

# Supplementary Guidance 2023: Planning Obligations (DRAFT)

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# **1. Introduction**

## **1.1 Status of Supplementary Guidance**

This Supplementary Guidance (SG) forms part of the Development Plan and is a material consideration in the determination of planning applications. It expands on the following policy in the Aberdeen Local Development Plan:

- Policy I1 – Infrastructure Delivery and Planning Obligations

It also relates to and expands on the following Local Development Plan policies:

- Policy H5 – Affordable Housing
- Policy T1 – Land for Transport

The Delivery Programme which accompanies the Local Development Plan outlines further details on the delivery of supporting infrastructure. The Delivery Programme is a 'live' document that will be monitored and updated by the Council to take account of changes in circumstances as sites come forward through the planning process.

## **1.2 Introduction to Topic / Background**

New development can have a positive effect on an area, for example by creating new homes and employment, and regenerating brownfield and derelict land. However, new development can also create additional pressures on existing facilities and infrastructure such as schools, community and leisure facilities, open space, transport infrastructure, health services and the local environment. Existing deficiencies in public services, facilities or infrastructure can be made worse by new development and new deficiencies can be created. The delivery of new or improved infrastructure alongside development can help to mitigate any such impacts and create balanced, accessible and sustainable communities. Where necessary, financial contributions will be sought from developers to help deliver new or improved infrastructure in order to mitigate those impacts. Any such contributions will be used to address matters arising from new development proposals, not to resolve existing deficiencies.

The Local Development Plan aims to ensure, as far as practicable, that the burden of additional infrastructure, facilities and services that are related to the development are absorbed by the landowner and developer, and not by the Council or other public service provider. In support of Policy I1 – Infrastructure Delivery and Planning Obligations, this guidance outlines the methodology and criteria that will be used to calculate the contributions required to support new development.

The Council will ensure that all developer obligations meet the five key policy tests set out in Circular 3/2012 'Planning Obligations and Good Neighbour Agreements (Revised November 2020)'. These tests require that obligations must:

- be necessary to make the proposed development acceptable in planning terms;
- serve a planning purpose;
- 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.

## 2. Supplementary Guidance – Planning Obligations

Planning / developer obligations have a limited, but useful, role to play in the development management process where they can be used to 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. The methodology seeks to ensure that appropriate contributions are secured from developers to support new residents, mitigate the impact on existing ones, and to make a fair and proportionate contribution to the direct and cumulative impact of development across the city and, where appropriately evidenced, the region as a whole. The Council has been careful to avoid deterring development by making unreasonable demands with emphasis that any infrastructure or contributions sought are proportionate to the development being proposed.

It is important to note that this Supplementary Guidance is not directly relevant to the provision of water and drainage, electricity, and telecoms infrastructure, as these services fall under the remit of other public sector bodies and private supply companies. The specific standards, specifications and requirements relating to each of these matters are outwith the control of the Council. It is, therefore, encouraged that where relevant applicants engage as early as possible with these bodies.

Developer Obligations Assessments are carried out by the Developer Obligations Team. Contribution requirements will vary from site to site. The exact contribution required for each site will be determined on a case-by-case basis. Pre-application discussions with the Team, appropriate Council Officers and service providers are encouraged to ascertain the likely level of contribution required. The precise level of infrastructure provision and contributions required from any development will need to be agreed with the Council, in consultation with other statutory agencies where appropriate. Information on pre-application advice can be [found here](#).

## **2.1 Management of Funds**

Contributions, identified individually, are currently held in a unique account to which notional interest, at Bank of England base rate unless otherwise stipulated, is added on a monthly basis.

In the event of a repayment of a contribution, the repayment will include any interest accrued on the original contribution.

Unless otherwise specified, the Council will undertake to spend contributions received in respect of an appropriate project or projects in line with the detail of assessment within 10 years of the date when planning permission is implemented (evidenced through the Notice of Initiation of Development) or, for those applications where phased payments are received (through a Section 75 agreement), within 10 years of the date of final payment. In the event of the contribution, or part of it, not being spent within this time period, the contribution, or part, will be refunded to the original payee or their nominee along with relative interest accrued.

The monitoring and management of developer obligation funds and supporting phased payments is an additional administrative cost which will be funded through the overall interest, and 9% of the total interest accrued will be used to support this.

## **2.2 Securing of Contributions**

Contributions can be secured through upfront payments under Section 69 of the Local Government (Scotland) Act 1973, Section 48 of the Roads (Scotland) Act 1984 or Section 75 of the Town and Country Planning (Scotland) Act 1997. Current legislation makes it clear that planning conditions, including suspensive conditions, should be used wherever possible in the first instance. Planning obligations should only be sought where they are required to make the proposal acceptable in land use planning terms and where the use of conditions or other legal agreements is not appropriate.

Standard templates for legal agreements associated with planning permission and planning permission in principle under Section 75 of the Town and Country Planning (Scotland) Act 1997 have been put in place by the Council's Legal and Planning teams. The templates will form the basis for the drafting of all new Section 75 legal agreements

and can be [found here](#). Where an upfront payment is required, this must be concluded before planning permission can be issued.

### **2.3 Indexation**

Payments will be index-linked using the All-In Tender Price Index, as published by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors, or such other index as the Council may reasonably agree. Unless otherwise specified, the indexation base date for all payments will be taken as the date of approval of this Supplementary Guidance on either an interim or final basis.

### **2.4 Development Viability**

Up front identification of likely contribution requirements should be sought to input to development appraisals, and the requirement for contributions should be taken into account by developers prior to purchasing or entering into agreements to purchase development sites. In some circumstances, where the developer asserts that the development contributions have an impact on the viability of a development, the developer will be required to submit a Viability Assessment to the Council which may require to be independently reviewed (with the cost met by the developer).

The Council will be willing to review the timing or phasing of paying financial contributions to assist the financial viability of a scheme in accordance with the phasing of the development and based on evidenced completions. The particular requirements, timing of payments etc., for individual developments will be determined on a site-by-site basis and will require a legal agreement to set out the terms and conditions of phased payments.

### 3. Obligations

A summary of the types of development and possible obligations is outlined below and in Table 1.

- **Residential Development:** All proposals which involve the creation of 5 units or more.
- **Commercial Development:** All developments where the floorspace exceeds 1,000 square metres.
- **Other applications:** Where the Development Management Officer considers the proposal to be of a scale or type of development appropriate to consult with the Developer Obligations Team.

Type of Obligation	Residential	Commercial
Strategic Transport Interventions	X	X
Local Transportation	X	X
Core Paths	X	X
Education	X	
Healthcare	X	
Open Space	X	X
Community Facilities	X	
Sports and Recreation	X	

Some contributions, through this Supplementary Guidance, are based on a per-house-equivalent. The figures below will be used to calculate the contribution required. A three bedroomed house is taken as a 'Standard Sized House Unit Equivalent (SHUE)':

1 bed = 0.6

2 bed = 0.8

3 bed = 1 'Standard Sized House Unit Equivalent'

4 bed = 1.2

5 bed = 1.4

6 bed = 1.6

Where an application is received for Planning Permission in Principle and the precise mix of units is not available then a formula may be included (rates are per SHUE or per square metre) within the agreement to allow the contribution to be calculated based on the mix proposed or a subsequent assessment undertaken.

### **3.1 Transportation**

Transport schemes associated with developments allocated in the Local Development Plan are separated into two categories:

Strategic Transport Infrastructure – In considering the impact of development on the strategic transport network, applicants shall comply with Local Development Plan Policy I1 – Infrastructure Delivery and Planning Obligations and Transport Intervention Options as considered through the Strategic Development Plan 2020's Cumulative Transport Assessment. Transport Intervention Options have been set out in the Local Development Plan, page 93.

The Transport Intervention Options which relate to Aberdeen City will be subject to further relevant detailed appraisal and design work which will inform the requirements for any future planning obligations towards their progression and/or delivery. Planning obligations may be sought towards any Transport Interventions determined as required to deliver the Plan's Spatial Strategy, but they will only be used in cases where the contributions can be justified through the tests set out in Circular 3/2012. Aberdeen City's transport network will require regular monitoring, and this will inform the need to bring interventions forward.

Local Infrastructure – All developments will be assessed in terms of their impact on the local transport network and may be required to mitigate these impacts. All developments, where impacts requiring mitigation have been clearly identified, will make an appropriate contribution towards local transport infrastructure and / or services related to that development, to ensure that the required facilities / infrastructure provision is in place in time to mitigate the impacts of the development. See Table 2: Mitigation Measures.

Transport requirements will vary from site to site. The exact contribution required for each site will be determined on a case-by-case basis. Developers should be aware of, and take account of, the requirements to provide such contributions.



The developer will be expected to provide and meet, in full, the cost of all external works identified as requirements through the planning process. For developments where significant impacts are likely, a full Transport Assessment (TA) will be required to inform the process. The thresholds for when a TA will be required are set out in the Transport and Accessibility Aberdeen Planning Guidance. The principles set out in this Supplementary Guidance do not negate the requirement for a Transport Assessment or a Development Framework / Masterplan / Planning Brief. They should be applied as a basis for addressing transport impacts alongside, and in conjunction with, the preparation of these documents where they are required.

It should be noted that schemes listed in Policy T1: Land for Transport are not expected to be subject to developer contributions. Transport modelling has been carried out to assess the cumulative impact of development proposed in the Dyce area of the city. It considered the scale of transport interventions required to support the level of development proposed in and around the area. The modelling work identified key points on the transport network where interventions are likely to be required to address the cumulative impact of the development. Contributions will be sought for these transportation interventions and a mechanism and geographical boundary will be determined and published at a later date.

<b>Table 2: Mitigation Measures</b>	
<b>Road Improvements and Public Realm</b>	The provision of, or upgrading, roads, bridges or other infrastructure may be required, either within or outwith the development site or both, and planning conditions / legal agreements will be secured accordingly.
<b>Alterations to Existing Roads</b>	There may be instances where the Council may wish to take on this construction. This will be fully funded by the developer.
<b>Footway Crossings</b>	The Council will charge the developer for the cost of the construction. The cost will vary from site to site depending on the works required, such as alterations to street furniture, utilities and width of crossing.
<b>Public Transport Priority</b>	Developers may be required to provide or fund public transport priority measures. These include, but are not limited to, bus lanes, bus-only sections of road, and bus priority traffic signals.
<b>Supported Bus Services</b>	Developers may be required to enter into a legal agreement which enables upfront payments to fund new bus services or to underwrite a new service for an agreed period of time. This may involve a completely new service and / or extending / improving an existing service. New and upgraded facilities may be required in order to deal with increased demand on public transport services, these may include the provision of, or upgrade of, bus stops, bus shelters and Real Time Information systems.
<b>Traffic Signals</b>	Developers may be required to provide for the installation of new traffic signals, controlled pedestrian crossings and the upgrading / refurbishment of existing traffic signal infrastructure.

<b>Lighting</b>	Any development which requires new roads or the upgrading of existing roads will be expected to fund the installation of new lighting or the upgrading of existing lighting infrastructure where appropriate <sup>1</sup> .
<b>Traffic Calming Measures</b>	Development may generate the need for traffic calming measures outlined in Local and National policy such as Designing Streets which the developer may be liable to fund.
<b>Cycling / Walking Routes</b>	Developers will be required to provide safe routes for cyclists and walkers, this may include both on and off-site cycle parking infrastructure improvements and the supply of secure cycle parking. Contributions towards the Core Path Network in the vicinity of the development may also be sought (see section "Core Paths Network").
<b>Safer Routes to Schools</b>	Developers will be required to provide safe routes to schools through the provision of measures outlined in Local and National policy such as Designing Streets and exclusive cycle / pedestrian paths.
<b>Cycle Hire Scheme</b>	May apply to all residential developments of 3 or more units where full parking provision is limited. Annual membership = <b>£480 per unit</b>
<b>Car Clubs</b>	May apply to all residential developments of 3 or more units and other developments where full parking provision is limited and where the shortfall of parking is not mitigated by other forms of transport. Residential development = <b>£400 per unit</b> Business development = a one off payment to the car club operator of <b>£25</b> and thereafter <b>£400</b> per space / shortfall.
<b>Bus Permits / Tickets</b>	May apply to all residential developments of 3 or more units where full parking provision is limited. Annual bus permit with First Bus = <b>£700</b> Annual bus permit with Stagecoach = <b>£526</b>
<b>Travel Plans</b>	Travel Plans are likely to be required for major developments. Within the Travel Plan, it will be necessary for the developer to provide details of target aspirations, monitoring arrangements, and any actions that may trigger a revision of the Travel Plan. Travel Information Packs may be required alongside, or in lieu of, a full Travel Plan.

### 3.2 Core Path Network

#### When and Where Does it Apply?

All residential and commercial developments where:

- There is no provision of Core Paths or links to the Core Paths Network; or

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<sup>1</sup> Synergies between new street lighting and EV charging facilities should be explored.

- Where a developer proposes provision of, or improvements to, the Core Paths Network and the Council, as Access Authority, considers such measures to be inadequate.

In these circumstances a financial contribution will be sought to facilitate and mitigate the level of development proposed. Development which incorporates and enhances existing Core Paths and provides links to the Core Paths Network will not require any financial contribution providing that the measures proposed are appropriate for the level of development proposed and are agreed with the City Council as Access Authority.

#### How is the Contribution Calculated?

- Residential Development: No. of SHUE x £651 = Contribution
- Commercial Development: No. of SHUE x WF<sup>2</sup> x £651 = Contribution

Contributions for commercial development are calculated on the basis of a 'per SHUE' (3 bedroom house equivalent). This is calculated by the following formula:  $[GFA + (PS)/400 = SHUE]^3$ .

A Weighting Factor is then applied based on the table below:

<b>Use Class</b>	<b>Weighting Factor</b>
Class 1	0.25 (bulky goods) 0.5 (comparison) 1 (convenience)
Sui Generis	Based on nature of application
Class 3 & 4	0.75
Class 5 & 6	0.2
Class 7	0.5
Class 11	0.25

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<sup>2</sup> Weighting Factor

<sup>3</sup> (GFA = Gross Floor Area of the commercial premises in square metres) (PS = No of Parking Spaces x 12.5 square metres)

### 3.3 Education

#### When and Where Does it Apply?

Contributions will be sought from all residential developments where the primary and/or secondary school is operating at over 90% of its planning capacity or the school roll is forecast to exceed 90% of its planning capacity as a result of the development, cumulatively along with other identified developments in the school catchment. School Roll Forecasts are used as the baseline data. The planning capacity is defined as “A physical, theoretical measure of the total number of pupils which could be accommodated in a school based on the total number of teaching areas, the size of those spaces and the class size maxima”.

#### How is the Contribution Calculated?

Contribution = Maximum number of pupils over 90% Capacity x Relevant Rate

Maximum Number of Pupils over 90% Capacity: The maximum number of pupils over the 90% planning capacity threshold is calculated through a comparison of the school roll with and without the proposed development. A baseline school roll forecast excluding the development is run and then the SHUE is entered into the housing section of the school roll forecasts. Depending on the size and likely phasing of the proposed development, the SHUE may be entered into the forecast in a single year or phased into the forecast over a number of years to review the impact on the school roll. The maximum number of pupils over the 90% planning capacity threshold in a 5 year period is then taken. The ‘pupils per household ratio’ is based on the published roll of the zoned school or in some circumstances where a new school is required as a result of development an average across existing zoned schools or the nearest zoned school.

Relevant Rate: The rate used is based on the mitigation for the impact on the school, so there are different rates for new build provision, school extension and reconfiguration of existing classrooms. Where a contribution is required for new build provision a proportionate land value element will also be sought as this forms part of the overall project cost. A ‘per pupil rate’ for the land value element will be based on the total land value cost, which may require an independent valuation to be undertaken.

<b>Primary Education</b>	
<b>Required Mitigation</b>	<b>Rate per Pupil</b>
New Build (Two Stream School)	£47,235 plus proportionate land value
New Build (Three Stream School)	£46,237 plus proportionate land value
Permanent Extension	£27,300
Reconfiguration	£3,655

<b>Secondary Education</b>	
<b>Required Mitigation</b>	<b>Rate per Pupil</b>
New Build (1,000 pupil capacity)	£43,600 plus proportionate land value
New Build (1,350 pupil capacity)	£43,556 plus proportionate land value
Permanent Extension	£27,300
Reconfiguration	£3,655

Land Requirements: On larger residential developments where the development, as a whole or as part of a masterplan, generates the need for a new school, the developer will be required to provide an appropriate sized school site based on the following: Two Stream Primary School (up to 434 capacity) 1.2 hectares; Three Stream Primary School (up to 651 capacity) 1.8 hectares; Academy (up to 1,200 capacity) 6.2 hectares. Consultation should be undertaken with the Council in respect of the location of any school sites. Land provided is to be reasonably flat and serviced at the developer's expense.

### 3.4 Healthcare Facilities

Healthcare facilities can include General Medical Services (GMS), Health and Social Care Partnership Services (HSCP), Dental Services and Community Pharmacies. Scottish Health Planning Notes and GP Premises Directions provide national guidance on standards and specification for healthcare facilities.

#### When and Where Does it Apply?

Applies to all residential developments where the capacity of existing facilities will be exceeded as a result of the development. Site specific requirements are identified in Infrastructure Requirements for Masterplan Zones of the Local Development Plan (LDP, page 41) and the Delivery Programme. The baseline is identified as the recommended number of patients of 1,500 per General Practitioner (GP) and although guidance refers to a GP, this can also include other Healthcare Professionals. Contributions may be sought for a new build facility, permanent extension or internal reconfiguration works to provide additional capacity. On masterplan sites there may be a requirement for GP, HSCP, Dental and/or Community Pharmacy facilities to be provided on site. Provision may be sought in kind or through a financial contribution.

#### How is the contribution calculated?

The Scottish Health Planning Notes and GP Premises Directions identify a floorspace requirement per GP / Healthcare Professional. As noted above, primary healthcare provision now also includes a number of HSCP services located within the same facility. For the purposes of identifying a rate per SHUE, an element of additional floorspace for HSCP Services has been included. Dental Services and Community Pharmacies have been excluded.

Required Mitigation	Rate per SHUE
Permanent Accommodation	£1,518.44
Internal Reconfiguration	£893.20

For development sites where a new build facility is proposed then a proportionate land contribution will also be required. This may be in the form of serviced land at nil value or a financial contribution.

### 3.5 Open Space

#### When and Where Does it Apply?

Delivering open space on site is the Council's preference (please see Aberdeen Planning Guidance on Open Space and Green Infrastructure). However, when open space cannot be delivered on site, commuted sums for off-site provision will be sought. These funds would be utilised towards the creation of new open space or the enhancement of open space provision within the local area. In some cases this may be preferable to on site provision. Any requirement for a contribution will be identified through consultation on the planning application with the Council's Environment Team and the most up-to-date version of the Aberdeen Open Space Audit.

#### How is the Contribution Calculated?

Residential Development: Contribution = No. of SHUE x Cost per unit of Required Mitigation

The figures below are based on anticipated costs of the minimum size of each type of open space required by the standards provided in the Aberdeen Planning Guidance on Open Space and Green Infrastructure. Costs include normal site preparation, drainage, equipment, special surfaces, landscaping, and any other likely costs specific to the type of open space.

Required Mitigation		
<b>Play Space (0.3 hectare)</b>	<b>Natural Greenspace (1 hectare)</b>	<b>Allotments (0.3 hectares)</b>
£213	£222	£189

Commercial Development: Contribution = No. of SHUE x WF x Cost per unit of Required Mitigation

(WF = Weighting Factor)

Contributions for commercial development are calculated on the basis of a 'per SHUE'. This is calculated by the following formula:  $[GFA + (PS)/400 = SHUE]$ . (GFA = Gross Floor Area of the commercial premises in square metres) (PS = No of Parking Spaces x 12.5 square metres)

A Weighting Factor is then applied based on the table below:

<b>Use Class</b>	<b>Weighting Factor</b>
Class 1	0.25 (bulky goods) 0.5 (comparison) 1 (convenience)
Sui Generis	Based on nature of application
Class 3 & 4	0.75
Class 5 & 6	0.2
Class 7	0.5
Class 11	0.25

### **3.6 Community Facilities**

Community facilities include community centres, learning centres and libraries.

#### When and Where Does it Apply?

Where there is deemed to be an impact on current provision from new development, the Council will seek contributions towards the creation of additional accommodation or reconfiguration of existing community facilities. This is to ensure that existing residents are not disadvantaged by an increase of usage from additional residents the proposed development would generate.

#### How is the Contribution Calculated?

No. of SHUE x 0.69m<sup>2</sup> x £2,720 = Contribution

The contribution is calculated on the requirement of 0.69 square metres of community facility per SHUE.



### **3.7 Sports and Recreation**

Sports and Recreation facilities are an important element of new development. They can include sports pitches, changing accommodation / pavilions and other supporting facilities.

#### When and Where Does it Apply?

Contributions will be sought where the proposed development will have an impact on existing sports and recreation facilities and require enhancement of those facilities to maximise their use or provision of new facilities.

#### How is the Contribution Calculated?

No. of SHUE x £2,094 = Contribution