

**EAST AYRSHIRE COUNCIL**  
**CABINET – 24 OCTOBER 2007**  
**DEVELOPER CONTRIBUTIONS**

**Report by the Depute Chief Executive/Executive Director of Corporate Support**

**1. PURPOSE OF REPORT**

- 1.1 To seek Cabinet approval for (a) the approach being adopted for developer contributions to be included within the Finalised Alteration to East Ayrshire Local Plan, (b) authorise the Head of Planning & Economic Development to prepare supplementary planning guidance for developer contributions and (c) recommend that consideration be given to funding the post of the Developer Contribution Officer and any additional staff as may be required to administer the contributions fund to be established, from contributions obtained.

**2. BACKGROUND**

- 2.1 In April 2001, the Council's Development Services Committee adopted the East Ayrshire Local Plan which contains Policy TLR5:

*'the Council will request all potential developers of residential sites comprising four or more houses to enter into a Section 75 Agreement with the Authority for contributions towards the provision of appropriate leisure and recreation facilities within the area to which the development relates. Contributions will be at a level to be agreed by the Council, based on the expected number of houses and the level of need in a particular area for particular facilities'.*

- 2.2 This policy was supplemented in May 2003 by the production of Development Promotion Advice Note 11, relating to the establishment of a Sport, Leisure and Recreation Fund, designed specifically to set out procedures for the administration and distribution of funds generated through the application of the policy.
- 2.3 In practice, since 2003, 1% of construction costs are requested voluntarily from developers for four or more houses (including flats and farm conversions). The contributions are payable either via a formal legal agreement where payments are to be deferred or made on a staged basis or prior to the release of planning consent. Since the establishment of the policy, approximately £1.1m of contributions have been received which has assisted in facilitating a wide range of sports, leisure and recreation projects. More recently, at some meetings of the Local Planning Committees, Members have asked for contributions to be ring fenced for a particular project or for local use.

**3. FINALISED ALTERATION TO EAST AYRSHIRE LOCAL PLAN**

- 3.1 As part of the review of the local plan it is appropriate to review the Development Contributions policy and officers have consulted with other

Authorities and have considered the operation of the previous (i.e. existing) policy.

- 3.2 The Local Plan which is currently approaching its finalised draft stage, will set out ambitious proposals for the future development and regeneration of East Ayrshire, with some 7,300 new houses proposed for East Ayrshire by 2017. The underlying aim of the Developer Contributions Policy is to ensure that the level and quality of infrastructure, facilities and amenities enjoyed by existing residents is not compromised by new developments and, equally, that the residents of existing and new developments continue to have access to the highest standards of infrastructure, facilities and amenities possible.
- 3.3 Where new development proposals place a burden on existing infrastructure, facilities or amenities, developer contributions can be sought towards their improvement/replacement. The provision of developer contributions, however, does not negate the Council's responsibility to provide/improve Council facilities and to this end there is a continued requirement for the Council to undertake the improvement of infrastructure, facilities and amenities through other funding mechanisms.
- 3.4 Contributions from developers must be sought in accordance with Scottish Executive Circular 12/1996: Planning Agreements and the policies contained in the emerging Local Plan. The level of contribution sought must also reflect the scale and type of development proposed and must be deemed to be 'reasonable'. There requires to be a link between the development and its impact e.g. the need for additional infrastructure like a school extension being required as a result of the increase in new housing in an area. In discussion with house builders, it is clear that there is a full understanding of the implications of Circular 12/96 and their main concern is that the financial implications of any planning agreement should be known at the earliest opportunity preferably in advance of concluding missives to purchase a site.

#### **4. SUGGESTED WAY AHEAD**

- 4.1 Given that the Local Plan is identifying specific housing sites within a 10 year period to 2017 and considers longer term requirements to 2025 within the context of the Ayrshire Joint Structure Plan it is considered important that development contributions should be dealt with at a strategic level. The levels of supporting investment in infrastructure, education, transportation, amenities and facilities required as a direct result of this anticipated strategic growth are likely to be significant. Less direct impacts which are nevertheless important and relevant is the general impact that this growth and regeneration has on town centres.
- 4.2 Officers of the Council have been working to assess the implications of future strategic housing land release on education, transport (through the Local Transport Strategy and computerised traffic modelling), community facilities (through the Facilities Survey in consultation with Leisure Services) and recreation and open space (through the development of the Council's Open Space Strategy). Further detailed assessment work is required but it is

considered that the principal projects for which developer contributions will be sought should be identified in the Alteration to the East Ayrshire Local Plan thereby providing an important statutory basis for the Council's intention to require specific development contributions to be lodged with the Authority as opposed to simply requesting contributions to be made purely on a voluntary basis.

- 4.3 It is considered that the requirement for developers to make contributions should include residential developments, windfarms and mineral operations. In order not to discourage retail or commercial leisure developments, developer contributions will not be sought from such developers, however, it will be expected that these developers will assist with individual projects as agreed by the Head of Planning & Economic Development. A separate report on windfarm contributions has been prepared for separate consideration by cabinet.
- 4.4 Given the strategic importance of development contributions, it is important that final decisions on projects to which contributions are directed are made by the Cabinet taking into consideration the content of the approved Local Plan and relevant supplementary policies. Indeed the whole process of decision making should also be aligned with the Council's annual budgetary process to allow integration with the Council's Capital Plan and to enable an assessment of revenue implications. This is not the same as mainstreaming the funding but more a recognition that the Development Contributions will provide additional funding to meet the pressures on infrastructure arising from the new developments that are envisaged by the Local Plan.
- 4.5 In order to relate the developer contributions and resultant project to the original development, as required by Circular 12/96, it is suggested that four Developer Contribution Funds are established reflecting the core area and investment corridors identified in the Ayrshire Joint Structure Plan and emerging Local Plan:
- Core Area (Kilmarnock)
  - Glasgow Link Investment Corridor (Stewarton, Kilmaurs, Dunlop, Fenwick)
  - Irvine Valley Investment Corridor (Galston, Newmilns, Darvel)
  - M74 Link/Doon Valley Investment Corridor (Mauchline, Auchinleck, Cumnock, New Cumnock, Dalrymple, Patna, Dalmellington, Muirkirk)

The establishment of these Funds will allow Cabinet to give consideration to the strategic growth of the Core Area/corridor and prioritise projects having due cognisance to agreed criteria such as the level of contributions received and the developments to which they relate. It is suggested that in certain instances, it may be appropriate to cross fund projects which have wider implications and an even greater catchment area e.g. Mauchline by-pass.

- 4.5 Requirements for developer contributions will be set out in the finalised version of the Local Plan Alteration and these will be formulated in the light of wider strategic requirements referred to above. Accordingly it is suggested that progress in meeting these identified developer contributions projects should be monitored as part of the existing annual monitoring development activity process. However it is considered that flexibility will be required if only to take account of changing circumstances (for example unexpected increases in school rolls) and that such an exercise should be carried out on an annual basis in conjunction with the Local Plan monitoring exercise. In practice, it is suggested that quarterly reports are presented to Cabinet on the levels of contributions obtained and that an Annual Report is prepared reviewing contributions obtained and projects delivered and agreeing developer contribution rates and projects for the proceeding year for each core area/growth corridor.
- 4.6 Consideration has also been given to how contributions should be set. The current Sports Leisure and Recreation Fund policy seeks a contribution based on a percentage of construction costs, however, this approach is onerous to administer. Alternative approaches could include contributions based on a percentage of the sale price or based on a flat rate per unit. Again, a contribution based on the percentage of the sale price would be onerous to administer and could fluctuate dependent on the housing market. It is recommended, therefore, that developer contributions should be sought on a flat rate per unit index linked to the date of the legal agreement, For information purposes, developer contributions in Midlothian Council range from £5,000 to £25,000 per residential unit dependent on the needs of particular identified needs arising from the proposed development.
- 4.7 Within East Ayrshire land values vary significantly due to the demand for housing, proximity to transport routes etc. Consideration should also be given, therefore, to increasing developer contributions in those investment corridors where land values are highest and decreasing contributions in areas where land values are lower. This would ensure that developer contributions do not act as a disincentive to development in more marginal corridors.
- 4.8 The general effect of the policy requires a compulsory contribution by developers towards identified deficiencies in particular catchment areas. This is subject to the caveat that contributions may be required from more than one of the proposed four funds in respect of larger strategic projects which benefit more than one of those particular catchment areas. However, to provide maximum flexibility, it will be specified within the Local Plan policy that developers may agree to undertake a particular project from the approved list of identified deficiencies as an alternative to a financial contribution. This would be particularly relevant to larger developments and would ensure the best fit between the construction and mitigation of the development. However, the Local Plan will also recognise that in certain circumstances, particularly, in relation to large developments that the developer may come forward with a betterment project for due consideration which is not contained with the list of identified deficiencies. This type of project will be given due consideration and determined in terms of the specific application.

4.9 In summary therefore it is suggested that Development Contributions should be based on the following key principles

- That four Development Contributions Funds be established based on the core area/investment corridors as set out in the Local Plan to be dispersed by the Council in accordance with the policies and priorities contained in the Local Plan , which will be subject to annual review
- To fund larger strategic works from more than one of the four identified catchment areas
- That payments from the DC Funds are transparent and relate to specific projects which have been identified on a needs basis within identified catchments which is reviewed annually
- That full recognition is given to the requirement to only meet from the proposed developer contribution funds the costs incurred in addressing the identified deficiencies arising from new development as distinct from the Council's mainstream statutory obligation to maintain and support existing infrastructure
- That expenditure from the fund be aligned with the Councils Capital Plan and revenue planning process to ensure proper planning of each corridor to ensure that the Council's Community Plan Action Plan is achieved

4.10 It is proposed that this revised policy be inserted into the Finalised Plan. However, it is likely to be several months until the plan becomes "Adopted" as it is almost certainly going to be subject to a Public Local Inquiry. In the intervening period it is possible that a significant amount of new housing proposals are determined and thus this new policy if accepted by members should be implemented in relation to any planning applications submitted after approval of the Finalised Alteration to East Ayrshire Local Plan.

## **5. LEGAL IMPLICATIONS**

5.1 There will be a continued requirement for Legal Agreements between the Council and individual developers to be prepared. It is anticipated, however, the numbers and complexity of the Legal Agreements being entered into will increase significantly from present levels.

## **6. FINANCIAL/PERSONNEL IMPLICATIONS**

6.1 Developer contributions offer the Council an exciting opportunity to secure additional funding required to meet identified pressures on the existing infrastructure arising from new development in a way that will allow us through Strategic planning to maximise the benefit to all our communities. It should be noted that there are likely to be increased revenue implications for the Council where new facilities are provided/expanded.

6.2 It is recommended that the salary costs associated with the Developer Contributions Officer should be funded from these contributions. Given the

number and complexity of agreements that are likely to be entered into following approval of the Finalised Local Plan Alteration and the need to closely monitor the receipt of contributions and expenditure, it is considered that additional staffing resources will be required to effectively manage the policy. However it is considered appropriate that an appropriate proportion of contributions received should be utilised to fully cover any additional staffing costs.

## **7. COMMUNITY PLANNING ISSUES**

7.1 It is considered that with the scope of developer contributions proposed the resultant projects will assist in meeting all the themes of the Community Plan.

## **8. RECOMMENDATIONS**

8.1 It is recommended that Cabinet:

- i) agrees the approach taken in respect of developer contributions in the emerging Finalised Alteration to the East Ayrshire Local Plan;
- ii) agrees to implement this approach in relation to planning applications submitted after approval of the Finalised Alteration to East Ayrshire Local Plan
- iii) agrees to detailed supplementary planning guidance being prepared in respect of developer contributions, to be reported to a future meeting of Cabinet for consideration; and
- iv) agrees to the post of the Developer Contribution Officer and any other staff resources as deemed appropriate, to be funded from developer contributions obtained.

**Elizabeth Morton**

**Depute Chief Executive/Executive Director of Corporate Support**

8 October 2007 (AB/SA)

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### **BACKGROUND PAPERS**

East Ayrshire Local Plan – Development Services Committee – April 2001

Development Promotion Advice Note 11 – May 2003

Any person wishing further information on this report should contact Alison Brown, Developer Contributions Officer on Tel No (01563) 576253

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