



**COUNCIL EXECUTIVE**

**REVIEW OF DEVELOPER CONTRIBUTIONS**

**REPORT BY HEAD OF PLANNING AND ECONOMIC DEVELOPMENT**

**A. PURPOSE OF REPORT**

The purpose of this report is to advise Council Executive of the outcome of consultation on proposed changes to developer contribution requirements which are aimed at encouraging new development and promoting economic growth.

**B. RECOMMENDATION**

It is recommended that Council Executive:

- (1) notes the outcome of the consultation;
- (2) agrees to suspend the requirement for travel plan co-ordinator contributions until 9 January 2014;
- (3) agrees to reduce the level of contributions for public art until 9 January 2014 and to the introduction of a further reduction or exemption from this contribution if the applicant can demonstrate that the contribution would result in the proposed development not being financially viable; and
- (4) notes that Planning Services will carry out a review of other developer contributions and bring forward any proposed changes to the Development and Transport PDSP in advance of consultation being carried out and before any further changes are considered by Council Executive.

**C. SUMMARY OF IMPLICATIONS**

**I Council Values**

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; and working in partnership.

**II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)**

The implementation of the West Lothian Local Plan (WLLP) will require substantial funding for infrastructure and substantial developer contributions. It is a key requirement of the WLLP and the approved Edinburgh and the Lothians Structure Plan (E&LSP) that

development should not proceed beyond existing infrastructure capacity and that planning permission should not be granted until relevant infrastructure is provided or committed.

Policy IMP 17 of the WLLP indicates that planning agreements (section 75s) will be entered into where appropriate and that developer contributions will be sought in accordance with circular 12/1996 - Planning Agreements (this circular has been replaced by circular 1/2010).

Developer contributions may also be obtained through section 69 agreements under the Local Government (Scotland) Act 1973.

The council has approved various supplementary planning guidance (SPG) on developer contributions to support the implementation of the adopted local plan.

<b>III Implications for Scheme of Delegation to Officers</b>	None.
<b>IV Impact on performance indicators</b>	None.
<b>V Relevance to Single Outcome Agreement</b>	<p>Outcome 1 – We make West Lothian an attractive place for doing business in Scotland.</p> <p>Outcome 10 – We live in well-designed, sustainable places where we are able to access the services we need.</p>
<b>VI Resources - (Financial, Staffing and Property)</b>	<p>The changes will result in reduced developer contributions being received by the council.</p> <p>Reduced developer contribution levels should result in a modest increase in some capital receipts where the council is disposing of land for development.</p>
<b>VII Consideration at PDSP</b>	The proposed changes were reported to the Development and Transport PDSP on 4 August 2011. The panel agreed that consultation should be carried out and that the outcome should be reported to Council Executive.
<b>VIII Other consultations</b>	<p>Internal: Education, Finance and Estates, Legal, Transportation, Area Services, Housing</p> <p>External: Community councils, developers, landowners and Homes for Scotland.</p>

## **D. TERMS OF REPORT**

### **D1** Background

West Lothian Council adopted the West Lothian Local Plan on 13 January 2009. The plan proposes major growth and, as a consequence, substantial developer contributions are required to support the strategy.

The local plan was prepared at a time of strong economic growth but, as a consequence of the credit crunch, the strength of the national and local economy has declined significantly and development activity has been adversely affected.

### **D2** The need for a review of developer contributions

The council has recognised the serious nature of the credit crunch and the impact it has had on development activity in West Lothian and has introduced a number of initiatives to encourage house building and promote economic growth.

The council has forward funded school extensions, agreed interim infrastructure solutions to reduce initial capital costs, allowed developers to phase developer contributions, suspended the requirement for some developer contributions and set up a West Lothian Local Infrastructure Fund.

Despite these initiatives, development activity levels remain low compared with the years leading up to the credit crunch.

It is anticipated that it will take several years to return to pre-credit crunch levels of development activity. Nevertheless, it is considered that reviewing contribution levels will send out positive signals which may assist with speeding up recovery.

Whilst some contributions will remain essential and non-negotiable, there is scope to relax others without compromising the overall development strategy or causing financial difficulties for the council.

The need for a review was highlighted in a CDA update report to the Development and Transport PDSP in December 2010. The PDSP considered proposed changes on 4 August 2011.

### **D3** The proposed changes

#### Travel co-ordinator

On 25 November 2008, Council Executive agreed to suspend requests for developer contributions for the appointment of a travel co-ordinator for a two year period. The contribution rate set out in SPG was £20 per residential unit. The two year period is up and it is now proposed to continue the suspension of this contribution requirement until 24 November 2012 given that the development industry has not recovered since the decision was initially taken to suspend the request for these contributions.

The proposed extension of the suspension of this contribution attracted some comments and these are summarised in Appendix 1, attached, together with proposed responses. It is proposed to make one change as a result of concerns raised. To ensure consistency with changes proposed to public art contributions, it is proposed to suspend the contribution requirement for travel plan co-ordinator requirements to 9 January 2014, rather than to 24 November 2012.

## Public Art

The council approved SPG for Public Art in June 2006. It is considered that a temporary reduction in the contribution levels can be made without compromising the overall quality of developments. At present, retail and housing developers are required to make contributions towards public art. The following changes are proposed:

Single development of retail floorspace over 5000m<sup>2</sup>

– reduce contribution from £15 per m<sup>2</sup> to £12 per m<sup>2</sup> (a reduction of 20%).

Single development of retail floorspace 1500 - 4999m<sup>2</sup>

– reduce contribution from £10 per m<sup>2</sup> to £8 per m<sup>2</sup> (a reduction of 20%).

Single development of retail floorspace 500 – 1499 m<sup>2</sup>

– reduce contribution level from £5 per m<sup>2</sup> to £4 per m<sup>2</sup> (a reduction of 20%).

Single development of residential schemes of 50 houses or more

– reduce contribution level from £250 per unit to £190 per unit (a reduction of 24%).

Single development of residential schemes 10 – 49 units

– reduce contribution level from £150 per unit to £110 per unit (a reduction of around 27%).

The level of reduction for housing developments is higher than that proposed for retail developments given the severe impact that the credit crunch has had on the house building industry.

In all cases, actual contributions would be indexed to changes indicated in the Building Tender Price Index using first quarter 2006 as the base date.

The requirements in Core Development Areas (CDAs) would be negotiated with the above standards as a guide.

The proposed changes to the level of public art contribution attracted some comments and these are summarised in Appendix 1, attached, together with proposed responses. It is not proposed to make further changes to the proposed levels of contribution as a result of the consultation. However, in recognition of the fact that it is becoming more difficult to make proposed developments financially viable, it is proposed to allow applicants to submit viability statements which seek to justify why the required contribution should be reduced or removed.

It is proposed that the following text is added to the SPG:

‘If it can be demonstrated to the satisfaction of the council that the benefits of developing a site which is financially marginal outweighs the requirements for a full public art contribution, then this will be a material consideration in determining any planning application. The council will be prepared to waive or reduce public art contributions where the council is satisfied that this is needed to ensure that a proposed development is financially viable. Applicants who wish to seek a relaxation from making the full public art contribution will be required to submit development viability statements so that the council can assess if a relaxation is justified’.

If the proposed changes to the public art SPG are approved, it is recommended that these levels be set for a period of two years from the date of approval. After that period, a further review will be carried out to establish if the contribution levels should be changed.

### Affordable Housing

The Chief Planner at Scottish Government wrote to all Heads of Planning on 15 March 2011 regarding developer contribution requirements for affordable housing. A copy of his letter is attached. Given the current economic climate and the lower levels of public funding that are likely to be available to support the development of affordable housing in the coming years, the Chief Planner suggested that authorities should consider:

- Whether contributions of 25% or more are likely to be deliverable in the current economic climate. Levels of affordable housing requirement that act to stifle overall levels of housing development are likely to be counter-productive. In certain cases the effect could be that development would not proceed at all.
- The nature of affordable housing need in an area and the extent to which this can be met by proposals capable of development with little or no public subsidy. It is counter-productive to secure land for proposals requiring high levels of subsidy unless the authority is confident that a source for this subsidy can be identified.

The council's policy on affordable housing already contains a degree of flexibility and considers development viability issues. However, since the SPG on affordable housing was approved, the West Lothian Local Plan has been adopted and the inquiry reporters recommended that the council should revise its SPG. Additionally, the Scottish Government Circular on affordable housing has been updated since the SPG was approved.

The review of the SPG on affordable housing recommended by the inquiry reporters was put on hold so that it could be linked with the review of the Local Housing Strategy. The Local Housing Strategy review is now underway so the review of the affordable housing SPG can now progress.

It is intended that a detailed report on any proposed changes to the Affordable Housing SPG will be reported to a future meeting of the Development and Transport Scrutiny Panel in advance of consultation being carried out and before any proposed changes are considered by Council Executive.

### Housing Recovery Conference

The council held a Housing Recovery Conference on 28 November 2011. A report and Action Plan are currently being prepared for the Development and Transport PDSP meeting on 2 February 2012, addressing the key issues raised at the conference. The Action Plan will be reported to Council Executive following consideration by PDSP.

Elected members will have a further opportunity to consider if any further changes to developer contribution requirements should be made to address concerns raised at the conference.

## **E. CONCLUSION**

It is recommended that the requirement for contributions for a travel plan co-ordinator

is suspended until 9 January 2014 and that the level of public art contributions are reduced until 9 January 2014, as set out in this report. It is also proposed that the council should be prepared to waive or reduce public art contributions where it is satisfied that this is needed to ensure that a proposed development is financially viable.

A further report on any proposed changes to the council's SPG on affordable housing will be reported to a future meeting of the Development and Transport PDSP.

## **F. BACKGROUND REFERENCES**

Edinburgh and the Lothians Structure Plan 2015.

West Lothian Local Plan.

SG Circular 1/2010 - Planning Agreements.

Report to Development and Transport PDSP 9 October 2008 - The Effect of the Credit Crunch on the West Lothian Local Plan.

Report to Education Executive on 16 June 2008 - Education Strategy to support the West Lothian Local Plan including pre-adoption modifications.

Report to Council Executive on 22 March 2011 – Funding key infrastructure.

Report to Council Executive on 25 November 2008 – Proposed interim changes to supplementary planning guidance.

Report to Council Executive on 19 May 2009 – West Lothian Local Infrastructure Fund.

Report to Development and Transport PDSP on 9 December 2010 – CDA Update.

Report to Development and Transport PDSP on 4 August 2011 – Review of Developer Contributions

Appendices/Attachments: Two – summary of consultation responses and recommended council response and letter from Chief Planner dated 15 March 2011

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