

## ABERDEEN CITY COUNCIL

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COMMITTEE	Communities, Housing & Infrastructure
DATE	25 August 2016
DIRECTOR	Pete Leonard
TITLE OF REPORT	Developer Obligations
REPORT NUMBER	CHI/16/161
CHECKLIST COMPLETED	Yes

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### 1. PURPOSE OF REPORT

To consider the issues in effectively delivering the Developer Obligations function for Aberdeen City Council including an option of an in – house team to ensure efficient management of the Section 75 process.

### 2. RECOMMENDATION(S)

It is recommended that the Committee:-

- Agree to Aberdeen City Council entering into a revised Service Level Agreement with Aberdeenshire Council with clearly defined roles, tasks and responsibilities. This will provide the benefits of a shared service with the addition of an in-house post which will provide a dedicated link within the Council.
- Agree in principal to the creation of a new post to ensure effective management of the negotiation and consultation procedures which will be based in Marischal College.
- Agree to a further report on revised working procedures which will be reported back to this committee in due course.

### 3. FINANCIAL IMPLICATIONS

The current service level agreement with Aberdeenshire Council comes at a cost of £36,203 + National Insurance and Superannuation Contributions per annum, which “represents the cost of Aberdeenshire Council engaging a Developer Contributions Officer, Senior equivalent.” The cost is deemed to include the cost of any administrative assistance to support the work of the Developer Contributions Service. The service is currently paid from the

Communities, Housing & Infrastructure Services Revenue Budget and is drawn down quarterly by Aberdeenshire Council. The cost of a revised service level agreement will reflect the level of provision agreed.

The proposed new post and amended Service Level Agreement would be funded from Communities, Housing & Infrastructure revenue budget.

#### 4. OTHER IMPLICATIONS

Existing resources within the Council that are involved with Developer Obligations may be aligned to ensure effective co-ordination of all aspects of the Developer Obligation process. The new post would be created in line with existing procedures. The details of the roles, responsibilities and remit of the new post will be reported back to a future meeting of this Committee following negotiations with Aberdeenshire Council.

#### 5. BACKGROUND/MAIN ISSUES

At the Communities, Housing & Infrastructure Committee of 17th May, 2016 it was agreed that officers would “bring forward a report to the August Committee on the merit or otherwise of bringing this function back in house to ensure efficient management of the Section 75 process”

The existing service level agreement with Aberdeenshire Council states: “Developer Contributions Service” means the overall service package to be provided by Aberdeenshire Council’s Developer Contributions Team and will include the following;

- The assessment of development proposals and, in particular, their effects on existing community infrastructure.
- The carrying out of negotiations with developers in respect of appropriate Planning Obligation packages intended to mitigate the impact of development proposals on such infrastructure and thus allow development to proceed.
- The quantification of any affordable housing provision or Contributions which may additionally be due by developers in terms of Aberdeen City Council's Policy and National Guidance.

At present, the team at Aberdeenshire Council undertakes the above tasks in conjunction with officers from Aberdeen City Council. The process involves input from Planners, Legal and Services who are delivering projects (such as Roads, Education, Communities and Housing services). Following the signing of a Section 75 agreement, Asset Management Officers and Building Standards Officers are also involved before the mitigation works are ultimately delivered.

The existing agreement was signed in January 2012. Communities, Housing & Infrastructure Officers from Asset Management and Business Support have worked with Planners to create a procedure as to how contributions are dealt with internally. One of the main issues raised from the procedure is how effectively services engage with the Aberdeenshire Team and that this can be challenging within the parameters of the current agreement.

In particular, existing practice is not always providing effective project management of planning applications, in that responsibility for determining the nature and level of Developer Obligations is fragmented. Particularly as it is broken down into three components, undertaken in different teams, namely:

- Affordable housing
- Transport related contributions
- All other contributions, including infrastructure and education provision

There is currently no fully joined up approach towards the assessment and negotiation of mitigation works which will then be required to be documented in a Section 75 agreement. It is commonplace for negotiated terms to state that Affordable Housing or Transportation contributions will be advised separately, making the negotiated and agreed terms incomplete in many cases. The development of a Section 75 agreement template is ongoing and the existing Service Level Agreement will have implications on how this template can be most effectively used.

Issues have arisen around the lack of clarity of roles, tasks and responsibilities within the existing Service Level Agreement. Based on the above, it is not recommended that the existing working arrangements are continued. Therefore there are three options to be considered:

- Amend the existing Service Level Agreement.
- Amend the Service Legal Agreement with the addition of a new post to co – ordinate internally.
- Bring the entire Developer Obligations function in – house.

#### **5.1 Amend the existing Service Level Agreement.**

A new agreement that clearly states the function of officers in the Aberdeenshire Team would make responsibilities clearer. A clause which specifies the amount of time that Aberdeenshire Officers spend at Marischal College giving support to Officers could ensure negotiations are being given the appropriate allocation of time.

The current practice of negotiating and agreeing terms which do not contain a full package of mitigation requires to be addressed. Affordable Housing and Transportation contributions require inclusion in final negotiated terms and not negotiated separately. Provision

would be required in an amendment to ensure terms are not finalised until all elements are considered.

If Services maintain data of current asset requirements, referencing the Local Development Plan, there may be no requirement to provide full “responsive” assessments of community infrastructure. This could be reflected in an amendment to the Service Level Agreement where Aberdeenshire Officers have access to data provided by Services. This would initially require a considerable amount of work from officers and potentially require additional resources in order to maintain this data.

Depending on the complexity of amendments to the Service Level Agreement and the additional resources required, a revision may come at an increased cost to the Council. The revised agreement would need to be agreeable to both parties.

## **5.2 Amend the Service Legal Agreement with the addition of a new post to co – ordinate internally.**

A revised Service Level Agreement would have clear roles, tasks and responsibilities. An in-house post would complement the work of the Aberdeenshire Team and provide a dedicated link within the Council. The Service Level Agreement would be amended to reflect this.

The proposed new post would be on hand to ensure early engagement with key service contacts who would be responsible for ensuring local priorities are appropriately reflected. They would be responsible for providing the case officer with a full negotiated Developer Obligation statement – including transport and affordable housing. In addition, the proposed post would:

- Provide information quickly to ensure that the planning process runs efficiently and performance improves.
- Provide a link between planning and legal services to improve timescales on Section 75's.
- Ensure effective links with the delivery of Developer Obligations.
- Actively pursue and manage data on audits of existing facilities to link delivery of facilities to the capital programme to assist in creating assessment reports rather than proceeding on a reactive basis.

The post should be in a position to challenge and ensure Services are providing the feedback required to quickly enable negotiated terms to be agreed which in turn can be used to negotiate and agree Section 75 agreements. Developers will also benefit from the shortened turnaround, enabling effective delivery of development in the City.

Following approval from this Committee, discussions could take place with Aberdeenshire Council to investigate how the existing Service Level Agreement can be amended to potentially accommodate an officer within the structure of Aberdeen City Council, while continuing

with the support provided by Aberdeenshire Officers to undertake assessment reports, provide administrative support and most importantly ensure consistency of approach across both Councils.

The revised agreement would need to be agreeable to both parties.

### **5.3 Bring the Developer Obligations service in – house.**

An in – house service would give Aberdeen City Council full control of the procedure from a planning application being made to the delivery of the mitigation works.

The new team would engage with Developers and Services directly. A Principal Officer would have overall control of all functions and have the ability to intervene at any stage of the procedure. The usual consultation time from Aberdeenshire Council with officers is two weeks. An in – house team could use a more flexible approach to this and increase consultation time where necessary but this would have to be balanced against the need for determining planning applications in a timely manner. The team would be on hand to encourage Service responses.

Bringing the entire Developer Obligations service in – house would require the creation and recruitment of a new team which would come at a greater cost compared to amending the service level agreement and creating a new post to co – ordinate internally.

The level of knowledge held by the Aberdeenshire Team is considerable and it would take some time for new staff to gain this level of knowledge. Crucially, the Team at Aberdeenshire Council have forged relationships with Developers which again would take time to establish in – house.

Since the inception of the Developer Obligations Service Level Agreement, City and Shire have entered into agreements for delivery of procurement, insurance, internal audit, archivist and archaeology services. There is an accepted style for these arrangements and the proposal is to use a similar style for Developer Obligations going forward.

## 5.4 Option Review

Option	Benefit to Service delivery	Benefit to consultation procedure	Financial Impact	Joint working Impact
<b>Amend the existing Service Level Agreement.</b>	High – A more tailored approach would define roles and responsibilities and more focused project delivery.	Medium – Although the process would be more clearly defined, Aberdeenshire Council would not have overall responsibility of the procedure and ensuring all services are working in tandem.	Low / Medium. Would depend on the outcome of negotiations with Aberdeenshire Council.	Low – Aberdeenshire Council would continue to deliver a Developer Obligations service.
<b>Amend the Service Level Agreement with the addition of a new post</b>	High - Ensures better management of Developer Obligations procedure and more focused project delivery.	High – Effective co – ordination and management of all involved in the process will maximise resources.	Medium - Additional cost of a new post in addition to a service level agreement.	Medium – Partnership working would continue with Aberdeenshire Council.
<b>Bring the Developer Obligations service in – house</b>	High - Ensures better management of Developer Obligations procedure and more focused project delivery.	Medium – Officers will not have the immediate knowledge of Aberdeenshire Team and working practices would take time to establish.	High – Creation of new in – house team with several posts will come at a high cost.	High - Aberdeen City Council would be ending an existing example of joint working.

Taking the above into consideration, it is recommended that joint working should continue between Aberdeen City Council and Aberdeenshire Council. It is apparent that in order to provide best value to the Council, both in terms of cost and service delivery, a revised service level agreement is required. The addition of a new post in – house to oversee all of the key operations is essential to ensure all of the steps in the procedure are adhered to and completed in a timely fashion. Joint working will ensure that negotiations will continue with developers and Aberdeenshire Council to the current high standard. A new in – house team would take a considerable amount of time to establish and would create issues with undertaking negotiations until a team has been assembled. The initial higher cost of a new team would be an ongoing issue and is not considered best value to the Council. The proposed recommendation would ensure that the delivery of

projects to mitigate the impact of new developments could be provided consistently.

## 6. IMPACT

### **Improving Customer Experience –**

The establishment of a new Service Level Agreement will have a positive effect on community consultation when identifying assets and projects which can benefit from developer contributions.

### **Improving Staff Experience –**

All staff involved in the procedure will benefit from having more clearly defined roles and responsibilities. Existing short deadlines for responses may be increased for staff.

### **Improving our use of Resources –**

Continuing to work with Aberdeenshire Council with an amended Service Level Agreement would improve the overall process for project delivery.

### **Corporate -**

The continued use of a Service Level Agreement will enable Aberdeen City Council to continue joint working with Aberdeenshire Council.

### **Public –**

This report may be of interest to the public, as the intended outcome is to ultimately better manage the impact of new developments on Communities.

## 7. MANAGEMENT OF RISK

Negotiations will be required with Aberdeenshire Council in order to amend the existing Service Level Agreement. There is a risk that both parties may not come to an agreement. This will be mitigated by appropriate engagement and consultation.

## 8. BACKGROUND PAPERS

Item 9, Communities, Housing and Infrastructure Committee, 17th May, 2016:

Minute of Agreement between Aberdeen City Council and Aberdeenshire Council (Service legal Agreement).

## 9. REPORT AUTHOR DETAILS

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