

## APPENDIX 2

<b>Issue</b>	Supplementary Planning Guidance: Delivering Identified Projects through a Strategic Transport Fund
<b>Body or person(s) submitting a representation raising the issue (reference no.):</b>	
<p> Mastrick, Sheddocksley &amp; Summerhill Community Council (1)  Aberdeen Cycle Forum (2)  Union Square Developments Limited, c/o Muir Smith Evans (3)  Mrs N. Hutcheon, c/o Richard Bush Chartered Town Planner (4)  Homes for Scotland (5)  Mr and Mrs Colin Tawes, c/o Paull &amp; Williamsons (6)  Drum Kingswells Business Park Ltd, c/o Halliday Fraser Munro (7)  Elsick Development Company, c/o Paull &amp; Williamsons (8)  The Grandholm Trust, c/o Paull &amp; Williamsons (9)  CHAP Homes Ltd, c/o Halliday Fraser Munro (10)  Kirkwood Homes (11)  Deveron Homes / Aberdeenshire Housing Partnership, c/o Halliday Fraser Munro (12)  Newtonhill, Muchalls and Cammachmore Community Council (13)  Catterline, Kinneff and Dunnottar Community Council (14)  Harper &amp; Cochrane Ltd, c/o Halliday Fraser Munro (15)  Stewart Milne Homes (16)  ANM Group, c/o Halliday Fraser Munro (17)  Scotia Homes, c/o Emac Planning (18)  Hamish McDonald, c/o Halliday Fraser Munro (19)  Scottish Government (20)  Scottish Enterprise (21) </p>	
<b>Provision of the Development Plan to which the issue relates:</b>	Sets out the mechanism by which developer contributions will be sought for strategic transport infrastructure.
<b>Summary of the representation(s):</b>	
<p><b>Principle of the STF</b></p> <p><b>1,2,3,13,14,16,18,20,21</b> - General support given to the need to address the cumulative impact of new development, focusing as it does on the practical matters associated with helping to ease one of the main blockages to development.</p> <p><b>5,11</b> – Fundamentally opposed to the principle of the strategic transport fund.</p> <p><b>3,5</b> - It should be the responsibility of the public sector to provide the strategic transport infrastructure to enable the delivery of new development in support of economic growth. The guidance implies no further public investment in transport infrastructure will be made.</p> <p><b>1</b> – Existing site-by-site mechanisms are best placed to address transport impacts in the context of a masterplanning approach.</p> <p><b>14</b> - Concern that the consequence will be an increase in house prices and consequent challenges for first time buyers and those in housing need.</p> <p><b>6</b> – Concern that there is a lack of clarity that other developer contributions will still be required.</p> <p><b>6,7,10,12,13,15,17,19,21</b> - Concern that there will be less money to pay for other planning gain requirements and / or significant impacts on development viability.</p> <p><b>10,12,15,17,19</b> – Suggestion that development may not have been allocated in the right locations if serious transport infrastructure is required to mitigate its impacts.</p>	

## **Compliance with national guidance**

(1d) The draft SPG is contrary to Scottish Planning Policy which expects developer contributions to be calculated on the basis of measurable impact and for there to be a direct link between what is expected of the developer and what is delivered on the ground to mitigate the effects of development. Channelling all contributions into a centralised fund which does not measure actual mitigation required nor deliver the mitigation measures where required appears contrary to long established national guidance.

(3d) The draft SPG fails to demonstrate that the proposed requirement for developer contributions towards a strategic transport fund can be justified against all five policy tests in Circular 1/2010:

- Necessity – Understand the principle of development plan allocations contributing to STF infrastructure to make them acceptable but this cannot be extended to other proposals.
- Planning purpose – none of the interventions identified relate to, for example, any future development at Unions Square. Requiring an STF developer contribution would not serve a planning purpose.
- Relationship to proposed development – the SPG fails to satisfy paragraph 16 & 17 of Circular 1/2010 as it seeks to extract payments where there is no clear relationship between the proposed development and the items for which contributions are being sought.
- Scale and kind – the suggested imposition of developer contributions for other proposals fails to satisfy paragraphs 18 & 19 of the Circular. This test can only be satisfied through an assessment of impact directly arising from the development.
- Reasonableness – The SPG fails this test as there is no direct relationship between the STF and what paragraph 3.1 of the SPG refers to as “any appropriate proposal”.

(4i) The SPG does not meet the test of Circular 1/2010 as the CTA on which it is based does not definitively identify interventions. It cannot therefore:

- Demonstrate that any particular intervention is necessary to make a particular development acceptable in planning terms; nor
- Relate particular interventions to any proposed development whether as a direct consequence or as a cumulative impact; nor
- Fairly and reasonably relate in scale and kin to any particular proposed development; nor
- Be reasonable in any other respects.

(4p) In terms of Circular 1/2010, the SPG is obliged to identify and relate the impact of each development (including cumulative impact) to each proposed intervention according to the impact. Table F.1 of the CTA clearly demonstrates that many major developments will have no impact on many of the intervention areas. The SPG does not give proper regard to the CTA’s suggested means of attributing interventions to developments. Requiring contributions from all development types for any intervention by combining the STF, irrespective of impact arising from individual developments, is clearly contrary to Circular 1/2010 and is probably unlawful as it may mean contributions are used for interventions that are not necessary to make a particular proposed development acceptable and / or do not relate to the development at all. It is inappropriate for the financial burden to be shared widely across the region and the proposal contrary to Circular 1/2010 which requires all tests to be satisfied before any planning agreement to pay developer contributions is contemplated. It is also very likely to be unlawful on the basis of these tests.

(5c) The SPG does not provide a clear and direct link between the individual developments and the mitigation being proposed at a strategic level. It therefore fails to address all the tests within the Circular. In order to define any mitigation, there must be a precise identification of the detriment caused otherwise this could lead to inappropriate mitigation measures being sought or offered. One of the policy tests (paragraph 11 of the Circular) refers to the cumulative impact on the area. While there is no definition of the ‘area’ within the Circular, in the context of ‘scale and kind’ it could

be interpreted that it has a cumulative impact on a **local** area, rather than the strategic impacts of the SPG.

(6b) (8c) the SPG does not comply with Circular 1/2009 or Circular 1/2010. Para 96 of 1/2009 requires items for which contributions will be sought to be included in the SDP itself and not in SPG to enable a proper examination of the principles of contributions. There is no right to an examination of SPG under s22 of the Act. Circular 1/2010 stresses the importance of infrastructure contributions being identified through the development plan so that financial implications of contributions are taken into account and fully understood at the earliest opportunity by landowners and developers.

(6e) (8f) Imposition of a strategic transportation levy to an indeterminate package of road improvements cannot meet the requirements of Circulars 1/2009 and 1/2010. Para 17 of 1/2010 allows cumulative impact to be considered but makes it clear payments cannot be extracted for infrastructure not directly related to the development. Para 21, the requirement to make financial payments must be limited to the cost of providing necessary facilities required as a consequence or in connection with the development.

(6g) (8j) Para 19 of Circular advises that planning agreements cannot be used to resolve existing deficiencies in infrastructure provision or secure contributions towards wide planning objectives. Where a need to improve, upgrade or replace infrastructure does not arise directly from a proposed development, then the guidance is clear that planning authority cannot seek to address this through planning agreement.

(8i) (9b) the SPG contravenes national guidance as there is no identified link between infrastructure and contributions sought and no fair notice given of the proposal or opportunity to critically test the underlying assumptions. The SPG cannot demonstrate that contributions are fairly and reasonably related to a particular development in scale and kind.

(8j) Referring to 3.4.1 of the CTA, the schemes listed are needed to remedy existing deficiencies and considered to be committed developments. It would appear that the STF is designed to recoup the costs of these improvements from landowners / developers and this conflicts with national guidance.

(7d, 10e, 12d, 15e, 17e, 19g) The SPG introduces a geographical dimension which would make it difficult to argue, for example, that development at Ellon is in any way related to a need to reopen the railway station at Newtonhill. The assertion that “developer contributions proportionate to the scale of new development will be sought” is not supported. With reference to paragraphs 16, 17 & 18 of Circular 1/2010, developer contributions should only be sought where a specific development will have direct impact on a proposed strategic transport intervention that requires to be mitigated as a result, even if it is cumulative as a result of more than one development. If it can't be demonstrated that the intervention is related to the development, the contribution can not be sought.

(16d) Concerns that the monies received will be spent on any of the projects specified in the SPG. There needs to be a direct link between the development proposed and the infrastructure project that will be funded. It would not be appropriate for a project in the north of Aberdeen to contribute to Bridge of Dee improvements. This needs to be adopted prior to the approval of the SPG as without resolution the SPG will not meet the guidance of Circular 1/2010.

### **Conformity with the Development Plans**

(4g) The CTA forecasts a 2% rise in daily public transport trips as a result of proposed interventions. However, the structure plan aims include ‘reducing the need to travel’ and this increase in PT trips is therefore a disbenefit rather than a benefit.

(5e) HfS has concerns about the timing of this paper and believes that it is premature.

(6a) (8a) It is not clear on what basis the SPG is being prepared pursuant to the 2009 structure plan which was prepared under the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 2008. The 2009 structure plan is not a strategic development plan and there is nothing in it which indicates that SPG will be issued on this topic. Whilst the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 provide for SPG to be adopted in connection with a particular SDP, it is only to deal with the provision of further information on the detail in respect of the policies / proposals set out and only provided the SDP highlights that these matters will be dealt with in SPG. There is therefore no statutory basis for preparation of the SPG in relation to the 2009 structure plan and no reference in the structure plan to a proposal to seek contributions to a STF. The SPG therefore carries little weight. The SDPA is able to issue non-statutory guidance but it must be in connection to an SDP.

(6c) (8h) Introduction of the SPG at this late stage, 2 years after the structure plan was approved, during consultation on MIR and a year after consultation closed for the LDPs is entirely inappropriate. Contributions will not have been factored into viability calculations or land deals and it is unclear what notice has been given to landowners / developers of sites. As it is being prepared by the SDPA, it is not something that can be examined through the LDP examinations.

(6d) (8d) The structure plan identifies road improvements and transport projects within SGAs but these do not correspond with the list of interventions in the SPG.

(6d) Landowners have had no notice of, nor the opportunity to test, the need for the cumulative infrastructure. It is not clear how these improvements can be considered strategic if they are not identified in the structure plan. The definition of strategic is not clear and therefore impossible to test if the interventions have been correctly identified and whether sites treated equitably.

(6l) the guidance cannot and should not be adopted in its current form, pursuant to the 2009 structure plan.

(8b) It is not clear whether the SDPA will be seeking to use consultation done under the 2009 structure plan to support subsequent adoption under the emerging SDP.

(8e) the structure plan identified improvements the following road improvements as required to release the identified levels of development in the SGAs: Haudagain roundabout, 3<sup>rd</sup> Don crossing, A96 improvements including Inveramsay Bridge and several trunk road junctions, AWPR and Balmedie-Tipperty. The SPG and CTA lists other schemes of which landowners / developers have not had notice and no opportunity to test the need for them. It is not clear how the improvements can be considered strategic when not identified in the structure plan. The structure plan requires to identify particular projects to which particular developments will require to make contributions before SPG can be brought forward identifying exact contributions and methods.

(9a) there is nothing in the structure plan which directs landowners / developers towards the need to contribute to a STF.

(18j) With reference to Appendix 1 of the SPG Scotia Homes has a number of outstanding objections to the Aberdeen City LDP Proposed Plan, and has submitted further information to the Reporter. No certainty that the Policy will continue in its current form and any further guidance pursued by the SDPA should wait until the outcome of the LDP policy is known.

### **Cumulative Transport Appraisal**

(4a) The CTA is an insufficient basis for the STF and does not support the assertions on which the

SPG is based.

(4b) Development proposed is not responsible for all the traffic growth set out in the CTA. Changes in demographic profile occur independently of development including household formation, access to cars, changes to public transport, economic activity, reductions in cost of car travel also all contribute to traffic growth independently of development.

(4c) The CTA is based on allocations in the two LDPs which have yet to be adopted and are therefore liable to change. The CTA considers only 'major' development proposals and it is inappropriate to apply the proposed contributions regime to smaller developments.

(4e) The CTAs use of the structure plan figures is inappropriate, resulting in a significant overstatement of likely house completions by 2023 and therefore of consequent traffic generation. It is based on allowances, rather than completions so build out may be significantly later than 2023 or 2030. The structure plan vision is recognised as a significant challenge and may not therefore represent a realistic scenario on which to base the CTA. As a result, the schemes may no longer be required or appropriate and more modest schemes may be sufficient or none required at all. The development assumptions applied reflect considerable in-migration which may well prove unrealistic. As a result of these points, the CTA assumptions are likely to prove incorrect.

(4h)The CTA does not give consideration to the accuracy or appropriateness of the ASAM4 model which it uses to identify cumulative impacts.

(4k) The CTA actually shows the average delay per vehicle km actually reduces from the present day to 2023 so there is no need for developer contributions towards cumulative impacts. The interventions that achieve this reduction have already been committed. It would not be proper for developers to contribute towards transport interventions that would take place irrespective of whether their development went ahead or not.

(4m) The CTAs conclusion that the forecast level of rail patronage growth along the East Coast Mainline would discourage travel by rail is not justified. Up to 10% of the seats would still be vacant and use of these seats would tend to reduce road traffic flows.

(5i) The CTA does not show breakdowns of the associated costs for each intervention, there is no evidence supplied that identifies how the £86.6million has been calculated, no consultation on the brief for the CTA and no level of examination of consultation on its findings and conclusions. Failure to adequately consult on this baseline data could expose the process to legal challenge at a later date. As the CTA does not provide detail of the proposals, it is not possible to give intelligent consideration and response to the findings. It is also believed that one of the four key requirements of consultation established in case law is breached.

(5m) Referring to paragraph 4.2.3 of the CTA, as retirees are more likely to travel for non-work purposes during the inter-peak, a potential decline in working population could limit the growth of commuters in the peak periods. It is not clear if this has been taken account of in the modelling.

(6h) (8n) the difficulties at Bridge of Dee are existing problems regardless of additional development and the Councils should bear some of the costs of delivering the determined level of growth. The CTA shows that congestion at Bridge of Dee will remain even with AWPR and with or without development and it is not therefore accepted that the CTA supports the STF, particularly in respect of a wholly LDP-development financed crossing.

#### **Definition of development liable to contribute**

(3b) No objection in principle to the requirement that major land releases for housing and/or business/industry should be required to contribute towards the transport infrastructure required to

service them. However, do object to the approach being extended to all other forms of development that might arise within the strategic growth areas on an incremental basis, beyond the major land releases allocated in the SDP & LDPs. With reference to paragraph 3.1 of the SPG, there is no further guidance on what constitutes an “appropriate proposal” or how contributions will be applied in other circumstances. The SPG cannot be extended to cover all development proposals within the AHMA until and unless specific guidance is given on the implications for other proposals.

(3f) It would be entirely unreasonable and inappropriate for any future development proposals at Union Square to be required to contribute to the proposed STF.

(3g) While it might be possible to make a case in relation to major land releases for new development, it would be unreasonable and inappropriate to simply extend the same obligations onto developers of sites within the urban area, particularly within the city centre.

(4r) It is inappropriate to restrict the source of contributions locationally to SGAs within the AHMA. There is no basis to believe that traffic originating beyond these boundaries will have any less impact than that originating within. The AHMA is an inappropriate boundary that is out of date. The proposed areal distribution of liability for contributions has no logical basis.

(13b) If the collection of contributions is to be limited to the SGAs within the AHMA then it is essential that these areas are clearly defined on a map as Figure 1 of the SPG is open to interpretation by developers not wishing to be included in the scheme.

(14c) it is hoped that the exclusion for use class 2 (financial and professional services) will serve as a magnet and attract and encourage considerable numbers of financial and professional services to relocate into Aberdeen City and Shire.

(10c, 12b, 15c, 17c, 19c) We question the proposals for any development on an allocated site within a Strategic Growth Area in the AHMA, or indeed any development over a certain threshold in the AHMA, to contribute to the STF.

(7e, 10f, 12e, 15f, 17f, 19h) Para 3.1 refers to all developments in the SGAs and AHMA having to contribute to the STF. This is only appropriate if a direct relationship can be shown between development and contribution. Also, any other development over 5 houses or certain floorspace areas, such as 2,500m<sup>2</sup> Business and Retail will require to contribute to the STF. This further dilutes any direct relationship between the development and the intervention being funded and is highly questionable.

(10n, 12n, 15n, 17n) Para 3.2 states that development within Local Growth and Diversification Areas is unlikely to have an impact on the wider transport network. So why would all developments in the AHMA be required to contribute? This section of the SPG is therefore ambiguous and provides little clarity to developers.

(13b) If the collection of developer contributions is to be limited to the SGAs within the Aberdeen Housing Market Area, then it is essential that these are clearly defined on a map. The illustration in Figure 1 on page 3 of the draft document is open to interpretation from developers not wishing to be included in the scheme.

(14b) It is hoped that the exclusion from contributions for use class 2 (financial and professional services) will serve as a magnet and attract and encourage considerable numbers of financial and professional services to relocate into Aberdeen City and Shire.

(16f) The SPG needs to make it clear what developments are required to contribute to the STF. It should be clear that developments zoned or identified as opportunity sites in adopted local plans

will not be asked to contribute to the fund. Furthermore, if windfall sites are expected to contribute to the fund on the basis of a roof tax, there will be an overpayment to the fund. Accordingly there needs to be a refund mechanism to ensure that those who build first are not penalised. The diagram in the STF needs to be changed as it shows Westhill as being within the SGA. Stewart Milne Homes argued during the preparation of the Structure Plan that Westhill should be part of the Aberdeen City SGA but the SDPA did not accept this. It is disingenuous to include Westhill in the SGA purely to seek additional planning gain monies.

(18a) Support the exclusion of sites outwith the Strategic Growth Areas from having to contribute. However, the Guidance should still clarify that the request for developer contributions will be applied flexibly on certain sites, including mixed use developments and on smaller sites which do not impact on the strategic road network.

(18d) Commercial property within a mixed use neighbourhood should not pay any contribution at all. There is a cost to the provision of commercial uses within a mixed use development and this can be seen by the housebuilding industry's reluctance to accept it as the norm for development. Some encouragement therefore needs to be given, and this is best done by offering financial incentives at a level that will make a difference to the viability of any development.

### **The financial mechanism**

(3e) the draft SPG leaves too much uncertainty over the application of developer contribution requirements and the precise levels of contributions that will be sought.

(3h) Table 1 of the SPG states that costs are preliminary and may well change following detailed appraisal and will be revisited annually and therefore could increase regularly. This appears to undermine one of the stated reasons for the SPG, namely greater certainty.

(3i) With reference to Table 1 of the STF there is little evidence to justify the weighting given to developments such as retail. Further justification is required before any decision can be reached regarding the appropriateness of the contributions sought.

(4q) It is inappropriate to seek contributions that are proportionate only to the scale of new development rather they should be proportionate to their impact which will vary from site to site according to variable such as location, existing infrastructure capacity, public transport accessibility and road safety issues as well as scale.

(4s) Table 1 of the SPG (contribution levels) is firmly rejected as an appropriate basis on which to proceed. It is unreasonable to require developer contributions to interventions where the details and costs of the project are not known. It is also wrong to base proposed contributions on an overall estimated cost of the full package of interventions combined into a single fund. Apart from the likelihood that the full package will never be carried out. Contributions should be ring-fenced to the interventions designed to address the specific impacts caused. It would be totally inappropriate for developments in Lower Deeside to make contributions towards Kintore railway station, for example.

(4u) In relation to Appendix 4 of the SPG, contributions are not being required from flatted residential developments which can generate traffic in the same manner as dwelling houses do. This proposal would therefore unfairly load dwelling houses with the contributions that should be applied in principle equally to flats and dwelling houses.

(5f) Concern that the £86.6million has not been fully costed and is therefore subject to significant change with knock on effects for the cost per unit.

(5h) A STAG appraisal will enable a recommendation to be made on a preferred solution for each

identified hotspot and this would lead to the conclusion that a cost per house has been quantified although a preferred solution has not yet been identified.

(5o) It is not possible at this time to draw a conclusion with regard to the inclusion of revenue costs such as management and staffing. If they have been included, they should be removed as these should not be financed from planning gain receipts.

(5q) It is not clear how the remixing of sites would be dealt with in terms of size of houses to be developed, when a sections 75 has already been signed. Clear guidance will be required in the legal drafting of agreements to deal with changes in the mix of houses once a section 75 has already been signed.

(6f) Not all development sites will have the same impact on different parts of the network. How can a new station at Kintore or new junction at Kingswells be considered to be fairly and reasonably related to development at Blackdog? It is impossible to apply a blanket levy to all development and still demonstrate the contribution is fair and reasonable.

(6i) (8p) The SPG does not contain details on the priority or phasing of the improvements and/or whether the Councils will carry out some of the improvement works before collecting contributions. Does the levy apply to affordable housing units and does it apply regardless of other public transport improvements being made by the developer e.g. a park and ride site.

(8g) It would appear that measures are to be reviewed and changed as time passes. Could other schemes be included in due course, particularly if funding for "committed" projects is not forthcoming?

(8i) car travel volumes used in the CTA do not take into account the proposals to construct new sustainable communities which will reduce the need to travel outwith the settlements. Surely the mechanism should reward sustainable communities and penalise "single type" developments.

(8m) With ref to table 7.2 of the CTA, this highlights that not all the proposed development sites will have the same impact on different parts of the road network. It is impossible to apply a blanket charge to all developments and still demonstrate that it is fair and reasonable. The SPG assumes an overall cost of £86.6m yet indicates that actual works are not known and will change over time and question how this can fairly and reasonably relate in scale and kind to a development in these circumstances.

(8p) Elswick Development Company is extremely concerned at the impact that the proposed levy will have on Elswick development given the list of site-specific infrastructure also required. Using the worked example it is estimated to add around £9m to the existing package of infrastructure measures.

(13c) Contribution levels are reasonable and the relevant planning department should have the final say as to which unit size band the properties belong to. If an existing property is extended such that it moves from one band to another, then there should also be a contribution based on the difference between the bands.

(14b) developer contributions to the STF are felt to be a preferred option to a rise in Council Tax. Inevitably the price of new houses will go up and impact on buyers, particularly first time buyers and those looking for affordable housing.

(7g, 10h, 12g, 15h, 17h, 19j) Table 1 suggests that contributions will be sought from now onwards, but this is not possible when the SPG is at 'interim' stage. The approach appears inconsistent in terms of residential developments being assessed per unit and non-residential developments being assessed on site area, which will result in commercial contributions being unfairly high compared



with residential schemes. This is not representative of the actual commercial development that might actually be built. This also unduly complicates the process given that the thresholds in Appendix 4 are based on floor area for commercial developments. The mechanism explained in Appendix 5 further complicates matters as it refers to the proportions of various commercial use classes. In reality, the majority of commercial LDP allocations are described as 'employment uses' rather than giving a breakdown of the proportion of envisaged uses under the Use Classes Order.

(7h, 19k) The correct use of legal obligations to secure contributions is set out in Circular 1/2010 and we do not believe the SPG is consistent with this guidance. Para 5.1 states that developers will be able to defer contributions until revenue begins to be generated by the site, and suggests that this point for commercial developments can be negotiated with planning gain. This will lead to uncertainty from both the developers and the Council as to when funds will be paid, therefore the timescales for the delivery of identified schemes will be uncertain.

(10i, 12h, 15i, 17i) The correct use of legal obligations to secure contributions is set out in Circular 1/2010 and we do not believe the SPG is consistent with this guidance. Para 5.1 states that developers will be able to defer contributions until revenue begins to be generated by the site, suggested as the point where 50% of the development is complete. This is not necessarily the point where the developer is receiving income from the development. It would be more sensible to refer to developments being completed and occupied in the case of both residential and non-residential developments.

(13c) Contribution levels are reasonable and the relevant planning department should have the final say as to which unit size band the properties belong. If an existing property is extended such that it moves from one band to another there should be a contribution based on the difference between the bands.

(16c) The most significant concern is the scale of the fund being sought. The sum of £86m has been mooted yet the figures have not been fully justified or considered in terms of the overall viability of the delivery of the Structure Plan development allocations. Transportation is only one part of the planning gain requirements being sought from developers and landowners. At present, the Reporters' Recommendations to the City and Shire Local Development Plans are awaited. It is only when these are received can planning gain requirements for each release be considered. The STF is premature until all planning gain requirements are considered holistically so as not to render allocations unviable. It is essential that the costs are robust and fully justifiable. There are grave concerns that since we met with the team preparing the SPG in March the costs have already risen. At the meeting we were advised that the costs would be in the region of £1600 per dwelling. The team were challenged on the point that non-residential uses should contribute to the fund and as a result the amount payable should have decreased. Accordingly, we do not accept the sums of money currently being proposed. Whilst we accept the need to contribute to physical improvements to infrastructure, we do not accept that the housebuilding industry should pay for design costs and management costs for the delivery of projects. These are revenue and not capital costs and area already covered by business rates and council tax which will incidentally be increased by the additional housing and employment uses being provided through the delivery of these developments. The aforementioned costs should be stripped from the total cost. We believe that the amount payable for residential land should be a standard flat rate cost rather than based on scale determined by house size. The proposed methodology will only serve to complicate the process and could become very tedious if developers carried out re-mixes of sites.

(18c) Further incentives should be provided to assist in the provision of urban mixed use communities which, if properly designed with work opportunities close to residential, can reduce the need to travel. Payment on a per-unit basis as in Table 1 is a disincentive to creating mixed use high density communities which are more costly in any case than low density suburban schemes. The Structure Plan, and the emerging Strategic Development Plan, aim to encourage sustainable mixed use communities and this is supported. There are a number of complications in delivering mixed use development and Scottish Govt research in 2009 'Barriers to Delivering Mixed

Use Development' identified that they are "...often likely to require more up front infrastructure". As such, any genuine mixed use development should receive an incentive through financial dispensation or certainly reduction in contributions for infrastructure.

(18e) There is still some work to do on the level of contributions which should be done before formal consultation takes place on the Guidance to provide certainty to the development industry. The Council's commitment to borrowing is supported and it is considered that this could be expanded to also identify that they will also take a lead role in securing and investigating other means of funding.

(18f) Concern that over time the size of contributions may increase to a level that threatens the viability of development schemes, as interventions are priced properly and additional obligations may become required. In addition, the process of bringing sites through from acquisition to delivery takes several years and there needs to be some certainty that the level of contributions will be subject to some form of control.

(18g) On Table, notwithstanding the need to justify the thresholds that will be applied, there is also some concern that this will not be equitable in practice as thresholds will affect sites differently depending on their density. A traditional single use suburban housing development would have a density of about 8 units per acre which would equate to £16,000 per acre (£40,000 per hectare). However, mixed use urban development is likely to have a density of about 15 units per acre which would contribute £30,000 per acre (£74,000 per hectare). This almost doubles the per acre contribution and could discourage dense mixed use urban development.

### **Management of the STF**

(1e). Concern over Nestrans, rather than local Councils, determining the priority of projects with the risk that city money is used to upgrade shire infrastructure and vice versa. Impact needs to be mitigated at source whilst also acknowledging cumulative effect. A lack of willingness to mitigate at source merely stores up problems for the future regardless of the location. We therefore strongly object to NESTRANS being the custodian of the STF.

(3j) 20 years is an excessive period of time, during which planning authorities could hold funds without implementing the anticipated works only to return funds to the developer, presumably without interest.

(5b) The role and involvement of Transport Scotland is not fully addressed and it is our understanding that this SPG will be used as a tool to remove objections by Transport Scotland which could potentially stop large scale releases planned for the SDP and LDPs. In order to promote economic growth, the Government and Transport Scotland must be expected to contribute to strategic infrastructure delivery beyond the AWPR. It appears from the draft SPG that no further involvement is anticipated from the public purse.

(5p) Unwilling to have money held on account for 20 years. If projects aren't delivered within a maximum of 10 years, then they are clearly not needed and funds should be repaid.

(6j) (8q) The 20 year timeframe for which contributions will be held makes a mockery of the "essential" nature of the strategic improvements identified. It is not clear that there will be an appropriate mechanism for the planning consent to dovetail with the vague requirements of delivery of interventions.

(7a, 10a, 12a, 15a, 17a, 19a) The SPG is stated as being non-statutory but it does not confirm the point at which the guidance will be used to assess and require contributions from developments. It is being suggested in pre-application discussions that the SPG will be applied from this point

forward.

(7f, 10g, 12f, 15g, 17g, 19i) Para 4.1 confirms that the 'potential interventions' have not been subject to feasibility, detailed design or costing. This means that the funds proposed to be generated will be held in a central pot with no information on what project they may or may not be spent on. This is further contrary to Circular 1/2010 and creates more uncertainty for developers.

(7k, 10l, 12k, 15m, 17m, 19o) Para 6.1 refers to STF contributions being placed into a ring-fenced account and made available to deliver strategic transport projects in identified locations. It is not clear if these are the Strategic Growth Areas or the actual locations of the required interventions, which are subject to change as stated in paragraph 4.1. This creates further uncertainty with the process and fails to meet the requirements of Circular 1/2010.

(13d) Agree that the fund should be administered by NESTRANS, but anticipate that the Scottish Executive may see the fund as an opportunity to further reduce the funding allocation to the North East of Scotland.

(13e) Concerns raised about the priority that NESTRANS places on the Strategic Rail improvements for the Edinburgh-Aberdeen and Aberdeen-Inverness services. These are national rail improvements and must be funded nationally. The proposed Strategic Fund is local to SGAs and must concentrate on local transport issues like Cross-Rail. A properly funded and functional commuter rail service would reduce congestion on the roads especially at the Bridge of Dee and Haudagain roundabout bottlenecks.

(14d) It is important that environmental assessments, once complete, will be seriously and sensitively taken into consideration.

(16b) The introductory paragraph advises that the document is non-statutory guidance but that it will become statutory guidance on the approval of the SDP sometime during 2014. This leaves significant ambiguity as to the status of the document and how it will be applied in practice.

(16g) Welcome that the monies will be payable in arrears, however do not accept that the monies should be held for a period of 20 years. This timeframe is excessive. We would accept a timeframe of 10 years. For the avoidance of doubt, all monies should be kept in a separate interest bearing account for each developer to ensure that refunds can be made as appropriate. It would appear that double indexation is being proposed with the BCIS being applicable to the overall project costs and the Tender Price Index of Construction Costs being applied to staged payments. In terms of management of the fund we require clarity as to who is responsible and accountable for the appropriate utilisation of the fund. It is essential that the contributors have a say in the spending of their monies to be satisfied best value is being achieved.

(18i) Mention is made of the infrastructure requirements taking a long time to deliver. This may be the case but additionally there should be an obligation to repay monies not used and accounted for after a period of time. While this period of time may need to be relatively long (20 years) it should be there nevertheless.

### **The interventions**

(1c) As far as communities are concerned, the level of contributions takes no account of what needs to be done to mitigate the effect of development on that community, nor is there an expectation that fixed rate contributions will be used to offer any mitigation measures to that community.

(2b) The guidance assumes current patterns of transport choice and appears to be based on a predict and provide approach. The proposed infrastructure requirements are heavily weighted

towards road schemes, and it is road capacity increases that look like they will secure the majority of funds. The strategic transport fund should be aligned explicitly to the sustainable development and carbon reduction aims of the Strategic Development Plan. Tackling cumulative transport impacts requires greater investment to support mode shift and the bulk of the fund should be on sustainable modes.

(2c) Cycle infrastructure must be included as a strategic transport intervention. It is not acceptable to ACG that this crucial sustainable and healthy mode is not being allowed to benefit from a share of the proposed transport fund to ensure that developments within each corridor are linked by quality cycle infrastructure together with links to neighbouring settlements to create an integrated strategic cycle network in compliance with RTS and SDP objectives. For example, we need to avoid the mistakes made at Westhill Business Park.

(4d) the transport interventions identified in the CTA are merely conceptual with no conclusive evidence, at this stage, that they would prove effective in practice. The need for them and their effectiveness is yet to be established and no assurance as to the degree to which these interventions would be appropriate, deliverable or represent value for money. STAG appraisal of the interventions has not occurred.

(4f) The CTA base year is 2007 and will therefore be five years out of date by the time the SPG is adopted. Identified interventions therefore cater for development that has already taken place since 2007, as well as proposed LDP development. Consequently, future developers are being asked to contribute towards interventions required as a result of development that has already taken place. In addition, interventions could not be practically 'sized' financially in proportion to lower levels of development and excess road capacity could be created as a result of 'oversized' interventions, encouraging growth in car trips. Such new trips would use up scope to accommodate new development traffic and would not be connected with the proposed developments.

(4j) Without some of the do minimum committed interventions, additional congestion may encourage modal shift and make journeys less attractive at the margins, resulting in a net reduction in the number of trips on the network and thus reducing the demand for infrastructure interventions.

(4l) It is inappropriate for developers to be required to contribute towards infrastructure (such as the River Dee link) when this is not required to achieve 'no net detriment'. It is unreasonable to require developer contributions when committed infrastructure will already prove adequate for the developments being considered. No assertion that the interventions are 'needed' is made in the CTA.

(4n) The new orbital bus services indicated by the CTA would, at 10 passengers per bus, be clearly unviable and unsustainable. These can therefore be discounted as being unrealistic.

(4o) The need for improvement to Baillieswells Road and access to Cults from Countesswells would arise only from the proposed development at Countesswells, not from any development on the A93 corridor. None of the interventions would have any relationship to the traffic generated by development in the A93 corridor and it would therefore be particularly inappropriate for contributions to be collected from this corridor.

(4t) There needs to be a clear prospect of the precise nature and timing of each intervention related to the development. It is unacceptable for a relevant intervention to be delayed because the developer contribution towards it has been diverted to make up the cost of another unrelated project.

(5g) A full appraisal of each location is still required as are environmental assessments, which suggests that some of the preferred interventions may not be desirable, due to potential

environmental or technical constraints, as yet unknown.

(5j) With reference to paragraph 6.2.4 of the CTA, the requirement for STAG appraisal and further consideration that is required to determine the most appropriate interventions, means that this is by no means an exhaustive list and opens up the possibility of a much larger sum being sought in future versions of the document. This leads to the conclusion that the planning authority wish to introduce a policy without due regard to the impact of project viability.

(5ki) Kintore rail station should not be funded in this way as it is outwith the capacity of Nestrans to deliver it.

(5kii) No public transport interventions should be included in the list of requirements as subsidy of private commercial operators is not acceptable to the house building industry who should not be expected to subsidise private companies delivery of strategic routes and services. If sufficient demand is generated by the development, then operators should take the risk and invest themselves. If a route cannot be run commercially, it is for the local authorities to decide whether the allocation for development is in the right place. The approach outlined raises the spectre of anti-competitive behaviour on the part of the public body.

(5n) the overall lack of clarity regarding types of interventions, costs, and actual requirements for them means HfS are unable to support the detail of the SPG.

(8k) the Councils should consider what the impact of further development will be on the network at the time the relevant development proceeds and ascertain whether further improvements are necessary as a result.

(8o) Provision of a Fastlink junction does not feature on the list of infrastructure requirements yet no explanation is given for its omission. It is not clear what criteria has been applied to determine what should be considered as strategic improvement and what is local infrastructure e.g. grade separated junction at Bourtreebush does not appear to be considered a strategic improvement however a second access at Home Farm and improvements to the A944 Kingswells roundabout are considered strategic. This approach is inequitable. More transparency is required over the selection of strategic improvements to demonstrate sites are not being treated differently.

(13e) Concern over the priority that Nestrans places on strategic rail improvements for the Edinburgh-Aberdeen and Aberdeen-Inverness services. These are national rail improvements and must be funded nationally. The STF must concentrate on local transport issues like Cross-rail. A properly funded and functional commuter rail service will reduce congestion on the roads, especially at Bridge of Dee and Haudagain.

(14d) the potential road and public transport interventions must do considerably better than 'bring congestion levels back down to 2010 levels or better at many locations'.

(7b, 10b, 12b, 15b, 17b, 19b) It is accepted that the Cumulative Transport Appraisal identifies a package of defined projects to mitigate the impacts of new development. A large number of the projects listed have been discussed for many years and are proposed to solve existing transportation issues, rather than those directly resulting from development allocations in the LDPs. We understand the purpose of the SPG is to secure contributions from development. It is stated that congestion is forecast to increase on major transport routes in the strategic area, therefore future improvements will have to be undertaken.

(7c, 19d) It's not clear about instances where developers seek to improve junctions on these identified road networks as part of their mitigation works and how this will be considered as part of any STF contribution; in essence where the City's aspirations for the network and the developers

mitigation works coincide.

(7j, 10k, 12j, 15k, 17k, 19m) Support the suggestion in paragraph 5.2 that the developer may make 'in-kind' contributions to deliver a specific identified intervention. This approach would be more consistent with Circular 1/2010.

(7m, 19n) There is a lack of clarity regarding how any 'in-kind' improvements made by the developer themselves would be reflected in the contribution to the STF.

(10m, 12m, 15l, 17l) Any 'in-kind' contributions should be proportionate to other development allocations in the area also contributing to the intervention.

(14c) The potential road and public transport interventions must do considerably better than 'bring congestion levels back down to 2010 levels or better at many locations'.

(20b) There will remain a need to keep the feasibility and cost of the interventions under review even after adopting the guidance and in doing so should aim to demonstrate as close a relationship as possible between the contributions levels requested and identified package of measures. Contributions from developers should fund no more than the minimum levels of infrastructure required to mitigate their cumulative impacts. It will be desirable to reduce uncertainty as much as possible up to and beyond its adoption.

(20c) Decisions on the priority of interventions should be based on anticipated phasing of development and resultant transport impacts and not by other priorities or other unrelated transport issues.

(18k) Appendix 2 of the SPG implies that contributions are being sought for projects such as AWPR, Third Don Crossing and Haudagain, but actually they were only part of the modelling work. The projects under consideration are those listed in the table, but they need to be listed more clearly with each one costed. Without the detail it will be very difficult to consider changes in the future.

#### **Modifications sought by those submitting representations:**

##### **Principle of the STF**

(4a) the SPG should not be approved as supplementary planning guidance and should be withdrawn and reconsidered following completion of much more developer, appropriate transport studies which are then translated in a suitably sophisticated manner into SPG that carefully complies with the tests set out in Circular 1/2010 and planning law.

(5e) Further work needs to be carried out to identify exactly what intervention measures will be required to alleviate the traffic issues, create a clearer indication of costs, and identify a more robust model to measure and identify detriment which is site specific.

(6l) Any SPG should flow from an SDP which has identified the projects for which the STF is to be used in accordance with national guidance in order that proper debate can take place over the principle of the fund and the schemes included therein.

##### **Compliance with national guidance**

(3) It would be more appropriate to continue considering all proposals on their own merit to ensure that any developer contributions meet the tests in Circular 1/2010.

### **Definition of development liable to contribute**

(3b) the SPG should link the required payments only to the new major land allocations in the SPD/LDP and removing the suggestion that similar developer contributions would apply to all other proposals in other locations. The term “any appropriate proposal” should be removed from the scope of the SPG allowing all such cases to be assessed on their merits.

(4r) Any replacement to the SGA and AHMA boundary should be based on the actual infrastructure demands that each development makes.

### **The financial mechanism**

(4s) Contributions should be ring fenced to the interventions designed to address the specific impacts caused by development.

(5f) Interventions should be fully costed and appraised in terms of feasibility and engineering design work to identify the precise details and costs and this work should be completed before the SPG is progressed.

(5o) If revenue costs have been included, they should be removed as they should not be financed from planning gain receipts.

(5r) there should be an element of flexibility built in to the SPG to deal with sites where the viability cannot cope with an additional cost such as this.

(6i) there should be recognition for and identified reductions in the levy set out in the SPG where benefits and improvements to public transport are delivered from specific sites.

(8q) since the distinction between strategic and local improvements is blurred, should the draft guidance be approved, it will be necessary for the contributions to be net of the cost of providing infrastructure directly related to the development e.g. if a developer subsidises provision of bus services to the site, the cost should be deducted from the STF contribution or improvements to the trunk road with benefits for the existing community, the contribution should be reduced proportionally.

(16c) Whilst we accept the need to contribute to physical improvements to infrastructure, we do not accept that the housebuilding industry should pay for design costs and management costs for the delivery of projects. These are revenue and not capital costs and area already covered by business rates and council tax which will incidentally be increased by the additional housing and employment uses being provided through the delivery of these developments. The aforementioned costs should be stripped from the total cost.

(16c) The SPG does not provide a mechanism for refunds should the projects come in under budget. As costs are not fully justifiable at this stage such a mechanism is essential.

(18c) It is suggested that the guidance identifies that flexibility in the applicability of Table 1 will be applied to such development or alternatively seek contributions based on a net developable basis, as they are for non-residential sites. Also, the guidance could impose an increased weighting/financial requirement on development that is not mixed use and which, through its design, places a higher burden on infrastructure. This could be done by either imposing an additional levy or weighting on any development that fails to provide over 1 jobspace per dwelling or through a dispensation system.

(18f) Wording needs to be introduced to give certainty that the level of contributions will be subject

to some form of control to avoid increases in contribution levels over time.

(18g) The criteria for seeking contributions should be revisited and based on a per acre price rather than a per unit price.

(20d) It would be better if the means of calculating the overall split in level of contributions from residential and non-residential were more closely related to anticipated transport impacts and not based on land-take.

(20e) it may be helpful to clarify how any developments carried forward from current local plans are to be treated.

### **Management of the STF**

(3i) It is suggested that a maximum of 10 years should apply to the length of time funds are held for.

(4u) Developer contributions should be returned within five years. In kind contributions should be preferred, but only where demonstrably necessary and reasonable.

(5p) Money should be held for a maximum of 5 years from receipt, with a potential for extension with the contributing parties, if evidence is supplied that demonstrates that implementation is imminent. Money should be ring-fenced to an ordered programme of works, to ensure there is transparency within the auditing process.

(6j) The Councils should comply with similar timescales as developers are given, typically 5 or 10 years, before repayment of contributions not used.

(7a, 10a, 12a, 15a, 17a, 19a) The SPG suggests it is a mechanism in conjunction with the Strategic Development Plan, while at the same time it states its purpose is to offset the strategic transportation impacts of development allocations in the City and Shire LDPs. This requires to be clarified.

(7k) There requires to be a mechanism where contributions to the STF fund can be specifically targeted to identified interventions.

(16b) It needs to be made clear now to all stakeholders when the document will become statutory and how it will be applied in practice.

(16g) There needs to be an annual review of project costs that can be used rather than applying BCIS.

(18h) The Scottish Government's 'Delivering Better Places in Scotland' states "Without advance infrastructure, subsequent investment may not happen and the place-making ambitions remain unrealised". Council should identify their commitment to the SDPA securing and delivering advance investment.

(20f) May wish to consider a mechanism for consulting representatives of the development sector on the phasing and prioritisation of developments in the years following adoption of the guidance.

### **The interventions**

(2b&c) There is an opportunity for the fee structure to reinforce the sustainable development and carbon reduction aims of the SDP and to incentivise green travel planning. Alternative fee structure options should be investigated. For example, the fee structure for commercial



development could have two components; one, as proposed, per sqm; and a second per car parking space provided.

(5k) The provision of a new station at Kintore should be removed from the list of interventions. No public transport interventions should be included in the list of interventions.

(6e) The SPG requires to specify and justify now the transportation schemes and costing for the schemes.

(9d) Wish to see further clarity over the interventions which are contained in the list and an explanation of what is deemed to be a strategic improvement and what is deemed to be local.

### **Summary of response (including reasons) by planning authority:**

#### **Principle of the STF**

A number of responses were received in support of the principle of the proposed fund, recognising the need for cumulative impacts to be addressed and this is welcomed. Support was given to the proposal as long as it complies with Circular 1/2010 "Planning Agreements" and as long as it doesn't impact on contributions made to planning gain for other needs. A number of responses welcomed the focus on the practical matters associated with the delivery of development. The approach is compliant with Circular 1/2010 as detailed below and is separate from and independent of other planning gain contributions which are not affected by this proposal.

The introduction of the STF does not assume no further public sector funding of transport infrastructure. The public sector has committed significant sums to an identified list of schemes, set out in Appendix 2 of the draft STF – well in excess of the size of the strategic transport fund. Infrastructure requirements beyond the STF will continue to be identified, appraised and delivered as appropriate.

The STF is not a tax or levy on development, rather a different way of mitigating the impacts of development and as such it is not an additional payment. Both LDPs highlight the need for contributions towards cumulative transport infrastructure from an early stage and this approach is a different way of mitigating contributions that would otherwise have been sought. It is therefore not felt that the STF will act to make developments unviable. The alternative approach is for a single developer to be burdened with potentially significant infrastructure costs which would potentially make development unviable.

The Structure Plan identifies that investment in infrastructure is required to support the plans for growth and the CTA demonstrates that major improvements are required to mitigate the impact of development. The Cumulative Transport Appraisal (CTA) provides the evidence that the identified interventions are necessary to mitigate the strategic impacts of development and the STF will be used for this purpose only.

The guidance is clear that the fund relates to strategic transport only and not wider planning gain issues. The STF will not address local road improvements which are specific to one development site but will be specific to strategic transport improvements which are identified as being required as a result of the impact of a number of different sites.

A number of representations do not support the overarching principles of the STF however in such cases, no alternative solutions are provided except using a development corridor approach which was considered as the draft guidance was being prepared but was not taken forward as it failed to capture the full cumulative impacts of development.

## **Compliance with legislation and national guidance**

The approach taken in preparing the supplementary planning guidance has taken full account of government policy and legislation on developer contributions.

The CTA has determined the likely level of traffic impacts from developments allocated in the region and the level of infrastructure required to mitigate such impacts. This provides a direct link between the development proposed and the mitigation measures towards which contributions are being sought. This rationale for distributing the cost of such mitigation measures means that any contributions sought will be proportionate to the development proposed. The approach also helps to reduce the likelihood of any circumstance where one single developer is held liable for the delivery of a very significant transport intervention, and which could affect development viability, and instead seeks to spread the cost of all strategic transport interventions amongst all the developments which have been shown to contribute to the transport impact identified.

The proposed role of Nestrans as the manager of the STF means that funds can be directed towards the most appropriate intervention according to the phasing and extent of development in each area of the region. Under this proposal, contributions to the STF will be ring-fenced for the delivery of the defined set of schemes identified and could not be used towards other items.

We also respond to the comments made in relation to the 5 policy tests from Circular 1/2010 Planning Agreements:

***Necessity*** – The CTA assessed the impact of all development allocated in the structure plan and emerging local development plans. We note the support by one respondent for seeking contributions to make development allocations acceptable. The approach proposes any development not already accounted for in adopted Local Plans will be liable to contribute to the STF as the impacts from such development are identified by, or in addition to, that identified through the CTA.

***Planning Purpose*** – The SPG proposes that a contribution will be sought from developments allocated in the emerging LDPs towards measures required to mitigate the full impact of development. Emerging LDPs and/or accompanying Supplementary Guidance refer to the proposed approach and highlight to developers where contributions were likely to be required. The SPG therefore serves a planning purpose.

***Relationship to Proposed Development*** - With reference to the 'Necessity' response above, evidence prepared in support of the SPG demonstrates that the items towards which contributions are sought are required and directly related to the developments allocated in the emerging LDPs. It also reflects the general principle, corroborated by the CTA, that trips generated by one particular development are distributed across the transport network and therefore a cumulative approach to mitigating such impacts is considered to be a fair and reasonable approach to take.

***Scale and Kind*** – Any contributions sought will be based on the proportionate impact of a development relative to the cumulative impact of development allocated in the emerging Local Development Plans for Aberdeen City and Aberdeenshire. It would have been impossible to assess the impact of any future windfall developments through the Cumulative Transport Appraisal. However, by seeking reasonable contributions from these developments it will ensure that additional impacts not already identified through the Cumulative Transport Appraisal can be fully mitigated. The evidence undertaken in support of the SPG also demonstrates how such contributions would not be used to resolve existing problems on the transport network.

***Reasonableness*** – As mentioned above, the SPG seeks contributions towards measures which are required to mitigate the impact of developments allocated in the emerging LDPs. The approach is therefore considered reasonable in seeking contributions towards interventions

required as a direct result of future development.

In light of the above, the approach described in the supplementary planning guidance is considered to be fully compliant with national guidance.

### **Conformity with the Development Plans**

The introductory paragraph of the supplementary planning guidance makes explicit its non-statutory status. Paragraph 99 of Circular 1/2009 specifically recognises the use of non-statutory guidance. The guidance will be a material consideration in the determination of planning applications in the same way that supplementary planning guidance was before statutory guidance was introduced. However, to improve the clarity of the final document, reference to the potential future status of the guidance under a strategic development plan will be removed. Following approval of the strategic development plan it is intended to adopt the document as statutory supplementary guidance (after following the appropriate statutory procedures).

Paragraph 5.8 of the Aberdeen City and Shire Structure Plan 2009 provides the basis for potential strategic contributions stating: "...in cases where development has wider effects, we will have to secure extra contributions". There is no requirement for the Structure Plan to identify the specific projects and these are most appropriately considered through the CTA and further development through Nestrans and its partners. This approach allows preferred solutions to be taken forward following detailed assessment rather than setting out specific projects at the outset.

In addition, both Local Development Plans highlighted the requirement for cumulative transport mitigation early in the development plan process. The requirement to mitigate against the impact of development on the strategic transport network has always been a requirement and the new guidance simply identifies a different way of providing this mitigation in a way that supports development and helps deliver meaningful interventions.

The Structure Plan makes reference to committed transport schemes and these have been included within the base case of the CTA. As outlined above the CTA provides further assessment of the Structure Plan strategy. It identifies the likely impact on the strategic transport network, thereby providing the evidence base. As addressed elsewhere the principle of the Strategic Transport Fund is to provide an equitable approach towards the delivery of transport interventions rather than the requirement for developers/landowners to individually test the requirement for cumulative infrastructure. It is unfair for development to use up existing capacity and for subsequent cost of the next development, once the capacity limit has been breached, to be exorbitant.

Encouraging modal shift (to walking, cycling and public transport) sits alongside the objective of reducing the need to travel. Increasing public transport trips is entirely consistent with the structure plan. The interventions identified as a result of further assessment will recognise the importance of active travel and public transport.

### **Cumulative Transport Appraisal (CTA)**

The SDPA and its partners believe the CTA to be an appropriate evidence base on which to found the STF. It uses ASAM4 which is the most up to date and relevant tool available in the North East for modelling future changes in planning and transport and its use in the North East is supported by Transport Scotland. Transport Scotland was also represented on the CTA project steering group and has supported the use of this model for this purpose.

Some concerns were raised around the assumptions and base data used in the CTA and whether these are appropriate for the purposes of the STF. The model takes into account forecasted changes in the demographic composition of the population and local car ownership trends to predict changes in trip making over time in addition to anticipated scale and location of

development. The assumptions for growth were based on the Structure Plan 'Allowance' (high growth) and 'Requirement' (medium growth) scenarios for housing and employment growth to 2023 although the emerging Local Development Plans were used to inform the anticipated locations of development within each Strategic Growth Area. The appraisal was however based on the Structure Plan figures for growth in each SGA.

The decision to test a package of interventions against the Structure Plan high growth scenario reflected the need to plan for the full growth scenario. It is recognised however that this scenario may not be fulfilled within the timescales set out in the Structure Plan however it was felt vital to test the full implications for the transport network of this scenario. Appendix 6 of the STF sets out the process for a five yearly review and re-run of the CTA to include the most up to date information regarding population, travel to work patterns, housing completions and development allocations. The priorities and infrastructure requirements will be reviewed and re-assessed on the basis of this analysis to ensure that contributions are being used only for what is required to mitigate the impact of development.

One representation was made that there was no consultation on the brief or findings of the CTA. The SDPA and its partners have however met with representatives of the development industry on a number of occasions to report the findings of the CTA and discuss plans for the STF with no serious concerns as to the appropriateness of this study being raised during this time. Although there is no statutory requirement to consult on the brief or findings of the study, the CTA study report has been available in the public domain since its completion. Further information on how the total of £86.6million was arrived at has been made available through the SDPA Board and will be made available on the SDPA website in support of the final adopted SPG.

The representation that the CTA shows a reduction in congestion and therefore no need for developer contributions is inaccurate. Congestion reduces in 2023 compared to 2010 as a result of the introduction of the committed schemes, funded by the public sector. The impact of development is to then increase this congestion to greater or equal to current day levels, eroding all the benefits achieved by the committed schemes. It is this impact of development that the STF is seeking to mitigate.

We believe that the representation relating to the forecast levels of rail patronage growth along the East Coast Mainline misinterprets the findings in the CTA. The CTA highlights that forecast levels of rail patronage growth on this corridor would result in over 90% of seated capacity being utilised in the peak time periods. Rather than a specific conclusion, the statement "the lack of seating capacity during peak travel times may act to discourage further rail travel" is a recognition that the capacity of the trains will be approached, impacting on the potential for further growth beyond this. It is agreed that in the future year scenario that was modelled, the remaining 10% of seats should be used to continue to encourage mode shift and reduce road traffic.

### **Definition of the development liable to contribute**

Appendix 4 provides further information on the development proposals that will be expected to contribute. A caveat is included for all windfall proposals outwith the SGAs that the requirement would only apply where an impact on the strategic transport network has been identified through the transport assessment. The floorspace thresholds identified within Appendix 4 are based on the Scottish Executive document 'Transport Assessment and Implementation: A Guide' as where a transport assessment is likely to be required.

Development proposals within the urban area and city centre are likely to attract a number of transport movements that will have an impact on the strategic transport network. It is therefore appropriate that contributions are also sought from these proposals.

As outlined in Paragraph 3.2 of the SPG the level of growth within local growth and diversification areas is related to local needs. The impact from these development proposals will therefore be

nominal.

The AHMA provides a clear recognised boundary and represents the travel to work area therefore provides in an appropriate basis. Development beyond this area is likely to have no or minimal impact on the strategic road network. Comment raised regarding the boundary being out of date are more appropriately addressed in response to consultation on the Strategic Development Plan.

Both LDPs provide a clear indication of what sites are included within a SGA and the AHMA therefore it is not considered necessary to provide a full list of sites or specifically identify these on a detailed map. Appendix 3 merely provides a broad overview of where these locations are. It is however recommended that further text be added to Appendix 3 to signpost to Appendix 4 and the Local Development Plans.

The inclusion of Westhill on the diagram within Appendix 3 was merely to assist with identifying geography. It is not included within the SGA. It is however acknowledged that the diagram is perhaps ambiguous in this regard given its proximity to the city boundary as it is therefore recommended that the text referring to Westhill be deleted from the diagram. The same is true of Kemnay and it is recommended that it be also deleted from the diagram to avoid potential confusion.

### **The financial mechanism**

Two respondents support the principle of the financial mechanism, advising that contributions are reasonable, and would be preferred to a Council Tax rise. The response goes on to suggest that should a change of use occur, contributions should be sought for the difference between the two uses. This detail is captured in Appendix 4, where such thresholds for capturing contributions are set out.

Some nine individual responses made reference to the level of contributions, the overall package of £86.6 million worth of interventions and the lack of detail of these interventions. Further information on how the total fund was arrived at has been made available through the SDPA and will be made available on the SDPA website in support of the SPG. This package is costed making use of the best available information today, but as described in Appendix 6, will be subject to review through a STAG appraisal process.

One respondent questioned whether revenue costs had been included in the £86.6 Million costing, these costs being for revenue and staffing. Whilst staffing costs have not been included in the costed package, it is reasonable that management costs, for example that project management costs and costs for feasibility studies be included.

Another three respondents raised concerns about evidence to justify the weightings given to commercial developments. By means of background, the assumptions made during the course of these methodologies, are presented in a supporting document which will be made available on the SDPA website alongside the SPG. This sets out the rationale and thinking behind the decisions reached, in an effort to provide a fair, proportionate and simple to use methodology that captured all development identified as having the greatest impact upon the transportation networks.

Three respondents make the point that it is inappropriate to seek contributions, where there is no geographic linkage between the proposed development and the required intervention. However, this geographical linkage is not required, as the CTA demonstrates the link between the proposed development sites and the mitigation required.

One response makes reference to the timing of taking contributions, whilst this guidance is in an interim stage. We would counter this by advising that both Council Local Development Plans made early reference to the need to cumulative transport contributions, in their documents.

One response made reference to the omission of flatted developments from contributing to the fund. It is agreed that these should be included and Appendix 4 of the guidance will be amended accordingly.

One response queries how Planning Agreements will be structured to ensure fairness and equitability, if sites are re-mixed. This point is noted and clauses within Planning Agreements will allow for review should the housing or commercial mix change during development of the site.

Two respondents highlight the timing when contributions will be expected to be made. Traditionally Developer Contributions are collected upon completion of development, as evidenced by Completion Certificates, which is when the impact of the development is felt and needs to be mitigated against. One of the key drivers for the SPG is to support the delivery of development as well as supporting the delivery of the required transport mitigation. A balance has to be struck between these two objectives because immediate payment will negatively impact on cashflow for the developer. It is considered that delayed payment is appropriate in the current financial climate where the impacts being mitigated are cumulative.

Lastly, two respondents raise the point that mixed use development are not encouraged and supported by the proposed methodology. However, Class 2 Use is excluded from the assessment and this was done deliberately in recognition of large scale planned communities where a High Street element was envisaged, as part of the design process.

Most responses have been answered above, however, additional points which need a response are:

The costed interventions include both road and public transport interventions. Where benefits to strategic public transport provision are delivered as part of a development, this may impact upon the level of STF contribution.

Refund of contributions, should projects come in under budget. In the current climate this scenario is unlikely and as the STF is a rolling programme, contributions may be used to fund more than one specific intervention.

### **Management of the STF**

One representation was received in support of Nestrans managing the fund and one representation opposed it, however this opposition was based on the work of the FIRS groups which is not directly relevant to the STF. The issue of Nestrans being the body to manage the STF was not raised by any other respondents and therefore no change is proposed to the SPG on this. Nestrans will be the body that is responsible and accountable for the management of the fund. It was also welcomed that the contributions to the STF be paid in arrears and this is noted.

One representation was made requesting clarification on whether the STF is in conjunction with the structure plan or the LDPs. The relevant references within the guidance have subsequently been updated to improve clarity.

In relation to the management of the fund, a number of representations were made with regard the proposed 20 year time frame that contributions will be held for, with a number suggesting that this be reduced to five or ten years. One representation was made that recognised that this time period may need to be 20 years as long as there was an obligation to repay monies not used. Consideration has been given to the length of time for which funds are held, however the decision made that a 20 year time frame is appropriate due to the nature and status of the interventions.

Transport projects of this nature take a significant period of time to develop from initial option development, sifting and appraisal through to detailed design, impact assessment and construction. It is for this reason that the 20 year timeframe is maintained.

The proposed final version of the STF will be submitted to the SDPA in December 2011. If approved it is the intention that it will be adopted as non-statutory supplementary guidance and implemented immediately. In relation to this point, one representation was made that indicated that the introductory paragraph was ambiguous as to the intended status and approval timescales of the STF. This has been reviewed and a change made to remove the second sentence "*On approval of the Strategic Development Plan (anticipated during the first half of 2014), it is intended that it would be re-published as statutory supplementary guidance*" from the main body of the text and include in a footnote instead. After consideration, it was felt that this sentence detracted from the focus of the initial SPG to be adopted.

A number of representations raised uncertainty over the way in which the funds will be managed, particularly relating to a lack of information on the interventions they will be spent on, how they may change, how the money will be linked to delivery and the mechanisms in place for returning funds not used. The SPG is clear that the potential interventions have not as yet been subject to feasibility, detailed design or costing and it is recognised that this presents some uncertainty for those contributing to the fund at the present time. However, Appendix 6 sets out a process of annual review and reporting that will continually make available the details of how schemes are progressing, assessment of priorities and how funds are to be used. The proposed interventions will only change if re-running of the CTA every five years indicates that they are no longer appropriate for the scale of development being realised.

The public sector has committed to an identified list of schemes separate to the STF, identified in Appendix 2 of the draft SPG, and the infrastructure for which the STF is to be used is to mitigate the impact of development on the strategic transport network only, not replace funding by the public sector, including Transport Scotland. Infrastructure requirements beyond the STF will continue to be identified, appraised and delivered as appropriate and Transport Scotland have supported the development of this fund for the purposes set out above. The SDPA will continue to explore opportunities for up-front funding of strategic transport infrastructure in order to aid delivery of the interventions.

As identified in Appendix 6 of the SPG, the prioritisation of the interventions and use of the fund will be based on the priority corridors of the structure plan, scale and urgency of the problem and anticipated phasing of development and not on wider transport or other priorities.

One representation identified that there may be double indexation being proposed. This is not the case and it is the same indexation that will be applied to the total cost of the fund and the staged payments. The following amendment is therefore proposed to paragraph 5.1 of the SPG "*Construction on many sites will take several years and in these situations contributions will continue to be linked to the BCIS 'All In – Tender Price Index' over the duration of the build.*" The interventions proposed and therefore the total cost of the fund will be reviewed every five years through the CTA. It is not felt appropriate to do this on an annual basis due to the uncertainty that this would generate in terms of the individual contributions to the STF.

The SDPA and its partners are comfortable that the CTA provides the evidence required that links them to proposed development and is therefore compliant with Circular 1/2010. Although contributions to the fund will be required from developments within the SGA and AHMA, the location of interventions is not restricted to these areas.

Representations were made on the level of consultation and input that the development industry will have in determining the phasing and prioritisation of the interventions. The following amendments to Appendix 6 are proposed in response to these comments.

Heading: Prioritisation and Delivery, paragraph 1 – *“This process will involve appropriate levels of consultation, including with the development industry, with recommendations agreed by the Nestrans Board and referred to the two Councils for approval.”*

Heading: Prioritisation and delivery, paragraph 3 – A new sentence to be added *“Consultation is a key element of the STAG process and will be carried out as appropriate under this guidance”*

Heading: Annual review and reporting, paragraph 3 – *“Any changes to the prioritisation would require to be approved by the Nestrans Board and the two Councils, following appropriate consultation with the development industry.”*

## **The interventions**

The Cumulative Transport Assessment (CTA) of the sites identified in both Councils Local Development Plans (LDPs), up to 2023, led to the identification of areas where some form of intervention will be required to alleviate the congestion as a result of new development. These interventions will be required over and above the wide range of schemes committed to be delivered by the public sector in the coming years. The CTA gives details of potential road and public transport intervention required to accommodate the new development on the strategic road network and these were tested and reported on within the CTA. This package of high level options represents the scope and scale of intervention that may be required to accommodate the LDPs. They aim to mitigate the potential congestion impacts and improve the level of public transport accessibility at new developments.

The package of identified intervention measures comprise of significant infrastructure schemes, all of which would be the subject of a significant appraisal process before detailed solutions and costs are known. It is simply not feasible to carry out the level of detailed appraisal work and engineering design at this early stage in the process, required to give detailed layouts and cost estimates. Officers have, therefore, produced a high level estimate of potential costs based on previous experience of costs associated with similar existing schemes taking into account the location and size of the intervention. As the process progresses there will be a refinement of the cost information and as more detail becomes available through the assessment process, the cost of the interventions will be identified with a greater level of certainty. At present, however the best estimate that can be provided is that the interventions would cost approximately £86.6million.

The package of interventions comprises of both public transport and roads infrastructure measures and both types of intervention are considered necessary as a means of relieving congestion on the strategic road network. The public transport routes identified at this stage are strategic in nature and do not serve one development but rather link developments together. It is accepted that some public transport measures will provide a local relief, however, the CTA identifies the strategic public transport measures necessary, in conjunction with the road measures, to accommodate the LDPs. Although cycling infrastructure is not identified in the list of strategic transport projects, all road schemes will be developed and designed to take into consideration the needs of cyclists as well as all other road users.

Identified contributions will purely be for the delivery of identified strategic transport projects. Developers will continue to make appropriate payments towards local roads, education, affordable housing, community, waste and other necessary requirements as per the relevant policy or supplementary guidance in the LDP. For clarity, local road improvements can be considered to be anything not covered in the list of strategic projects identified in the CTA. It is possible that specific strategic road improvement measures may also be required for local improvements for certain developments and in these circumstances discussions would be required as to an appropriate level of contribution taking this into account. Improvements that are purely required as the result of a single development are considered local. The fact that they also provide some benefits to the strategic network does not make them strategic schemes.



There is an expectation for a green travel plan to be provided for each major development site as a means of assisting in the reduction of vehicle traffic associated with those sites. It is accepted that this has the potential for further reducing vehicle traffic, however, the CTA is seeking to reduce congestion to present day levels and it is considered that green travel plans are a means of gaining further congestion relief beyond that provided by the identified infrastructure measures. Any measures provided through green travel plans would be considered as additional congestion relief measures and not as alternatives. Green Travel Plan measures would, therefore, not be considered as a suitable alternative to providing contributions to the STF.