

ABERDEEN CITY & SHIRE
STRATEGIC DEVELOPMENT PLANNING AUTHORITY

Date: 27 March 2009

Title : Revision of Circular 12/1996: Planning Agreements

1 Purpose of Report

1.1 The purpose of this report is to seek the agreement of the Strategic Development Planning Authority (SDPA) to a response to the Scottish Government consultation on the revision of Circular 12/1996 (Planning Agreements).

2 Background

2.1 Section 75 of the Town and Country Planning (Scotland) Act 1997 makes provision for planning authorities to enter into legally binding agreements with developers or landowners for the purpose of restricting or regulating the development or use of land.

2.2 Circular 12/1996: Planning Agreements was published in April 1996 with two key roles – to provide guidance on:

- the circumstances in which such agreements should be used; and
- how they can be efficiently concluded.

2.3 Within the Planning etc. (Scotland) Act 2006, which will eventually amend the majority of the 1997 Act, new provision is being made for planning agreements under Section 23 – Planning obligations. In due course, it is anticipated that Circular 12/1996 will require further scrutiny and revision to comply with the new legislative requirements.

2.4 As a result of the new Act and to facilitate funding of essential infrastructure required as a result of new development, the Scottish Government had committed to a wide-ranging review of the system of developer contributions. However, the Scottish Government announced on 19 August 2008 that the review had been postponed to avoid placing new burdens on development at a time of economic uncertainty.

2.5 At the first meeting of the Strategic Development Planning Authority on 18 September 2008, members resolved to write a letter to John Swinney MSP, Cabinet Secretary for Finance and Sustainable Growth. This letter expressed concern that delaying the review would not deliver Scottish Government aspirations, nor would it achieve the vision and aims set out in the draft structure plan.

2.6 This current consultation only relates to the streamlining of the existing system rather than the postponed fundamental review. Given the role of the SDPA, this

report focuses on the implications for the structure plan / strategic development plan and delivery of infrastructure rather than the whole document.

3 Consultation Paper

- 3.1 In December 2008 the 'Revision of Circular 12/1996: Planning Agreements' consultation was published, with the initial deadline for comments extended from 27 March to 10 April 2009. This consultation affords another opportunity to impress upon the Scottish Government the concerns of the SDPA. It is understood that responses are also being submitted by Aberdeen City Council and Aberdeenshire Council.
- 3.2 It is stated in the introduction to the document that a number of changes to the current guidance are proposed. However, it is acknowledged that these changes do not represent a major reform of the planning agreement process, but do place more emphasis on certain aspects.
- 3.3 The fundamental difference and addition to the revised document is the importance placed upon the identification of requirements for planning agreements in development plans – both strategic development plans (SDP) and local development plans (LDP). Reference is also made to the role that supplementary planning guidance (SPG) and action programmes can play.
- 3.4 The increased emphasis placed on the development plan process is designed to allow the local community and development industry to get involved in policy formulation. Early determination of expected levels of contributions is also encouraged to provide more certainty to developers. The document goes on to suggest that "planning authorities should work with infrastructure providers and consultees to undertake a clear, costed, assessment of infrastructure requirements and timescales and delivery available funding to support this."
- 3.5 The revised document also states that the SDP or LDP should include items for which contributions will be sought and that SPG should include methodologies and exact levels of contributions.

4 Representation to Scottish Government

- 4.1 As highlighted at paragraph 2.5 above, the SDPA has previously written to Ministers on the subject of developer contributions (3 December 2008, Item 2 – Appendix 1). In response to the current consultation there are four main points that should be highlighted.

Need for a fundamental review

- 4.2 A fundamental review of the provision of infrastructure in association with new development is essential if we are to contribute towards sustainable economic growth and the delivery of sustainable mixed communities. This review is still required and, as the Scottish Government recognise, this consultation does not address the matter in any meaningful way. Calls for this review have been echoes in recent weeks by Homes for Scotland (in their response to the Scottish Parliament's Local Government and Communities Committee on the

National Planning Framework 2: Proposed Framework) and also from the recent report of the Housing Supply Task Force.

- 4.3 Systems need to be in place so that we are prepared for the expected increase in development activity once market conditions improve, systems which recognise the respective roles of both the public and private sectors.

Emerging development plans

- 4.4 In some parts of Scotland we are only a year away from proposed plans under the new system and there is an urgency to get the new process in place. While this applies to the fundamental review highlighted above, there is also a need for this current review to be completed as quickly as possible so that its implications on the development plan can be addressed in the first round of strategic and local development plans.
- 4.5 The finalised structure plan as submitted to Scottish Ministers on 27 February is a highly ambitious document that is striving for a change in the scale, timing and quality of new development. The plan calls for the creation of sustainable mixed communities with integrated local services and facilities, providing essential community infrastructure throughout the North East. This can only be achieved if sufficient levels of appropriate contributions can be secured. The recent annual report of the Scottish Council of Economic Advisers highlighted these issues and the recommendation to financially incentivise local authorities to promote and facilitate sustainable development projects.

Distinction between SDPs and LDPs

- 4.6 For the four city-regions there is a need to differentiate between the level of detail expected in an SDP and that in a LDP or SPG. This is a significant weakness in the current draft. In areas where there is a two-tier development plan it is only realistic that the consideration of new infrastructure requirements respects this distinction.
- 4.7 There is a significant danger in expecting too much in concise, high-level SDPs. Although broad indications of strategic infrastructure can be expected, these plans cannot go down to lower level requirements and will therefore be a partial view. While it may be possible to provide more detail in an action programme, it will still be a high-level assessment. This is entirely appropriate given the need for an LDP to go into more detail. Site specific proposals in an SDP might be an exceptional case where more detailed requirements may be appropriate.

Robustness of early assessments

- 4.8 Given the new emphasis placed on the development plan, the cost, skills and time implications of preparing “clear and costed assessments of infrastructure requirements” need to be fully recognised alongside the need for plan preparation to be streamlined. Such assessments, often required in the absence of clearly articulated development proposals, will be complex and the experience in England and Wales with the implementation of the Community Infrastructure Levy should be taken into account.

4.9 It should be noted that the SDPA welcomes much of the content of the revised document as it clearly drives forward the modernising planning agenda which members and officers have sought to embrace and incorporate into the process and delivery of the Finalised Aberdeen City and Shire Structure Plan. In particular, efforts to engage more fully with all stakeholders, moves to improve the speed, efficiency and transparency of preparing and agreeing planning agreements and the importance of monitoring. Achieving all of the above will improve the credibility and effectiveness of planning agreements but will not address the fundamental challenges we face in bringing forward high quality sustainable mixed communities and delivering on our vision for the area.

5 Recommendation

5.1 It is recommended that the Strategic Development Planning Authority submit this report to the Scottish Government in response to the consultation exercise.

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