

Developer Contributions

Planning Guidance Note

Introduction

Developer Contributions are often referred to as 'Planning Gain'. This concept of 'gain' is, however, misleading as developer contributions are aimed at:

- mitigating the direct impacts of development on transport or other infrastructure, such as landscape, etc.;
- ensuring that development meets the need of users (e.g. for play space and parks);
- in the case of housing development, ensuring that development does not add to imbalances already identified (e.g. by addressing affordability or by restoring on-site habitats or linkages in the Green Network); and,
- ensuring that, where appropriate, development contributes to civic pride in the area through a high quality public realm.

This document seeks to build partnerships to achieve the goal of ensuring the most sustainable development. The Council has been working in partnership with developers for many years, traditionally in the form of developer contributions secured through conditions and legal agreements, which have become key mechanisms in the planning system for addressing and mitigating the impacts of new developments. Although such agreements have been used to address on-site requirements, they can also be used to address community-wide infrastructural requirements through developer contributions policy guidance.

This policy guidance on development contributions should enable a transparent, streamlined, practical, consistent and accountable approach to be taken to the negotiation of planning contributions. Policy guidance on developer contributions is an equitable and fair way of achieving the necessary improvements to infrastructure over the longer term. Benefits of developer contribution policy guidance also include the certainty that such guidance can bring to developers in terms of being able to address costs whilst responding to implications for the local community that arise from development.

Format of Guidance

This Guidance Note is one of a suite that accompany the Local Plan 2. Developers are advised to also refer to other relevant Guidance Notes, particularly those addressing the following topics:

- Urban Design;
- Public Art;
- Residential Layout and Redevelopment;
- Daylight and Inter-Visibility of Windows;
- Sustainable Design, Technology and Construction;
- Affordable Housing;
- Green Network;
- Archaeology;
- Transport Assessments and Travel Plans; and,

- Road Layout and Design and Parking Standards.

All planning guidance notes are material considerations in the assessment of planning applications and shall be afforded significant weight in the decision making process. Failure to comply with Guidance Notes may be a reason for refusal of consent.

Legislative Framework

Section 75 of the Town and Country Planning (Scotland) Act 1997 empowers planning authorities to enter into agreements designed to restrict or regulate the development or use of land. It has become recognised that positive obligations (including developer contributions) can be encompassed within this provision.

Section 69 of the Local Government (Scotland) Act 1973 gives authorities the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions. This provision enables agreements to be made, which can include the payment of money or the transfer of assets to a Local Authority where this would discharge the functions of that Local Authority.

Essentially, therefore, Councils have the legal power to seek reasonable and appropriate contributions from developers in association with the granting of planning permission.

Planning Framework

The basis for contributions is further reinforced in Scottish Planning Policy (2010) which states that:

- Authorities may seek a percentage **affordable housing** contribution from developers of new housing developments where this is justified by the housing need and demand assessment and is included in the local housing strategy and development plan. (Paragraph 88)
- Authorities should prepare an **open space** strategy which sets out the vision for new and improved open space and addresses any deficiencies identified. The open space strategy should provide the justification for seeking contributions from developers, and should be taken into account when preparing development plans and deciding planning applications. (Paragraph 152)
- The intended approach to developer contributions linked to the **transport** implications of a proposed development should be set out in the development plan. (Paragraph 170)

It should be noted, however, that the Council may require developers to contribute to the delivery of other local or national objectives including the Central Scotland Green Network and improvements to Civic Pride.

Further Scottish Government policy is set out in Circular 03/2012 Planning Obligation and Good Neighbour Agreements. Circular 03/2012 states that planning agreements under Section 75 of the Town and Country Planning (Scotland) Act 1997 “*should only be sought where they meet all of the following tests:*

- *necessary to make the proposed development acceptable in planning terms;*
- *serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should be relevant to development plans;*
- *relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area ;*

- *fairly and reasonably relate in scale and kind to the proposed development and be;*
- *reasonable in all other respects.” (Paragraph 14)*

Policy Guidance

The Need for Guidance

The preparation of the Local Plan 2 has provided the Council with the opportunity to review its policy guidance relating to developer contributions and ensure a sustainable and robust methodology, particularly in the light of the changing economic environment.

In recent years, the Council has applied policies for contributions on a number of issues, including affordable housing, transport corridor improvements and open space to appropriate developments. Although such developments can take a long time to realise, developers have accepted from the outset the legitimacy of making proportionate contributions given the additional demands placed on infrastructure.

The impact of smaller scale developments can also have a significant impact on public services and infrastructure. To date, smaller developments have only delivered modest developer contributions. It is important, however, that policy guidance on developer contributions addresses both large developments and the individual and cumulative impacts of small-scale developments.

Guidance on where, when and how much developers are required to contribute has previously been sectoral and uncoordinated. This led to developers questioning the contributions being requested and difficulties for Council decision makers in prioritising sometimes competing requirements. This, in turn, can cause delays in the planning application process. The development of suitable guidelines will allow developers to anticipate costs and therefore provide certainty, allowing these costs to be factored-in early in the development process.

Pre-Application Discussions

The need for developer contributions to address on-site and community-wide requirements will affect the economics of a proposed development. Developers should therefore take the need for developer contributions into account when negotiating land values with site owners.

Developers are encouraged to engage with the Planning Authority in pre-application discussions on aspects of potential site development including the potential need for developer contributions.

Planning applications are likely to progress most smoothly where developers establish the details and delivery mechanism for any developer contributions at an early stage.

The Need for Developer Contributions

Before proposals for development are permitted, the Council will require to be satisfied that infrastructure, services and amenities made necessary by the development are provided or will be provided at the appropriate time so as to ensure the proper planning of an area. To this end, the Council may require contributions to be made by developers or landowners to provide additional infrastructure, facilities, improvements or benefits.

Where the cumulative impact of new developments will generate a current or future need for additional infrastructure provision or community facilities, planning permission will only be granted where contributions which are reasonably related to the scale and nature of the proposed development are secured. Contributions will be sought for:

- on-site provision necessary in the interests of comprehensive planning; and/or,
- off-site provision of improvements where existing facilities or infrastructure will be placed under additional pressure as a consequence of the development.

Appendix 1 contains a Developer Contribution Matrix that identifies different types of proposed development and, for each type, indicates whether the Council considers new developments will have an impact and which of the following types of contributions may be required:

- Affordable Housing;
- Transportation Infrastructure & Services;
- Recreation & Public Open Space;
- Public Realm and Civic Pride;
- Community Facilities;
- Education & Health;
- Recycling Facilities;
- Town Centre Management; and,
- Green Network.
- Broadband Infrastructure

Appendix 2 contains a table which identifies further sources of policy and guidance in East Dunbartonshire Local Plan 2 and other Planning Guidance Notes for each of the types of developer contribution. **Appendix 3** provides specific guidance on Recreation & Public Open Space developer contributions, explaining how Policy OS 2 – Provision of Open Space in New Developments of the East Dunbartonshire Local Plan 2 will be applied.

It is recognised that it will not be possible for all development types to support a developer contribution. For example, some affordable housing sites by registered social landlords supported by public subsidy may have difficulty resourcing contributions to open space or transportation infrastructure. Applying a developer contribution could result in sites exceeding the costing benchmark for affordable housing set by the Scottish Government Housing Investment Division.

Developer contributions will generally not be sought from 'Householder Applications', (e.g. garages, extensions, etc.).

Securing Developer Contributions

The requirements of this policy guidance may be secured by means of a Section 69 and/or a Section 75 Legal Agreement prior to the issue of planning permission or by planning conditions.

Should reasonable progress with concluding a legal agreement not be demonstrated within 6 months of a decision on an application, the Council may be minded to review its decision.

Legal Fees and Planning Administration Costs

The applicant will be expected to meet legal costs associated with delivering planning obligations. Such costs will be relatively limited as a proportion of costs overall, but will enable the Council to better direct its resources to the negotiation and completion of legal agreements.

Appendices

Appendix 1 – Developer Contribution Matrix

The following matrix shows where the Council considers new developments will have an impact and where a degree of contribution may be required. This list is not exhaustive and has been put in place to show the related areas where contributions will be sought. For each new topic area for developer contributions there will be a need to justify why it is needed, the area where it is applied and the level of the contribution.

Proposed Development Type	Developer Contributions									
	Affordable Housing	Transportation Infrastructure & Services	Recreation & Public Open Space	Public Realm and Civic Pride	Community Facilities	Education & Health	Recycling Facilities	Town Centre Management	Green Network	Broadband Infrastructure
Shops, Food and Drink, Non-Residential Institutions		X		X			X	X	X	X
Business		X	X	X			X	X	X	X
General Industrial		X		X			X		X	X
Storage / Distribution		X		X			X		X	X
Hostels / Hotels		X		X			X	X	X	X
Residential Institutions		X	X	X	X	X	X		X	X
Market Housing	X	X	X	X	X	X	X		X	X
Affordable Housing		X	X	X	X		X		X	X
Assembly / Leisure		X		X			X	X	X	X

Appendix 2 – Sources of Policy and Guidance

The following table identifies further sources of policy and guidance.

Sources of Policy and Guidance	Developer Contributions									
	Affordable Housing	Transportation Infrastructure & Services	Recreation & Public Open Space	Public Realm and Civic Pride	Community Facilities	Education & Health	Recycling Facilities	Town Centre Management	Green Network	Broadband Infrastructure
Local Plan 2	Policy HMU1	Policy TRANS1; Policy TRANS3	Policy OS 2; Policy NE3	Policy DQ2	Policy CLF1			Policy TCR6	Policy NE3	
Planning Guidance Note	Affordable Housing	Transport Assessments and Travel Plans	Developer Contributions (Appendix 3)	Public Art; Developer Contributions (Appendix 4)		Developer Contributions (Appendix 5)	Residential Layout and Redevelopment	Developer Contributions (Appendix 7)	Green Network	Developer Contributions (Appendix 8)

Appendix 3 – Open Space

Introduction

This appendix explains how Policy OS 2 – Provision of Open Space in New Developments of the East Dunbartonshire Local Plan 2 will be applied. It supersedes Guidance Note 10 – Open Space published in association with the East Dunbartonshire Local Plan.

This appendix outlines the Council's approach to the provision of open space and play areas, providing developers with the necessary guidance to ensure good quality residential environments throughout East Dunbartonshire. The Council recommends that developers should enter into discussions with the Planning Authority at as early a stage as possible, to ensure that proposals for open space provision are appropriate in terms of size and quality, compatible with the Council's wider aims.

Level of Provision and Financial Contribution

Policy OS 2 - Provision of Open Space in New Developments of the of the East Dunbartonshire Local Plan 2 states:

“In line with advice in Scottish Planning Policy: SPP 11: Open Space and Physical Activity (Nov. 2007), Guidance Notes shall be prepared, setting out community specific requirements for the appropriate level of open space in, or associated with, new developments and the level of developer contributions to meeting any shortfall in the quantity or quality of greenspace in the community. This will be based on: i) the Council's current Open Space Audit and Strategy, ii) detailed site assessments.”

To assist in the interpretation of the requirements of policy, the following table outlines the level of open space and recreational land provision, and/or financial contributions which the Council will expect of housing developers. Where appropriate, developments will be expected to make contributions to each of playspaces, local parks and neighbourhood parks.

Type of Provision	Size of Development	Distance from Facility	Requirement
Play space (including children's play equipment) [§]	Developments of 5 + house units [*]	Less than 400m from an existing playspace	Financial Contribution at approved Council rate (£650 per house [#])
		More than 400m from an existing playspace	Construct a play space
Local Park	Developments of 5 to 24 house units [*]		Financial Contribution at approved Council rate (£130 per house [#])
	Developments of 25+ houses or more	Less than 400m from an existing Local or Neighbourhood Park	Financial Contribution at approved Council rate (£130 per house [#])
		More than 400m from an existing Local or Neighbourhood Park	Construct a Local Park
Neighbourhood Park	All new housing development		Financial Contribution at approved Council rate (£230 per house [#])
Notes: [§] – Not required for sheltered/special needs housing. [*] – Financial requirements will be individually negotiable for developments of less than 5 house units. [#] – This scale of requirements will be kept under review and may be modified by Council decision from time to time.			

The following size of new provision will be expected:

Type of Provision	Size of New Provision	Example
Play spaces	Minimum size of 100 sq.m., thereafter 0.2-0.3 hectares per 1000 population	10 houses = 100 sq.m approx. 25 houses = 250 sq.m. approx. 50 houses = 500 sq.m approx.
Local Parks	1.5-1.8 hectares per 1000 population	25 houses = 1700 sq.m. approx. 50 houses = 3400 sq.m approx.
<p>Note: The sizes per 1000 population are based on the former NPFA standards until further research demonstrates a different requirement. The examples are based on the assumption that the number of people per house = Number of bedrooms per house + 1. So, for a one bedroom house there will be two occupants, for a two bedroom house three occupants, for a three bedroom house four occupants, etc.</p>		

General Guidance for Requirements of Open Space and Recreational Land

In any development of open space, developers should ensure that they have taken account the following considerations:

- **Objectives** – Developers should have clear purposes for their open space provision, setting out their long-term design and management objectives.
- **Design and Layout** – The developer should ensure that any open space provided is of high quality, designed in accordance with its set purposes showing richness, character, diversity, allowing for future flexibility and taking into consideration the local characteristics and topography of the area. Suitable drainage of the ground must be provided, and this should include consideration of Sustainable Urban Drainage Systems. Where amenity open space is being provided the Council will encourage large open spaces with low maintenance costs rather than creating a myriad of open spaces that leads to high maintenance costs.
- **Landscaping, Tree Planting, Shrub Planting and Grass Seeding** – The developer will also submit plans showing landscaping details of planting. Planting should be both robust and allow for future flexibility. The landscaping plans will include proposed types of grass seeding to be used, plant types, size and spacing as well as showing the provision of trees and shrubs. Where possible, plants and seeds should be of native species and local stock (provenance).
- **Maintenance and Secure Long Term Funding** – The developer should provide a schedule outlining the long-term maintenance and funding for their open space provision covering all areas of hard and soft landscaping.
- **Safety** – Where appropriate developers will be asked to provide assurances to protect the safety of potential users. These provisions may include:
 - providing lit footpaths to and through open spaces;
 - ensuring that shrub planting will not compromise the safety of pedestrian routes; and,
 - encouraging natural surveillance.
- **Access & Networking** – Open spaces should be located to provide no barriers to access and should be linked to footpaths and other open spaces within the area where possible, with the overall objective to provide a network of open spaces

throughout East Dunbartonshire. The East Dunbartonshire Core Path Plan provides information on paths in East Dunbartonshire and can be found at:

http://www.eastdunbarton.gov.uk/content/transport_and_streets/walking_cycling_and_horse/core_path_plan.aspx

- **Time-scales** – The developer should set out an appropriate time scale to fulfil the open space requirements.
- **Management Plan** – Developers will be required to submit a Management Plan for Open Space (accompanying the planning application) covering the above general requirements, submitting detailed information and any relevant plans for each area. This will ensure that open space is regarded as a long term project requiring continuous funding and maintenance in the future, rather than an ‘addition’ to the planning process which could, after initial agreement and primary investment, be cast aside and neglected. The management plan may be tied in by an agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. This will make the management plan a legal document and will thus ensure that house builders and developer fulfil their commitment fully, with regards to the open space provision.
- **Dog Exercise Areas** – In addition, for residential developments larger than 25 houses, the Council will require developers to provide at their own expense a ‘Dog Exercise Area’. This area will be set apart from other areas of open space.
- **Fencing** – Play areas should be fenced in the following situations:
 - to exclude dogs from play areas for pre-school children and from all play areas which have sand or water play features;
 - to contain young children; and/or,
 - to protect children where a play area is sited close to a busy road, river, or other potential hazard.
- **Accessibility to Play Facilities** – All formal and informal play spaces that are adjacent to new developments must be safely accessible on foot and cycle to all potential users, in particular play spaces for younger children should be provided so that they do not have to cross busy roads to reach them. Roads must also be designed to ensure that safe pedestrian movements can take place between housing and play areas.
- **Signage** – On completion, every play area should have a clear sign stating the name of the play area, who is responsible for it, and a contact telephone number to call if the equipment is damaged, general maintenance needs attention or an accident occurs.

Appendix 4 – Public Realm and Civic Pride

Civic pride relates to the way we value our public spaces and our community. It is a pride in place, a feeling of self-respect or personal worth and a pride and sense of belonging to the community. Civic Pride can be about a single street, a town or a village, or the wider community. It can be about heritage, local achievements, economic prosperity or environmental appearance and standards.

Developers and occupants of new developments are as much a part of the community as anybody else and, as such, are expected to contribute to achieving Council civic pride objectives. Public realm and environmental improvements, which can effectively contribute to the sense of pride in our community, could include, for example:

- development, regeneration, and maintenance of the public realm in town centres;
- greenspace development for better landscapes and parks for communities and visitors, maintaining and establishing local habitats for flora and fauna. Proposals could also include improved access to the green network where shortcoming have been identified;
- establishment of gateway features for East Dunbartonshire at Council boundaries and identified towns and villages;
- improving the visual appearance of communities through provision and maintenance of hanging baskets and floral displays;
- improving the visual appearance of roundabout and junctions through enhanced landscaping; and,
- where this cannot be achieved a financial contribution might also be appropriate, for example to enhance local levels of street sweeping, litter picking, road and green space maintenance.

The Council welcomes developer contributions to civic pride in kind, for example: public art, enhanced landscaping, or other aspects of the development delivered to a higher specification.

The level of expected developer contributions to civic pride will be calculated on the basis of the level of impact that the proposed development will have using calculations based on factors such as the number of users / the footfall. For example, a supermarket would have a higher footfall than offices of the same size and would therefore be expected to make a larger contribution to achieving Council's civic pride objectives.

Appendix 5 – Education & Health

Education

The Council will seek to secure contributions from developers of market housing towards the cost of meeting education infrastructure improvements necessary as a consequence of the proposed development.

The requirement for contributions to education infrastructure improvements will arise where the Council's Education Service identifies a school capacity constraint.

Proposals for dwellings which are not likely to place an additional burden on the existing schools, such as one bedroom apartments, retirement or holiday accommodation, would not be expected to make a contribution.

For large-scale developments, phasing arrangements may need to be agreed between the Council and developers so that, at all times, sufficient school capacity is available.

Health

The conditions in which people live and work, their access to facilities and services, their lifestyles and their ability to develop strong social networks are key determinants of health, wellbeing and quality of life and are all influenced by the planning process. Further information on this matter is contained in the RTPI Good Practice Note 5: Delivering Healthy Communities, which can be downloaded from:

www.rtpi.org.uk/download/6443/GPN5_final.pdf

The Council will seek to secure contributions from developers of market housing towards environments that promote health and wellbeing and towards the cost of meeting health care infrastructure improvements necessary as a consequence of new development.

Following consultation with NHS Greater Glasgow and Clyde and the East Dunbartonshire Community Health Partnership, developers will be expected to make an appropriate contribution to any shortfall in capacity, quality, or location of health service provision related to the proposed development.

Appendix 6 – Route Corridors

Effective route corridors are essential in improving the movement of people throughout an area. They also ensure that residents, shoppers and employees can reach their destination whether it is their home, place of work, business premises or a retailer.

East Dunbartonshire Local Plan 2 Policy TRANS 3 – Developer Requirements requires contributions from developers where developments will generate additional use of the A803 and A81/A739 corridors. The current Local Transport Strategy (2009-2013), and the forthcoming Local Transport Strategy, provides information regarding the works required to both route corridors.

The level of expected developer contribution to route corridors will be calculated on the following basis:

$$Cost = \left(\left(\frac{Cost_{proj}}{2} \right) \times \left(\frac{DM_{am}}{(Move_{am} + T_{FORam})} \right) \right) + \left(\left(\frac{Cost_{proj}}{2} \right) \times \left(\frac{DM_{pm}}{(Move_{pm} + T_{FORpm})} \right) \right)$$

Where:

Cost = Total cost

DM_{am} = Development movements AM Peak 7am to 10am

DM_{pm} = Development movements PM Peak 4pm to 7pm

$Move_{am}$ = Total Vehicle Movements AM peak 7am to 10am

$Move_{pm}$ = Total Vehicle Movements PM peak 4pm to 7pm

$Cost_{proj}$ = Cost of the A81/A803 Project

T_{FORam} = Total Forecast Development Movements AM peak 7am to 10am

T_{FORpm} = Total Forecast Development Movements PM peak 4pm to 7pm

Where a developer is providing, as part of the planning application, a measure which forms part of the route corridor project, this will be considered in determining any required contribution to the relevant route corridor.

Appendix 7 – Town Centre Management

East Dunbartonshire's town centres, as with most town centres across the country, are facing a challenging time and a period of transition. Whilst the role of town centres in our communities is changing, the Council will continue to take a protective approach to retail and apply the town centres first policy for all proposed retail developments.

Notwithstanding the presumption in Policy TCR 2 against out of centre retail development, there are however some instances where the Council may grant planning permission where there is an identified need, and where the development otherwise accords with all other aspects of the plan. In the event of such permissions being granted the Council wishes to ensure that the applicant/ developer contributes appropriately to mitigating the potential negative affect of that particular development on our town centres.

The Council considers the following key factors which differentiate retail development in central and out of centre locations and the associated impacts:

Features of out of centre development

- Ease of development – land assembly is easier than in town centre locations
- Relative costs of development are low, as are business rates
- Ability to introduce accessible and free parking

Impacts of out of centre development

- Reduced shopper numbers in the town centre
- Diversion of trade from town centre businesses
- Reduced town centre investment
- Increased use of private vehicles
- Reduced use of public transport with shoppers driving to the new development
- Reduced cycling and walking with shoppers driving to new development

The purpose of this appendix is therefore, as far as possible, to enable town centres to compete on a more equal footing.

Policy TCR6 sets out the Council's vision for each of its four Town Centres, whose continuing vitality and viability during a time of significant change, is vitally important to the Council.

The Council will require developers whose proposals are shown (through Retail Impact Assessment or other processes) to have an adverse impact on the vitality and viability of Town Centres, but are acceptable in all other respects, to mitigate the adverse impacts which might occur during the life of the development. Mitigation may include the developer constructing and implementing certain projects, or making a financial contribution towards the cost of implementing such projects. In this

regard, the level of contributions will be proportional to the scale of predicted impacts. Contributions will be used within the town centres affected to address the effects of out of centre development.

East Dunbartonshire Council will seek contributions as appropriate to balance effects in one or more of the following areas (not exhaustive):

- Town centre environmental enhancements (landscaping, street furniture, signage shop fronts, planting, parking etc.) – reflecting the impacts of reduced footfall and trade diversion
- Transportation – reflecting reduced public transport use, pedestrian and cycle activity in the town centre
- Promotion of innovative activities – such as pop up shops, markets, events etc

In the longer term, in order to make the transition from the traditional retail dominated Town Centre model to one which is more dependent on Social and Arts activities together with a more specialised forms of retail activity, the Council will develop Town Centre Plans. These Plans will set out agreed visions for each centre and incorporate a range of costed interventions which will aim to maintain vitality and viability by facilitating a smooth transition to the new model. Out of Centre developments which are shown to have an adverse impact on the vitality and viability of centres by diverting trade or footfall will therefore be required to make a proportionate contribution to the delivery of the interventions in the relevant strategy(s). It is anticipated that each Town Centre Plan will set a ten year plan horizon for the anticipated transition and the costed interventions will be expected to be delivered over this period.

A development proposal which has been assessed by an agreed Retail Impact methodology to divert, for example, 10% of trade or footfall would therefore be expected to meet 10% of the costs of delivering the Plan. This contribution will be tied to the development of the site through a Legal Agreement and may, subject to negotiation, be delivered as a single sum or a series of contributions over the ten year period.

Appendix 8 – Provision for Broadband Infrastructure

The Scottish Government sets out a digital ambition and aspirations for a connected place to live in Scotland's Digital Future – A Strategy for Scotland, the NPF3 Main Issues Report and draft Scottish Planning Policy. They expect developments to incorporate provision for the delivery of next generation broadband. The Council therefore expects developers to work with the broadband industry to incorporate fibre optic broadband connectivity infrastructure into new development to ensure that developments can be connected to current and next generation broadband networks. Guidance on preparing for Scotland's Digital Future and the role of developers can be found on the Scottish Government's website.