when this has not been done and it should be explicitly stated that the Corporate Human Resources Manager has been consulted, and has indicated agreement with the proposals.

Asset Management (land, property, IT)

- 2.4 There are no asset management implications resulting from this report. The Director (Environment) must be consulted on all proposals with land and property implications. No report with such implications should be presented at a meeting when this has not been done and it should be explicitly stated that

the Director (Environment) has been consulted, and has indicated agreement with the proposals.

3. Assessments

Equality Impact Assessment

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties. The Equality Impact Assessment undertaken in relation to this report can be viewed clicking [here](#). The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) and have been assessed as **not relevant** for the purposes of EqIA.

Strategic Environmental Assessment (SEA)

- 3.2 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. A Screening Report has been provided to SEA Gateway. It is anticipated that an SEA will not be required.

[230130 SEA screening DC&AH SG.docx](#)

Sustainability

- 3.3 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. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:
- in the way best calculated to delivery of the Act's emissions reduction targets;
 - in the way best calculated to deliver any statutory adaptation programmes; and
 - in a way that it considers most sustainable.

The proposals have been assessed against the Council's Principles for Sustainable Development.

Legal and Governance

- 3.4 The Developer Contributions and Affordable Housing Supplementary Guidance is in place to support the policies contained within Local Development Plan 2 (2019), which forms part of the statutory development plan set by Town and Country Planning (Scotland) Act 1997 (as amended).

- 3.5 The Supplementary Guidance allows Perth and Kinross Council to enter into legal agreements with applicants/developers to secure the future payment or delivery of the types of contributions set out in the Guidance. It is important to review and update the Supplementary Guidance to ensure legal agreements reflect the appropriate level of and requirements for contributions. The Head of Legal and Governance Services has been consulted on the implications and terms of this report.
- 3.6 The Head of Legal and Governance must be consulted on all proposals with legal implications. No report with such implications should be presented at a meeting when this has not been done and it should be explicitly stated that the Head of Legal and Governance has been consulted.

Risk

- 3.7 As the proposals outlined in this report represent an update to existing guidance already adopted by the Council, risk has been deemed low. There is an element of reputational risk when conducting public consultation. The proposals have been assessed for any implications within the corporate risk management process, and also the controls required to mitigate those risks.

4. Consultation

Internal

- 4.1 Officers from the following teams/ services have been consulted in the preparation of this report: Legal and Governance, Education and Children's Services (Recources), Roads Infrastructure, Corporate and Democratic Services (Accountancy), and Planning and Housing Strategy; Development Plans, Housing Strategy and Transportation and Development.

External

- 4.2 This section should detail who has been consulted outwith the Council in the development of the proposals and the preparation of the report, and also the views of the consultees.

5. Communication

- 5.1 A period of public consultation will be required as part of this proposal which will be undertaken via Consultation Hub. The project team will be contactable mainly via Teams (for internal stakeholders) or email and telephone. Corporate social media channels may be utilised to promote the public consultation, any enquiries would be directed to the project team.

2. BACKGROUND PAPERS

- 2.1 This section should list the documents that have been relied on in preparing the report, other than those committee reports already referenced within the main body of the report. All documents must be kept available by the author for inspection by the public for four years from the date of the meeting at which the report is presented.