

## **WEST DUNBARTONSHIRE COUNCIL**

### **Report by the Executive Director of Housing, Environmental and Economic Development**

**Planning Committee: 5 June 2013**

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#### **Subject: Planning Obligations**

#### **1. Purpose**

- 1.1** To inform the Committee of changes to the requirements for planning obligations.

#### **2. Recommendations**

- 2.1** It is recommended that the Committee notes the content of this report.

#### **3. Background**

- 3.1** Planning obligations (previously known as planning agreements) have a useful role to play in the development management process in that they can be used to permit or enhance development and potentially negative impacts on land use, the environment and infrastructure, which can be reduced, eliminated or compensated. In the current economic climate there have been growing issues in relation to the funding and delivery of infrastructure which is necessary to enable and service associated development. The Scottish Government Consultation Paper: Development Delivery issued in March 2012 sought the views from all sectors of the development industry in relation to current issues and opportunities for facilitating development and infrastructure provision. Developer contribution through the use of section 75 planning obligations was one issue in the consultation paper which views were sought. Developers had raised the issue of development viability as a key factor affecting the delivery of development and infrastructure. This related to the requirement for contributions upfront but also the actual level of contributions being sought when planning permission is being secured. This Council formally responded to the consultation paper and it was supportive of the additional measures being proposed to facilitate development and infrastructure provision.

#### **4. Main Issues**

- 4.1** Previously Circular 1/2010: Planning Agreements set out the Scottish Governments policy on the use of obligations made under Section 75 and the circumstances in which these can be used. This was replaced in 2012 by Circular 3/2012: Planning Obligations and Good Neighbour Agreements which sets out the circumstances in which planning obligations and good neighbour agreements can be used and how they can be concluded efficiently. It also provides guidance on the processes for the modification or discharge of a

planning obligation. The Circular encourages the delivery of high quality development without unnecessary delays and planning obligations should not delay the benefits of appropriately planned developments that is generally in accordance with policy nor add significant costs for developers and infrastructure providers.

**4.2** The 2006 Planning Act amended the provisions of the Town and Country Planning Act 1997 covering planning obligations. Section 75 A creates a formal processes whereby a person against whom a planning obligation is enforceable may apply to the planning authority to have the obligation either modified or discharged. The 2012 Circular encourages planning authorities to give consideration to the economic viability of proposals when dealing with planning obligations and alternative solutions should be considered alongside options of phasing or staging payments.

**4.3** Although West Dunbartonshire has taken a decision not to seek developer contributions as a way of attracting interest into the area and encouraging development and investment of our key regeneration sites, and town centres, there are some development sites where planning obligations were achieved when the economy was growing and have subsequently stalled due to the current economic conditions. Some developers have indicated that they are presently considering the terms of their agreed planning obligations, although no formal application for modification of a planning obligation has been received to date. These applications will be brought to the Planning Committee as and when requests are made to amend obligations associated with previous planning consents.

## **5. People Implications**

**5.1** There are no personnel issues associated with this report.

## **6. Financial Implications**

**6.1** None

## **7. Risk Analysis**

**7.1** There are no risks associated with this report.

## **8. Equalities Impact Assessment (EIA)**

**8.1** It is not considered that the report or recommendations raise any equalities issues.

## **9. Consultation**

**9.1** No consultation was necessary for the preparation of this report.

## **10. Strategic Assessment**

**10.1** The content of this report is in keeping with the Council strategic priorities.

**Elaine Melrose**  
**Executive Director of Housing, Environmental**  
**and Economic Development**  
**Date: 15 May 2013**

**Person to Contact:** Pamela Clifford, Planning and Building Standards  
Manager, Housing, Environmental and Economic  
Development, Council Offices, Rosebery Place,  
Clydebank G81 1TG  
Tel: 01389 738656  
Email: [pamela.clifford@west-dunbarton.gov.uk](mailto:pamela.clifford@west-dunbarton.gov.uk)

**Appendices:** None

**Background Papers:**

1. Development Delivery Consultation March 2012  
and Council response 12 June 2012 Planning  
Committee report
2. Circular 1/2010: Planning Agreements
3. Circular 3/2012: Planning Obligations and Good  
Neighbour Agreements

**Wards Affected:** All