

COMMITTEE	Communities, Housing & Infrastructure
DATE	8 November 2017
REPORT TITLE	Developer Obligations Review
REPORT NUMBER	CHI/17/248
INTERIM DIRECTOR	Bernadette Marjoram
REPORT AUTHOR	Gale Beattie

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**1. PURPOSE OF REPORT:-**

- 1.1 The purpose of this report is to seek approval for new working arrangements for developer obligations that will provide further enhancements to performance and transparency. Members are also asked to note the short-term activity currently underway to manage the immediate delivery planning obligations.

**2. RECOMMENDATION(S)**

It is recommended that the Committee:-

- a) Instruct the Interim Head of Planning and Sustainable Development in consultation with the Head of Commercial and Procurement to terminate the current agreement with Aberdeenshire Council to provide Developer Obligation services;
- b) Instruct the Interim Head of Planning and Sustainable Development in consultation with the Head of HR and Organisational Development to arrange the delivery of a full Developer Obligation service within Aberdeen City Council;
- c) Note the key findings of the Developer Obligation Review and the work currently underway in order to manage the delivery of planning obligations within Aberdeen City Council in the short-term;
- d) Instruct the Interim Head of Planning and Sustainable Development to prepare Community Asset Plans on a secondary school catchment basis and to return to committee at the next available opportunity to seek approval(s) of these plans.

**3. BACKGROUND AND MAIN ISSUES**

## **Staffing**

- 3.1 A report on Developer Obligations was approved by Communities, Housing and Infrastructure in November 2016 (CHI/16/218). This approved recruiting a Development Obligations Officer and maintaining the current arrangement with Aberdeenshire Council for a Developer Obligations service. It also set out the basis for member and community involvement informing the need and requirements for developer obligations through an asset plan approach.
- 3.2 This report which gave approval to recruit the post, identified up to 6 months for recruitment with a further 3 months identified to review the Developer Obligations process. As part of the preparation for recruitment, a further review of the role of Aberdeenshire Council in the process and the budgetary implications was undertaken. In parallel to this the review of the process for collecting Developer Obligations and identifying relevant projects, identified in the original report was undertaken. This activity delayed the appointment of the officer while a revised and more outcome focused role was identified.
- 3.3 While the initial report had identified the continuation of the current agreement with Aberdeenshire Council the completed review, has identified that bringing the entire process together within the Planning service would achieve better outcomes through efficiency, oversight and a reduction in cost to the Council. It is therefore proposed that the Council withdraw from the service level agreement with Aberdeenshire Council and include this function in the Development Obligations Officer post which will sit in Aberdeen City Council.
- 3.4 The monitoring of obligations which will be the responsibility of the Developer Obligations Officer, has also been brought within the planning function of the Council. This will further improve management of the end to end process and allow for staff development. This amounts to a FTE post which will report to the Developer Obligations Officer and flexibly work between the monitoring of developer obligations and other parts of the process (i.e. negotiation on smaller applications, working through the community asset plans). Costs associated with this post are met through existing budgets.

## **Developer Obligations Review**

- 3.5 At the request of the Interim Director of Communities, Housing and Infrastructure the internal review of Developer Obligations has been undertaken sooner than anticipated within the original Developer Obligations report that went before Committee in November 2016. The review considered the current process, hand-offs of work between different departments, where time delays occur, if there are information gaps, roles and responsibilities and communication. As the review was undertaken, the issue of effective programme management and ensuring developer obligations were spent within the time frames emerged as a significant risk and this was added to the scope of the review. The approach followed and findings reached by the Review are unaffected by the recent Supreme Court Appeal Judgement on the Strategic Transport Fund.

3.6 The Review considered the end to end process and identified improvements that should be made. A process map is attached as Appendix 1. The key findings outlined the need for further:

- Enhancements in co-ordination through bringing policy, collection and the management of spending within a single department.
- Improved visibility of the monitoring information and the opportunities for digitalisation.
- Enhancements to deliver robust project management with regard to the spend of developer obligations.
- Refinement of governance arrangements through establishing a Developer Obligations Working Group.
- Reporting arrangements via quarterly reporting of Developer Obligations to Capital Programme Board and Finance Policy & Resources Committee to align with the Council's quarterly report to the London Stock Exchange.
- Improvements in engagement with senior management, elected members and communities.
- Focus on how obligations are sought through community asset plans.

3.7 From the review above two work-streams are currently underway as priority actions:-

1. Ensure developer obligations are spent. This work will prioritise the obligations that should be spent by June 2018, ensure Directorate project leads are identified and regular reporting to the Developer Obligations Working Group chaired by the Interim Director of Communities, Housing and Infrastructure. This will also ensure tie in with the Capital Programme Board which is also chaired by the Interim Director of Communities, Housing and Infrastructure.
2. A review process of how projects can be identified for targeted spend of developer obligations to achieve best value for money. This will be achieved through working with both council officers and communities to identify current and future deficits which might be caused by new developments.

### **Community Asset Plans**

3.8 Development of these will be led through the Developer Obligations Officer. Further to the initial Developer Obligations report, discussions within the Council have begun to clarify the approach and method to establish these plans. These in combination with recent concerns with planning applications have identified a need to be clear about the geography of the plans prior to this work formally commencing.

3.9 A number of options are available including ward boundaries, community council areas etc but it is felt that secondary school catchment areas will be best suited to effectively plan projects related to developer obligations. These areas are large enough to encompass a range of community facilities and environmental improvements and relate to commonly understood areas. This is an approach taken by a number of authorities such as Perth and Kinross, Aberdeenshire, Edinburgh etc. It should be noted that not all the city is

covered by a community council and school catchment areas will encourage collaborative working.

- 3.10 There will be further exploration of how communities are involved in developing and potentially delivering these plans. There have been requests from community groups to deliver planning obligations identified by planning applications and this sits comfortably with increasing self-reliance and community empowerment.
- 3.11 An initial project is underway by the Local Development Plan Team working with Environmental Policy and other Council services to see how these plans might be formed. Initial discussions centre around existing projects which could be used to help inform Community Asset Plans and how the consultation process currently works between services. This is particularly important given the short timeframes available in seeking developer obligations through the planning process and ensuring that the views of Elected Members and local communities are taken into account.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The financial implications will be a saving of the monies paid to Aberdeenshire Council which is currently approximately £54,000. which can be used to offset the Developer Obligations Officer post.
- 4.2 There may be additional costs for future software/technological projects surrounding the digitalisation required for improved project management. This will need to be considered in conjunction with the risk of not spending Developer Obligations timeously or in an effective manner. Appropriate approvals will be sought to secure enhancements as required.
- 4.3 There may also be an impact on existing staff resources within the planning function to support the establishment of the new Developer Obligations function. This may take the form of officer time and required training. The level of impact will clearly be driven by the level of planning applications which the Council receives at any particular time.
- 4.4 There will be instances where the spending period of obligations has or will soon be reached. There may also be instances where the obligation is no longer deliverable; this includes monies repayable as a result of the Supreme Court Appeal Judgement on the Strategic Transport Fund.. Work to prioritise delivery of developer obligations timeously will minimise the risk and reduce the amount of monies repayable.
- 4.5 To minimise these operational risks, additional temporary support will be sought to expedite the establishment of the new arrangements and secure the effective spend of developer obligations and feed into the quarterly financial report. This will be met through existing budgets.

#### **5. LEGAL IMPLICATIONS**

There are no legal implications arising from this report. The report relates to the withdrawal from an existing agreement with Aberdeenshire Council for the provision of Developer Obligations services, which is currently due for renewal. There are no contractual issues from withdrawing but it would be reasonable to give three months' notice to allow Aberdeenshire to manage resources and allow for recruitment of a Developer Obligations Officer.

- 5.1 Officers understanding of the Developer Contributions Service agreement between Aberdeenshire and Aberdeen City Councils is that it initially was from 1 January 2012 until 31 December 2015. The agreement thereafter continued by mutual consent until now. Accordingly in order to terminate the agreement Aberdeen City Council requires to give at least sixty days' prior written notice to the other Party. The matter has been discussed with relevant colleagues in the Developer Contributions Service at Aberdeenshire Council to make them aware of this report. If recommendation a) above is approved a brief termination letter shall be prepared by officers in the Commercial and Procurement Shared Services Legal Team for approval by the Head of Planning and Sustainable Development. The intention is that the Head of Planning and Sustainable Development shall also instruct officers in his service to ensure a Developer Obligation (aka Contributions) service is provided by Aberdeen City Council going forward in accordance with the instruction at recommendation b) above.

## **6. MANAGEMENT OF RISK**

- **Financial**  
The financial implications are noted in Section 4 above, however it is not expected that there will be risks associated with the approval of this report. The purpose of the changes within the report are to bring control of services back into the Council and give greater oversight to Council officers and Elected Members.
- **Employee**  
There will be a potential change of line management for internal staff dealing with monitoring. This can be seen as part of the ongoing review of the planning service and more widely transformation of council services.
- **Customer / citizen**  
While there are no direct customer impacts from approving the recommendations in this report, the aim of the report is to help improve the collection, management and use of developer obligations. In that way it is expected that an improved process will have a positive impact on communities.
- **Environmental**

There will be no environmental impacts from this report.

- **Technological**  
While there are no direct technological impacts from this report, as noted there may be future opportunities depending on the outcome of reviews of the process in relation to managing and monitoring developer obligations.
- **Legal**  
Legal implications are set out in Paragraph 5 above.
- **Reputational**  
Again while there are no direct reputational impacts from approving the recommendations in this report, the purpose of the report is to move the developer obligations back into the council structure. This in turn will give better oversight of the process with the aim of achieving better outcomes and accountability.

## **7. IMPACT SECTION**

### **Economy**

While there are no expected direct impacts on the wider economy, a more efficient developer obligations process will improve the overall process to facilitate development. A more targeted spend of those developer obligations collected will also see related development potentially be more efficiently delivered

### **People**

Similar to the impacts on the Economy while there are no direct impacts from this paper the overall impact of the improved process will have similar impacts to those mentioned above. It will also allow for more engagement with officers and communities through the proposed Community Asset Plan model.

### **Place**

An improved developer obligation process will facilitate successful places. As mentioned above the improved overall process will help mitigate the impact of new developments.

### **Technology**

There are no expected direct impacts on technology from this report. As noted there may be future impacts depending on the outcome of reviews of the process in relation to managing and monitoring obligations collected.

**8. BACKGROUND PAPERS**

Scottish Planning Policy  
Circular 3/12  
Developer Obligations, Communities, Housing and Infrastructure, November  
2016 (CHI/16/218).

**9. APPENDICES (if applicable)**

Appendix 1 – Developer Obligation Process Map

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