



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developer contributions will be sought in accordance with circular 12/1996 - Planning Agreements (this circular has been replaced by circular 1/2010).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.

III Implications for Scheme of Delegation to Officers	None.
IV Impact on performance indicators	None.
V Relevance to Single Outcome Agreement	<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>
VI Resources - (Financial, Staffing and Property)	<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>
VII Consideration at PDSP	<p>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.</p>
VIII Other consultations	<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 5000m²

– reduce contribution from £15 per m² to £12 per m² (a reduction of 20%).

Single development of retail floorspace 1500 - 4999m²

– reduce contribution from £10 per m² to £8 per m² (a reduction of 20%).

Single development of retail floorspace 500 – 1499 m²

– reduce contribution level from £5 per m² to £4 per m² (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

10 January 2012

APPENDIX 1

WEST LoTHIAN COUNCIL SUPPLEMENTARY PLANNING GUIDANCE – REVIEW OF DEVELOPER CONTRIBUTIONS

SOURCE	SUMMARY OF COMMENTS	PROPOSED RESPONSE	ACTION REQUIRED
<p>Homes for Scotland (HfS)</p>	<p>The guiding principles for this SPG were drawn from Circular 12/1996, but this has now been replaced by Circular 1/2010. There are significant differences between the Circulars, most significantly the requirement that developer obligations must now meet <u>all five</u> policy tests as set out in paragraphs 11 – 22.</p> <p>The key consideration is whether a contribution is so essential that, without it, planning consent could not be granted. In HfS's view, neither of the contributions to a Travel Co-ordinator nor to public art meet these tests. Indeed, there are several other obligations under West Lothian's SPGs which do not meet the tests either.</p> <p>In the current economic context, development cannot pay for an extensive list of obligations sought by councils. It is acknowledged that WLC is seeking ways of deferring or rescheduling payments to meet obligations, but the wider question has not been asked – are these obligations actually necessary to make development acceptable in planning terms?</p>	<p>It is accepted that developer contribution requirements should be assessed against circular 1/2010. The council is satisfied that the obligations in relation to travel plan co-ordinator and public art satisfy the tests of the circular . There is also development plan support for these obligations.</p> <p>See comments above.</p> <p>The consultation was limited to proposed changes to obligations for travel plan co-ordinator and public art. The council may carry out consultation on proposed changes to other SPG during 2012.</p> <p>The council acknowledges that economic circumstances are difficult and will consider if further changes to SPG are required.</p>	<p>None.</p> <p>Consider if there is a need to review other SPG.</p> <p>Consider if there is a need to review other SPG.</p>

	<p>HfS would be happy to work with West Lothian and other councils to review obligations in SPG in light of the Circular and the economic context.</p> <p>The proposed relaxations of contributions to travel co-ordinator and public art are so insignificant as to be almost irrelevant. The cost savings to developers are £20 for travel co-ordinator and £40-60 for public art. In the context of a range of obligations which could amount to tens of thousands of pounds per house, on top of on-site infrastructure costs, this is a derisory amount which will make no impact on decisions to pursue planning consent or proceed with development.</p> <p>Planning authorities need to ask themselves what is absolutely essential to make development acceptable, and what is merely desirable. Our view is that, other than on site servicing, the only obligations which may pass the five policy tests of Circular 1/2010 are: water and drainage infrastructure, roads and transport, education.</p> <p>There are ways of managing capacity and demand for facilities in the short-term to deal with community facilities, and indeed the principle of managing existing capacity and demand should extend to transportation and education as a first response, with new provision a last resort. Those major cost items are the ones where efforts to reduce costs, reschedule payments or share the risks of funding are most important.</p>	<p>Noted. The council wishes to engage in dialogue with Homes for Scotland on these matters. The Housing Recovery Conference held on 28 November 2011 was a useful forum to obtain the views of Homes for Scotland and its members.</p> <p>The council is aiming to bring forward a number of initiatives to make housing development more viable in West Lothian.</p> <p>Given the difficult economic circumstances that currently prevail, it is now proposed to allow applicants to put forward a case for having public art contributions further reduced or waived.</p> <p>The council will consider if further changes to SPG are required.</p> <p>The council will assess these issues on a case by case basis with a view to minimising the need for capital expenditure during the early stages of development.</p>	<p>To build on the success of the Housing Recovery Conference and engage more frequently in dialogue with Homes for Scotland.</p> <p>Change SPG to allow applicants to submit viability statements to justify why public art contributions should be waived or reduced.</p> <p>Consider If there is a need to review other SPG.</p> <p>Case by case assessment of requirements.</p>
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	<p>HfS's view is that the SPGs on Travel Co-ordinator and Public Art should now be withdrawn totally, not simply suspended or reduced.</p> <p>The following SPGs no longer meet the five policy tests and should also be withdrawn:</p> <p>Cemetery provision Co-location of community facilities Professional services Town centre improvements Park and ride A71 A801 Health impact assessment</p> <p>Affordable Housing HfS welcomes the intention to review the SPG on affordable housing. The context for the delivery of affordable housing has changed fundamentally, in terms of the Government's housing priorities, budgets and benchmarks for subsidy. The approach to delivering affordable housing nationally has switched emphasis to innovative funding models and public/private partnerships.</p> <p>Planning affordable housing polices based on a percentage target for affordable housing on development sites are now more difficult to implement as a result of the diversity of approaches to affordable housing. The "equivalent value" principle in paragraph 22 of PAN 2/2010 becomes critical in this context, where different types and tenures of affordable housing carry different costs to the developer, and the percentage deliverable on a site will vary according to the type of affordable housing and the funding model available to deliver it.</p>	<p>The council does not intend to withdraw the travel plan co-ordinator and public art SPG.</p> <p>The council may carry out consultation on proposed changes to other SPG during 2012.</p> <p>The council will consult Homes for Scotland on any proposed changes to its Affordable Housing SPG.</p>	<p>None</p> <p>Consider if there is a need to review other SPG.</p> <p>Consult Homes for Scotland.</p>
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	<p>SPG on affordable housing therefore has to be much more sophisticated in its understanding of the delivery context. The housing industry will be pleased to assist the Council in drafting workable guidance.</p> <p>It is now time for WLC, and others, to accept that the economic context has fundamentally altered since the adoption of its development plan. A number of the obligations it seeks from developers are firstly, unaffordable now, but more critically, are not acceptable under the tests applied by Government. The number of SPGs in West Lothian should be reduced, in order to focus only on the essential infrastructure needed to make developments acceptable in land-use planning terms. In so doing, West Lothian helps make its own area more competitive in terms of attracting new investment and development. HfS would be pleased to work with the council to undertake a full review of the need for developer obligations contained within the council's SPG.</p>	<p>The council may carry out consultation on proposed changes to other SPG during 2012.</p> <p>WLC wishes to continue discussions with Homes for Scotland on arrange of initiatives that will help to bring about an increased rate of house building in West Lothian.</p>	<p>Consider if there is a need to review other SPG.</p> <p>To build on the success of the Housing Recovery Conference and engage more frequently in dialogue with Homes for Scotland.</p>
<p>Ashdale Property Company Ltd / Barton Willmore</p>	<p>Barton Willmore fully endorse the representations prepared by Homes for Scotland, on behalf of the Scottish home building industry, in response to the proposed review of developer contributions in respect of travel co-ordinator, public art and affordable housing.</p> <p>Travel Co-ordinator</p> <p>It is unlikely that the development industry will recover to an extent that would justify a developer contribution of £20 per residential unit over the coming years. On a more practical note and in light of the present economic downturn, the council could deal with the assessment of sustainable travel issues for new development utilising existing council resources and, thereby, remove the requirement for unnecessary financial contributions.</p> <p>On this basis, it can be justifiably argued that the requirement for a developer contribution in this respect should be withdrawn in its entirety.</p>	<p>See comments above.</p> <p>It is proposed to extend the period over which the travel plan co-ordinator obligation is suspended until 9 January 2014.</p>	<p>See comments above.</p> <p>Extend suspension period until 9 January 2014.</p>

	<p>Public Art The requirement to contribute £250 per residential unit for developments over 50 units is wholly unreasonable e.g. 350 unit residential development would be required to pay £87,500. This is a large financial sum, which in the present economic climate acts as an impediment to the viability of residential developments in West Lothian.</p> <p>Considering the proposed amendment (reduction) to contributions levels from £250n per unit to £190 per unit, this remains a substantial and unviable sum in the present economic climate. The council must suspend, or fully withdraw, the requirement for Public Art contributions. Moreover, in the context of supporting housing development throughout West Lothian, the requirement for Public Art is not deemed to be of crucial importance.</p> <p>Affordable Housing The impending review of the SPG must have regard to the content of the Chief Planner's letter 15 March in relation to affordable housing. Cognisant of the credit crunch, it is imperative that the council fully appreciates the extent to which the implementation of affordable housing provision requirements on residential development can greatly hinder viability and thus deliverability of housing.</p> <p>For CDAs, the council must review their present position in respect of affordable housing provision. It is a somewhat high expectation for CDAs to deliver in the present economic climate.</p> <p>The council's proposed changes fall well short of a package of measures that will make any real difference and what is called for is a fundamental review/re-think of the full extent of potential planning gain requirements which go well beyond the three topics covered by this review.</p>	<p>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.</p> <p>Consultation on proposed changes to the Affordable Housing SPG will be carried out in due course.</p>	<p>Change SPG to allow applicants to submit viability statements to justify why public art contributions should be waived or reduced.</p> <p>Consult on SPG changes.</p>
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	<p>It is imperative that the council pay particular attention to the issues raised by the Scottish housing development industry in terms of the unviable developer contribution requirements are having on the delivery of residential developments and the wider economic growth.</p>		
<p>Mansell Homes & Davison and Robertson / Rick Finc Associates</p>	<p>Whilst it is recognised that contribution levels need to be rationalised these measures are long overdue and emphasise the need for Policy IMP 17 and the Circular 1/2010 to be interpreted in a responsible manner, with each case treated on its own merits. It is not disputed that some items are essential but nothing should be non negotiable as suggested in the report if a truly flexible approach is to apply.</p> <p>The reductions proposed in respect of Public Art are relatively marginal in nature. Whilst it is acknowledged that these are for guidance only in CDAs we would question the value and use of these contributions in a period of severe difficulty.</p> <p>It is arguable that the cost benefit associated with this policy is not effective in that it creates delay and results in considerable workload for the council in terms of cost administration. Furthermore, it can be seen as a deterrent to applicants and brake on economic development if applied without due discretion.</p> <p>Affordable housing on the other hand is a basic necessity and itself has been subject to recent public spending cuts. The guidance provided by the Scottish Government needs to be reflected within new SPG so that proper consideration is given to releasing constrained development, assisting delivery and ensuring that viability can be maintained across the board. It can also reflect the guidance provided in circular 2/2010 on Housing Audits and Affordable Housing.</p>	<p>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.</p> <p>Consultation on proposed changes to the Affordable Housing SPG will be carried out in due course.</p>	<p>Change SPG to allow applicants to submit viability statements to justify why public art contributions should be waived or reduced.</p> <p>Consult on SPG changes.</p>

<p>Scottish War Blinded / Smiths Gore</p>	<p>We consider that the level of proposed reductions will not have any significant impact on enabling house building in West Lothian and that many of the requests for developer contributions do not align with the advice and guidance set out by the Scottish Government in Circular 1/10 – Planning Agreements.</p> <p>We recommend that the council should react more positively if they are to encourage housing development and promote economic growth in the short-term, by reviewing the need for education infrastructure contributions if there is already capacity to accommodate new development.</p> <p>Travel Co-ordinator The SPG was prepared prior to the publication of Circular 1/2010 – Planning Agreements. The council should therefore consider the request for contributions in the policy tests set out in the Circular. It is our opinion that the request for contributions towards a Travel Co-ordinator position within the council fails on the grounds set out in the Circular of necessity, planning purpose, and its direct relation to proposed development.</p> <p>Based on the content of Circular 1/10 we are supportive of the council's suspending this requirement however, we request that, there should be no further proposals to continue with these requests.</p> <p>Public Art The SPG is now out-dated by the policies set out in Circular 1/2010. There is no policy requirement in the SPP to state that public art is a requirement for new housing development. Para 16 of Circular 1/10 states that contributions are only required if a development creates a direct need for it. The request is no longer relevant to the planning system.</p> <p>We recommend the council should ensure a higher quality of design through the Development Management process to provide more cost effective solutions to achieving public art</p>	<p>The council is satisfied that the obligations in relation to travel plan co-ordinator and public art satisfy the tests of circular 1/2010.</p> <p>The council is aiming to bring forward a number of initiatives to make housing development more viable in West Lothian.</p> <p>It is proposed to extend the period over which the travel plan co-ordinator obligation is suspended until 9 January 2014.</p> <p>The council will be prepared to waive or reduce public art contributions where it is satisfied that there is needed to ensure that a development is viable.</p>	<p>None.</p> <p>Consider other initiatives that can help encourage housing development and economic growth.</p> <p>Extend suspension period until 9 January 2014.</p> <p>Change SPG to allow applicants to submit viability statements to justify why public art contributions should be waived or reduced.</p>
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	<p>as part of new development e.g landscape features, improved planting, or better quality street furniture and explore alternative funding options for them to be provided.</p> <p>Affordable Housing We welcome and support the council taking full account of the Chief Planner's comments regarding the amount of affordable housing necessary in new developments and urge that the council put in place a realistic policy to enable housing development in the short term. The policy should be flexible and realistic in relation to the timescale in which they expect affordable housing to be delivered.</p>	<p>Consultation on proposed changes to the Affordable Housing SPG will be carried out in due course.</p>	<p>Consult on proposed changes to SPG.</p>
<p>Achadonn Properties Ltd / Blueprint Planning & Development</p>	<p>My clients have found in relation to their redevelopment application of a major brownfield site within the Armadale CDA that the assistance referred to in the committee report (review of developer contributions, Page 2) differs from their experience in Armadale.</p> <p>The committee report that seeks to review developer contributions does not send out a positive signal in our view. A £20 reduction from the travel co-ordinator and a £60 reduction in public art payments per unit makes no attempt to improve development activity.</p>	<p>The council has taken a flexible approach to infrastructure provision in Armadale and this has contributed to a site start getting under way at Armadale Station.</p> <p>The council is aiming to bring forward a number of initiatives to help make housing development in Armadale more viable.</p>	<p>Continue to explore how other parts of the Armadale CDA can be brought forward.</p> <p>Consider other initiatives that can help encourage housing development and economic growth.</p>

	<p>The council refer to the Chief Planner's letter to all councils and the scope to reduce affordable housing contributions. This could make a significant difference, however WLC have deferred their recommendation on his for future report and future committee date. We would request that this is given immediate attention.</p> <p>The report should also take account of the acknowledged difference in cost of developing brownfield sites when compared with greenfield sites. When contributions are the same per unit for brownfield and greenfield sites, Greenfield sites will be developed first. This provides no support to the local area as the housing developer will move on to other more straight forward sites in other towns and other council areas due to the cost differential.</p>	<p>The council will bring forward proposals when it is in a position to do so.</p> <p>The council will be prepared to waive or reduce public art contributions where it is satisfied that this is needed to ensure that development is viable.</p> <p>The council may carry out consultation on proposed changes to other SPG during 2012.</p>	<p>Complete review of Affordable Housing SPG.</p> <p>Change SPG to allow applicants to submit development viability statements to justify why public art contributions should be waived or reduced.</p> <p>Consider if other SPG should be reviewed.</p>
<p>Ecosse Regeneration / McInally Associates</p>	<p>The overall approach to relax contributions is welcomed, however we would submit that it is of the utmost importance that a degree of flexibility is incorporated into any such policy and proposed policy changes concerning developer contributions. Given the current economic climate it is submitted that flexibility should be applied to all policies in order to ensure development is encouraged and not restricted. It is submitted that adopting such a flexible policy will enable developments to be considered on a case by case basis allowing contribution levels to be negotiated to take into account the viability of the overall development. In all regards a flexible approach will help encourage development and subsequently economic growth.</p>	<p>The council will be prepared to waive or reduce public art contributions where it is satisfied that this is needed to ensure that development is viable.</p> <p>The council will consider if further changes are required to SPG.</p>	<p>Change SPG to allow applicants to submit development viability statements to justify why public art contributions should be waived or reduced.</p> <p>Consider if other SPG should be reviewed.</p>

	<p>Given that it is submitted that a viability statement as suggested below should be included in every council SPG / Report concerning developer contributions:</p> <p><i>“What if the requirement for financial contributions affects the viability of the development?”</i></p> <p>With reference to the prevailing economic conditions and circumstances, 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 [insert specific developer provision or contribution], then this will be a material consideration in determining any planning application”</p> <p>With specific regard to the review of the West Lothian Council Affordable Housing SPG it is submitted that, as stated, this should be in compliance with the Chief Planner’s letter and Scottish Government Planning Advice Note 2/2010 on affordable housing, especially in terms of the range and types of tenure that can contribute to affordable housing (as outlined in para 5, page 2 of PAN 2/2010).</p>	<p>The council is not willing to introduce a viability test for all SPG contributions. For example, if housing development proceeded without contributions for education infrastructure, the council would not be in a position to provide school capacity for the proposed development. However, the council is willing to introduce such a test for public art contributions.</p> <p>The council is willing to make this change to the SPG in relation to public art contributions.</p> <p>Consultation on proposed changes to the Affordable Housing SPG will be carried out in due course.</p>	<p>Change SPG.</p> <p>Change SPG</p> <p>Consult on proposed changes to SPG.</p>
<p>Ironside Farrar Ltd</p>	<p>Developer contributions have become a significant constraint on development and investment. It is understood that WLC are promoting a more flexible response but the scale of the market restructuring and changes in development value suggest that any change needs to be radical and time limited to have any impact or incentive. Securing the objective of the review would need all developer contributions to Travel Co-ordinator/Public Art/Towns and Villages Centre Improvements/Library Facilities/Wider strategic transport aspirations/cemeteries to be suspended for a 3 year period and reviewed thereafter.</p>	<p>The council may carry out consultation on further changes to SPG during 2012.</p> <p>It is proposed to extend the period over which the travel plan co-ordinator obligation is suspended until 9 January 2014.</p>	<p>Consider if other SPG should be reviewed.</p> <p>Extend suspension to 9 January 2014.</p>

	<p>Specific to the consultation paper. We welcome the relaxation of some developer contributions in order to encourage house building and promote economic growth and would appreciate being made aware of any future consultation documentation in particular with respect to affordable housing. Furthermore we welcome the ability to negotiate the public art contribution in core development areas. We do however consider that there should be scope to negotiate all contributions across the council area taking into account the current economic climate and issues of development viability.</p>	<p>The council will be prepared to waive or reduce public art contributions where it is satisfied that this is needed to ensure that a development is viable.</p>	<p>Change SPG to allow applicants to submit viability statements to justify why public art contributions should be waived or reduced.</p>
<p>Taylor Wimpey / Holder Planning</p>	<p>Our response reflects submissions made by Homes for Scotland and the Walker Group.</p> <p>The recently issued SPGs are based on out dated policy – Circular 12/1996. Circular 1/2010 requires that developer contributions must now meet all five policy tests as set out in paragraphs 11-22.</p> <p>The key consideration is whether a contribution is so essential that, without it, planning consent could not be granted. In our view, neither of the contributions to a Travel Co-ordinator nor to public art meets these tests.</p> <p>In the current economic context, development cannot pay for an extensive list of obligations sought by councils. It is acknowledged that WLC is seeking ways of deferring or rescheduling payments to meet obligations, but the wider question has not been asked – are these obligations actually necessary to make development acceptable in planning terms?</p> <p>The proposed relaxations of contributions to travel co-ordinator and public art are so insignificant as to be almost irrelevant. The cost savings to developers are £20 for travel co-ordinator and £40-60 for public art. In the context of a range of obligations which could amount to tens of thousands of pounds per house, on top of on-site infrastructure costs,</p>	<p>See responses made in relation to Homes for Scotland comments.</p>	<p>See responses made in relation to Homes for Scotland comments.</p>

	<p>this is a derisory amount which will make no impact on decisions to pursue planning consent or proceed with development.</p> <p>Planning authorities need to ask themselves what is absolutely essential to make development acceptable, and what is merely desirable. Our view is that, other than on site servicing, the only obligations which may pass the five policy tests of Circular 1/2010 are: water and drainage infrastructure, roads and transport, education.</p> <p>There are ways of managing capacity and demand for facilities in the short-term to deal with community facilities, and indeed the principle of managing existing capacity and demand should extend to transportation and education as a first response, with new provision a last resort.</p> <p>In our view the SPGs on Travel Co-ordinator and Public Art should now be withdrawn totally, not simply suspended or reduced.</p>		
<p>Overton Farm Developments Ltd / Holder Planning</p>	<p>Our response reflects submissions made by Homes for Scotland and the Walker Group.</p> <p>The recently issued SPGs are based on out dated policy – Circular 12/1996. Circular 1/2010 requires that developer contributions must now meet all five policy tests as set out in paragraphs 11-22. The key consideration is whether a contribution is so essential that, without it, planning consent could not be granted. In our view, neither of the contributions to a Travel Co-ordinator nor to public art meets these tests.</p> <p>In the current economic context, development cannot pay for an extensive list of obligations sought by councils. It is acknowledged that WLC is seeking ways of deferring or rescheduling payments to meet obligations, but the wider question has not been asked – are these obligations actually necessary to make development acceptable in planning terms?</p>	<p>See responses made in relation to Homes for Scotland comments.</p>	<p>See responses made in relation to Homes for Scotland comments.</p>

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Heads of Planning

15 March 2011

Dear Colleague

PLANNING FOR AFFORDABLE HOUSING

Further to my letter of 29 October 2010 about the provision of an effective supply of land for housing, I am writing to you now regarding requirements for developers to contribute towards affordable housing. In particular I would like to raise the importance the Scottish Government attaches to planning policies, and the implementation of these policies, reflecting the current economic climate.

Scottish Planning Policy (SPP) states that where a need for affordable housing is identified, it should be addressed in the development plan as part of the housing land allocation. It goes on to say that innovative and flexible approaches will be required to deliver affordable houses in suitable numbers. The SPP makes it clear that affordable housing policies should be realistic and take into account considerations such as development viability and the availability of funding. The SPP states that the development plan may seek 25% of the total number of housing units within new housing developments to be affordable, where this is justified by a housing need and demand assessment. But if evidence points to a different figure, then the 25% does not apply. Further advice on the range of options for providing affordable housing is contained in PAN 2/2010 on affordable housing and housing land audits.

My letter of 29 October 2010 stressed the importance the Scottish Government places on removing constraints to the development of housing land in the current economic climate. Authorities will also be aware of the significantly lower levels of public funding that are likely to be available to support the development of affordable housing in the coming years. In these circumstances I suggest that authorities, in drawing up and implementing planning policies on affordable housing, 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.

I am aware that several development plan policies on this topic already build in a consideration of development viability, and that many authorities have demonstrated a willingness to respond flexibly to the changes in circumstances that we are facing. Nothing in this letter should be taken as a change in the Scottish Government's policy on the role of the planning system in delivering affordable housing. The SPP already contains references to realism and flexibility and my purpose in writing is only to highlight these to you as you prepare, implement and monitor your affordable housing policies.

Yours faithfully



JAMES G MACKINNON
Chief Planner