

PERTH AND KINROSS COUNCIL

Environment, Infrastructure & Economic Development Committee

20 September 2023

DEVELOPER CONTRIBUTIONS AND AFFORDABLE HOUSING SUPPLEMENTARY GUIDANCE UPDATES

Report by Head of Planning and Development
(Report No. 23/259)

1. PURPOSE

- 1.1 This report is presented to the Environment, Infrastructure & Economic Development Committee, as agreed at its meeting on 31 May 2023 ([Report No. 23/170](#)), to update on the proposed changes to the adopted [Developer Contributions and Affordable Housing Supplementary Guidance](#) (DC&AH SG) 2020.
- 1.2 At its meeting on the 31 May, the Committee approved the recommended updates to the DC&AH SG (2020) and to initiate a period of public consultation on those updates. This report provides a summary of the responses collected from that consultation, and any further changes that have been made to the DC&AH SG (2023) since it was last reported to Committee.
- 1.3 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 current iteration 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 subsequently approved by Scottish Ministers and adopted as statutory supplementary guidance.
- 1.4 A copy of the DC&AH SG (2023) document, including any changes made as a result of feedback from the recent period of public consultation, is appended to this report (Appendix 1).

2. RECOMMENDATIONS

- 2.1 It is recommended that Committee:
 - i) notes the responses gathered from the period of public consultation between 9 June 2023 to 4 August 2023 and any changes made to the draft Supplementary Guidance as a result of comments received.
 - ii) remits the Executive Director (Communities) to finalise the Supplementary Guidance, and to submit to Scottish Ministers, and to issue the adopted Supplementary Guidance following Ministerial consideration.

3 STRUCTURE OF REPORT

3.1 This report is structured over the following sections:

- Section 4: Background
- Section 5: Public Consultation
- Section 6: Conclusion
- Appendices

4. BACKGROUND

- 4.1 The Developer Contributions and Affordable Housing Supplementary Guidance (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 has been updated and was presented to the Committee on 31 May 2023 (Report No. 23/170 refers).
- 4.3 The DC&AH SG (2023) will 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.

5. PUBLIC CONSULTATION

Summary

- 5.1 Following Committee approval on 31 May 2023, an 8-week period of public consultation was initiated on Friday 9 June, concluding on Friday 4 August.
- 5.2 The consultation was hosted on the Consultation Hub online platform and was promoted via the Council's corporate social media accounts. Consultation documents published online for interested stakeholders included: the draft DC&AH SG (2023) documents, a summary of key changes, Strategic Environmental Assessment (SEA) Screening documents, and links to other relevant documents such as the adopted Supplementary Guidance, Local Development Plan, and Local Housing Strategy. Hard copies of the draft DC&AH SG (2023) and SEA Screening documents were also provided at Pullar House reception; a requirement of the SEA Regulations.

- 5.3 Feedback on the DC&AH SG (2023) was gathered using a questionnaire. A copy of the Consultation Hub questionnaire is appended to this report (Appendix 2).
- 5.4 The Consultation Hub collected six responses. One further response was submitted to officers via email, and this has been accepted. Responses were submitted by: the development sector (4), community groups (2), and anonymous (1).
- 5.5 An overview of the public consultation process and responses were presented to the Affordable Housing Member Officer Working Group (MOWG) on 14 August 2023. The MOWG discussion has informed the amendments set out below.
- 5.6 The following section of the report considers the draft guidance, the comments that were received through the public consultation, and the changes made to the guidance, where considered appropriate.

Summary of Responses

- 5.7 A summary of the consultation comments, with officers' responses, is appended to this report (Appendix 3). Some themes raised in the consultation comments are:
- Primary Education: comment on existing 80% capacity trigger for contributions,
 - Transport: clarification on the new point regarding LDP2 Site MU70 Perth West (Paragraph 6.5),
 - Transport: comment on general basis of the Transport Infrastructure contribution requirement,
 - Affordable Housing: availability and delivery,
 - Affordable Housing: comments in support of retaining the existing credits system,
 - Affordable Housing: comments regarding flexibility on the 25% minimum provision requirement to respond to viability concerns and local needs,
 - General: comment suggesting better clarity on the intended adoption process being undertaken by the Council, following the public consultation.

Changes to Draft Guidance

- 5.8 Officers have carefully considered the feedback received from the public consultation and changes have been made to the draft Supplementary Guidance document. Changes resulting from the consultation comments are set out in full at Appendix 3 of this report. Other changes made to the document by officers are highlighted as 'tracked changes' in Appendix 1, with examples as follows.

Part 1 – Developer Contributions

- 5.8.1 This part of the Guidance is to be renamed “Part 1 – Policy Implementation and Developer Contributions” to acknowledge the preliminary sections of the document that apply to Part 1 and Part 2.

Part 2 – Affordable Housing

- 5.8.2 Deletion of the map of City Centre zone (Part 2 Paragraph 3.3) as this is already shown at Appendix 4.
- 5.8.3 In line with the existing process, text is added at paragraph 3.9.3 of the DC&AH SG (2023) to reinstate guidance from the adopted DC&AH SG (2020) which confirms that revised commuted sum rates will be published on the Perth and Kinross Council website.

Next Steps

- 5.9 The next step in the process of adopting the Supplementary Guidance is to submit the revised guidance to Scottish Ministers, which is necessary for the guidance to retain its statutory status. If approved, the proposed changes would then take effect legally.
- 5.10 Prior to its adoption, the DC&AH SG (2023) will be formatted in a style in keeping with the Council's other [Supplementary Guidance documents](#) for publishing online.
- 5.11 Officers in the project team will continue to engage with community groups, the development sector, and other stakeholders through the preparation of other key documents, policies, and strategies, such as the local development plan review.

6. CONCLUSION

- 6.1 This report provides an overview of the recent public consultation on the draft Developer Contributions and Affordable Housing Supplementary Guidance (2023), and the outcomes of that consultation.
- 6.2 As reported in May 2023, 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 the proposed guidance (Appendix 1) and proceed to submission to Scottish Ministers.

Author

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Approved

Name	Designation	Date
Barbara Renton	Executive Director (Communities)	7 September 2023

APPENDICES

- Appendix 1 – *Draft Developer Contributions and Affordable Housing Supplementary Guidance (Parts 1 and 2)*
- Appendix 2 – *Copy of Consultation Hub questionnaire*
- Appendix 3 – *Summary of comments and changes*

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 2023 Impact & Value Assessment Report](#)

[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 is 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. Having consulted the three consultation authorities and having considered the criteria set out in the Act, the Council considers that the Developer Contributions and Affordable Housing Supplementary Guidance (2023) is unlikely to have significant environmental effects. The relevant policy has been subject to assessment through the SEA of the Local Development Plan 2 (2019) so significant environmental effects as a result of the guidance that have not already been assessed elsewhere are unlikely. The Council has therefore determined that SEA is not 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 (Resources), Roads Infrastructure, Corporate and Democratic Services (Accountancy), and Planning and Housing Strategy; Development Plans, Housing Strategy and Transportation and Development.

External

- 4.2 This report acknowledges and summarises the responses received to the recent public consultation which were received from external stakeholders.

5. Communication

- 5.1 The project team are contactable mainly via Teams (for internal stakeholders) or email and telephone. Any enquiries relating to the DC&AH SG should be directed to the project team in the first instance.
- 5.2 The Council's webpages for [Developer Contributions](#) and Affordable Housing have been updated since the public consultation closed advising stakeholders on the next steps of the adoption process. Further updates on progress will be published here, where necessary.

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.