

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 26 JANUARY 2016**

**DEVELOPER CONTRIBUTION MONITORING**

**REPORT BY HEAD OF PLANNING AND PLACE**

**Abstract:**

This report provides Committee with an update of monitoring undertaken by the Planning Obligations Monitoring Group and provides an indication of potential income from developer contributions in respect of planning applications submitted between 1999 and 2015. It also provides an update of contributions that have been received to date.

**1. RECOMMENDATION**

It is recommended that Committee note: -

- (i) the potential income from financial contributions in respect of planning applications received between 1999 and 2015 where there has been a resolution to grant planning permission or where planning permission has been granted;
- (ii) that further reports updating the position in relation to receipt of financial contributions will be provided on a quarterly basis.

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

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

**3. BACKGROUND**

3.1 Planning Obligations, formerly known as planning agreements or Section 75 Agreements, are utilised in the planning process where they can be used in planning applications to overcome obstacles to the grant of planning permission when this cannot be achieved by the use of planning conditions. The basis for Planning Obligations is contained within the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006. Planning Obligations are most commonly used where the planning authority consider that an Obligation should be sought in relation to land use matters but can also be unilaterally proposed by a person in respect of land that they own or control. Financial contributions in respect of planning applications can also be secured through Section 69 of the Local Government (Scotland) Act 1973.

3.2 Planning Obligations required under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) are generally used when there are or would be infrastructure deficiencies which require to be mitigated as a result of a proposed development contained within a planning application. In Angus current practice illustrates that Planning Obligations relate largely to affordable housing provision, education provision, open space provision, public transport and road infrastructure improvement, provision of restoration bonds for development such as quarries, and control over occupation of dwellings, in particular control of agricultural essential worker housing. The development plan framework for Angus, principally the Angus Local Plan Review, provides the policy context for Planning Obligations. The Scottish Government have, through planning circulars, set out policy tests in relation to the types and scale of negotiated Planning Obligations. Essentially, in seeking to secure Planning Obligations, planning authorities are advised that such obligations should be

necessary, serve a planning purpose, be related to the proposed development and be fair and reasonable in scale and kind to the proposed development. The planning permission notice is not issued until the planning obligation is agreed, signed and recorded. Since 2011 applicants have the ability to submit formal application to discharge or modify a Planning Obligation. Where approval for such an application is not forthcoming an applicant may appeal to the Scottish Government.

- 3.3 Report 716/12 advised that the Planning Service had established a Planning Obligation Monitoring Group (POMG) principally in order to monitor receipt of financial contributions secured through Planning Obligations. The POMG comprises officers from Planning Service as well as officers from relevant service departments who are involved in both identifying the requirement for contributions and for their spend on appropriate projects. That report undertook to update Committee on receipt of monies. Information on spend from those contributions will be reported to the relevant service Committees as appropriate.
- 3.4 The last update to the Development Standards Committee was provided in Report 354/15. A summary of the update since that time will be provided in this report.

#### 4. DISCUSSION

- 4.1 The Planning Obligations Monitoring Group has met on a number of occasions and continues to compile a detailed record of those financial contributions required in association with planning applications through either Section 75 of the Town and Country Planning (Scotland) Act 1997 or Section 69 of the Local Government (Scotland) Act 1973.
- 4.2 Committee should note that payments in respect of Planning Obligations secured through Section 75 of the Town and Country Planning (Scotland) Act 1997 are generally not required to be paid until a development has commenced or unless a specific trigger has been met thereafter. As some developments may never commence the payment may therefore never be due. Similarly, there is provision for applicants' to make an application to have a Planning Obligation modified or discharged after it has been concluded. Accordingly caution must be exercised in respect of 'potential income' as it may ultimately not be realised if the development does not commence or in the event that terms of an existing Planning Obligation is modified or discharged.
- 4.3 For planning applications submitted between 1 January 1999 and 15 December 2015 potential financial contributions amounting to £4,444,095 could be accrued. This is broken down as follows: -

**Table 1**

	Potential Income	Payments Received	Overdue	Payments Not Yet Due
<b>Open Space</b>	£559,845	£181,000	£0	£378,845
<b>Affordable Housing</b>	£763,150	£567,900	£0	£195,250
<b>Education</b>	£7,278,600	£597,950	£0	£6,680,650
<b>Roads</b>	£150,500	£150,500	£0	£0
<b>Community Facilities</b>	£332,000	£92,000	£0	£240,000
<b>Totals</b>	<b>£9,084,095</b>	<b>£1,589,350</b>	<b>£NIL</b>	<b>£7,494,745</b>

- 4.4 The Planning Service is continuing the process of reviewing Planning Obligations to identify those where financial contributions are potentially outstanding and undertake to seek payment as appropriate.
- 4.5 It is highlighted that Table 1 now includes reference to 'Community Facilities', reflecting more recent practice for obligations to require financial contributions to mitigate the impact of the development proposed on communities to provide improved facilities or new provision. To date two sites are subject of Planning Obligations requiring such contributions.

## **5. OTHER IMPLICATIONS**

There are no financial, human rights or equalities implications arising from this report.

## **6. CONCLUSION**

- 6.1 Developer contributions are an important element of the planning system as they can overcome obstacles to the grant of planning permission. In this way development can be permitted or enhanced and potentially negative impacts on land use, the environment and infrastructure can be reduced, eliminated or compensated for.
- 6.2 Monitoring of receipt of payments of developer contributions has, in the past, been undertaken by individual service departments in different ways and with little clarity on overall responsibility for monitoring and enforcing payment. The Planning Obligations Monitoring Group has been established in order to ensure a more robust means of monitoring payment of developer contributions and to ensure that appropriate action is taken to pursue any contributions that are overdue. The Planning Obligations Monitoring Group will provide update reports to Committee on a quarterly basis.

## **NOTE**

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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