

**ANGUS COUNCIL**

**ANGUS COUNCIL – 8 DECEMBER 2016**

**ANGUS LOCAL DEVELOPMENT PLAN SUPPLEMENTARY GUIDANCE**

**REPORT BY VIVIEN SMITH – HEAD OF PLANNING AND PLACE**

**ABSTRACT**

This report provides an update on the response from Scottish Ministers to the notice of intention to adopt the Angus Local Development Plan Supplementary Guidance on Developer Contributions & Affordable Housing. It recommends that the Supplementary Guidance be updated and adopted in line with the direction issued by Scottish Ministers.

**1. RECOMMENDATIONS**

It is recommended that the Council:

- (i) Agree the adoption of the Developer Contributions & Affordable Housing Supplementary Guidance in line with the direction issued by Scottish Ministers.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN**

This report does not directly contribute to the local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016. It will however assist with the implementation of the Angus Local Development Plan.

The Angus Local Development Plan contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- We have a sustainable economy with good employment opportunities;
- Angus is a good place to live in, work and visit;
- Individuals and families are involved in decisions which affect them;
- Individuals are involved in their communities;
- Our communities are safe, secure and vibrant;
- We have improved the health and wellbeing of our people and inequalities are reduced;
- Individuals are supported in their own communities with good quality services;
- Our communities are developer in a sustainable manner;
- Our natural and built environment is protected and enjoyed; and
- Our carbon footprint is reduced.

**3. BACKGROUND**

Supplementary Guidance, once adopted, forms part of the Angus Local Development Plan. It may only deal with the provision of further information or detail in respect of the policies or proposals set out in the Local Development Plan and matters which are expressly identifies in a statement contained in the Plan.

The Local Development Plan identifies four Supplementary Guidance documents to support the implementation of the Plan.

At their meeting of the 8 September 2016 Angus Council agreed the adoption of the Developer Contributions & Affordable Housing and Countryside Housing Supplementary Guidance (Report 331/16 refers) following the completion of relevant procedures. Notification

to Scottish Ministers of the intention to adopt both Supplementary Guidance documents was sent to the Scottish Government in early October 2016.

On the 8 November 2016 Angus Council received confirmation from Scottish Ministers that the Council could proceed to adopt the Countryside Housing Supplementary Guidance. This now forms part of the Local Development Plan.

#### **4. PROPOSAL**

Scottish Ministers responded to the Council on 3<sup>rd</sup> November 2016 in relation to the Developer Contributions & Affordable Housing Supplementary Guidance directing that an additional time period was required to consider the Guidance. On the 24<sup>th</sup> November 2016 Scottish Ministers issues a direction advising that the guidance may not be adopted until this is complied with.

The direction requires the amendment of the first paragraph of page 7 to delete the final sentence: *"The costs of the preparation of the legal agreement and the applicant's own legal costs must be met by the applicant"*.

This particular sentence is in reference to charging applicants for the Council's costs in preparing a planning obligation, often termed a Section 75 agreement. Work on planning obligations is undertaken by the Council's Legal Services department with the Resources Directorate.

The Scottish Ministers state that the modification is required as there is no provision in current regulations for payment of charges relating to the drafting or conclusion of legal agreement under section 75 of the Act. Similar directions have been issued to other local authorities who have included similar statements within their guidance to reflect a practice which is common across Scotland. Further discussion with the Scottish Government of the implications of this approach on Council's revenue budgets and the impact on planning timescales is underway at a national level with the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) and through the Planning Review.

The Council will monitor progress on these discussions to ensure there is no negative impact on planning or legal performance moving forward.

#### **5. FINANCIAL IMPLICATIONS**

The modification as set out in the direction by Scottish Ministers will have an impact on the Council's revenue budget. The Council will monitor progress on discussions between the Scottish Government and SOLAR to ensure there is no negative impact on planning or legal performance moving forward.

#### **6. RISKS**

The Supplementary Guidance cannot be adopted until the direction is complied with. Failure to have Supplementary Guidance may impact on the ability of Angus Council to secure developer contributions required to deliver key infrastructure or on the delivery of affordable housing. It may also result in a lack of consistency in application of policy.

**NOTE:** The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Angus Local Development Plan 2016
- Report 331/16 Angus Local Development Plan Supplementary Guidance, Angus Council, 8 September 2016

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