

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 13 DECEMBER 2022

DEVELOPER CONTRIBUTION MONITORING

REPORT BY SERVICE LEADER – PLANNING & SUSTAINABLE GROWTH

Abstract: This report provides Committee with an update of monitoring undertaken in respect of developer contributions and provides an indication of potential income from developer contributions in respect of planning applications submitted between 2007 and 2022. 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 2007 and 2022 where planning permission has been granted;
- (ii) that the Planning (Scotland) Act 2019 will, when in force, introduce a requirement for planning authority to publish an annual report on planning obligations that have been entered into that year or a previous year and have not yet expired or have not been complied with.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- Safe, secure, vibrant and sustainable communities
- More opportunities for people to achieve success
- An enhanced, protected and enjoyed natural and built environment

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 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 development proposed in a planning application. The development plan framework for Angus, principally the Angus Local Development Plan (2016), provides the policy context for

planning obligations; and the [Developer Contributions and Affordable Housing Supplementary Guidance \(2018\)](#) sets out where financial contributions will be sought to mitigate the impact of new development. In Angus planning obligations are mainly used to secure affordable housing provision, or to secure financial contributions towards education provision, open space provision, to secure improved community facilities, public transport and road infrastructure improvement. They are also used to secure provision of restoration bonds for development such as quarries, and control over occupation of dwellings, in particular control of agricultural essential worker housing.

- 3.3 The Scottish Government has, 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. Historically the planning permission decision notice was not issued until the planning obligation was agreed, signed and recorded. However, practice has been adapted to require the conclusion of a planning obligation for specific contributions through planning conditions contained within the decision notice. This approach has the benefit of quicker determination timescales for the planning application and aligns the securing of planning obligations more with the commencement of development. Since 2011 applicants have the ability to submit formal applications to discharge or modify a planning obligation. Where approval for such an application is not forthcoming, an applicant may appeal to the Scottish Government.

4. DISCUSSION

- 4.1 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 and a specific trigger has been met thereafter. As some developments may never commence the payment may therefore never become 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 the planning obligation are modified or discharged. Payments are also typically subject to indexation and the figure in the potential income column will usually change once indexation is applied.
- 4.2 For planning applications submitted between 1 January 2007 and 30 November 2022 financial contributions amounting to £15,451,535 could be accrued. This is broken down as follows: -

Table 1

	Potential Income	Payments Received	Payments due
Open Space	£268,038	£193,727	£0
Affordable Housing	£3,704,576	£1,421,096	£293,875
Education	£10,760,930	£5,841,987	£429,390
Roads	£30,000	£30,000	£0
Community Facilities	£687,991	£460,675	£20,736
Totals	£15,451,535	£7,947,485	£744,001

4.3 The Planning Service is continuing the process of monitoring planning obligations to identify those developments where payment triggers have been reached and financial contributions are due, and payments are being sought as appropriate. The payments due column includes sites which are currently under construction and payments become due on completion or occupation of individual units, and where payments are routinely requested in arrears. There are also sites where development is substantially complete and steps are being taken to secure payment recovery. In cases where payment is not made voluntarily, legal action will be considered to recover outstanding payments.

4.4 Section 36 of the Planning (Scotland) Act 2019 will (when in force) introduce a requirement for a planning authority to publish an annual report on planning obligations that have been entered into that year or a previous year and have not yet expired or have not been complied with. While that part of the act has not yet been introduced, going forward officers will produce an annual report in accordance with the requirements of Section 36 which will include details of all planning obligations which have not yet expired or have not been complied with, including those subject to developer contributions.

5. FINANCIAL IMPLICATIONS

While there are no direct financial implications resulting from this report, there are indirect financial implications through officer time to support ongoing developer contribution monitoring and administration.

6. EQUALITY IMPACT ASSESSMENT

A screening only Equality Impact Assessment has been undertaken and is available as an appendix to this report.

7. CONCLUSION

7.1 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.

- 7.2 The Planning Service is continuing the process of monitoring planning obligations to identify those developments where payment triggers have been reached and financial contributions are due, and payments are being sought as appropriate. In cases where payment is not made voluntarily, legal action will be considered to recover outstanding payments.
- 7.3 Going forward officers will produce an annual report in accordance with the requirements of Section 36 which will include details of all planning obligations which have not yet expired or have not been complied with, including those subject to developer contributions.

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 any material extent in preparing the above Report.

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