



Report to: Planning and Regulatory Services Committee

Meeting Date: 5 March 2026

Report by: Executive Director Economy, Enterprise and Operations

Author: Rebecca Morrison

Contact Email: Rebecca.morrison@moray.gov.uk

Subject: Developer Obligations Planning Guidance and Update on Developer Obligations

1. PURPOSE

For Decision For Information

- 1.1 The purpose of this report is to update the pre-existing Developer Obligations Supplementary Guidance with an updated Developer Obligations Planning Guidance document as set out in **Appendix 2** and provide an update on developer obligations.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the review and preparation of strategic and local plans.

2. SUMMARY

- 2.1 The updated Developer Obligations Planning Guidance went out for a six-week consultation in August 2024, during which seven responses were received raising issues relating to exemptions, governance, viability, education, transportation, healthcare, and city and town centres, with detailed responses provided in **Appendix 1**. This report asks the Committee to approve those responses and the final Guidance, and to agree that it becomes a material consideration in determining planning applications. It also asks the Committee to note the findings of an independent review by Aberdeenshire Council into Moray Council's school roll forecasting methodology, school capacities, and developer obligation assumptions, which have been incorporated into the updated Guidance. In addition, the Committee is asked to note the update on developer obligations received and spent during 2024/25, with the Strategic Planning and Development (SP and D) Team continuing to work closely with other Council services and NHS Grampian (NHSG) to monitor spending.

3. RECOMMENDATIONS

3.1 It is recommended that Committee:

- i) notes the representations received to the updated Developer Obligations Planning Guidance consultation;
- ii) agrees the responses provided to the representations, as set out in Appendix 1;
- iii) agrees the updated Planning Guidance as set out in Appendix 2 is a material consideration in the determination of planning applications when approved;
- iv) notes the findings of the independent review of Moray's School Roll Forecast Methodology, School Capacities and Developer Obligation Assumptions, as set out in Appendix 3; and
- v) notes the update on developer obligations received and secured set out in Appendix 4.

Rebecca Morrison
Senior Infrastructure Growth/Obligations Officer

4. BACKGROUND AND CONTEXT

- 4.1 The National Planning Framework 4 (NPF4) came into operation on 13 February 2023. Policy 18 Infrastructure First sets out that infrastructure is integral to development planning and that Local Development Plans (LDPs) are to indicate the type, level (or method of calculation) and location of financial or in-kind contributions. This reflects the Moray Local Development Plan 2020 (LDP2020) Policy PP3 and Developer Obligations Planning Guidance (PG).
- 4.2 Section 9 of the Planning (Scotland) Act 2019 repeals section 22 of the Town and Country Planning (Scotland) Act 1997, removing the ability to prepare supplementary guidance in connection with an LDP. Transitional arrangements allowed supplementary guidance to continue to be prepared and adopted in association with LDPs until 31 March 2025. This deadline has now passed, and guidance associated with the LDP2020 will be adopted as Planning Guidance (PG) rather than Supplementary Guidance (SG).
- 4.3 Moray Council's current Supplementary Guidance on Developer Obligations was approved by the Moray Council Emergency Cabinet on 14 May 2020 (para 6 of the Minute refers) and then by the Scottish Government, coming into effect on 30 September 2020. The LDP2020 sets out the location and type of infrastructure that is likely to be sought to facilitate development with SG setting out the detail on methodologies and rates for calculating developer obligations. The current update to the SG and transition to PG will address updates to infrastructure requirements that change throughout the life of the LDP2020.
- 4.4 The LDP 2020 Policy PP3 Infrastructure and Services sets out a commitment to prepare Supplementary Guidance on Developer Obligations. Developer Obligations must meet all of the five tests set out in the Scottish Government Circular 4/2025:
 - **Necessary** to make the proposed development acceptable in planning terms;
 - **Serve a planning purpose;**
 - **Relate to the proposed development;**
 - **Fairly and reasonably relate in scale and kind** to the proposed development; and,
 - **Be reasonable** in all other respects.

Review Of Developer Obligations Supplementary Guidance

- 4.5 At its meeting on 13 August 2024 this Committee agreed the draft Supplementary Guidance for public consultation (para 14 of the Minute refers). A 6-week consultation period on the draft Developer Obligations Supplementary Guidance commenced on 29 August and ended on 11 October 2024. The public consultation was advertised in local newspapers, on the Council's website and via social media. Letters/emails were issued to all Community Councils, Associations and Groups, Charities and Trusts, Developers and Agents, Housing Associations and Key Agencies.
- 4.6 At its meeting on 15 August 2023 this Committee approved the appointment of external consultants to carry out a third-party review of the education methodology (para 14 of the Minute refers). It was felt that this review was needed prior to the adoption of the Guidance. Two separate Quick Quote Procurement exercises were carried out, and no external consultants quoted on the proposed works. Aberdeenshire Council indicated they could undertake the review. This led to a delay in finalising the Developer Obligations Planning Guidance.
- 4.7 Seven representations were received from NHS Grampian (NHSG), Scottish Forestry, Homes for Scotland (HfS), Moray Estates, Highlands and Islands Enterprise (HIE), the Scottish Government, and Moray Chamber of Commerce. A summary of these and the proposed Council response is provided in **APPENDIX 1**.
- 4.8 An independent review of the updated methodology for calculating education obligations has been undertaken by Aberdeenshire Council and is provided in **APPENDIX 3**. This review recommended that Moray Council proceed with the adoption of a higher threshold of 90% for education obligations and concluded that the proposed new education methodology offered more nuance than the approach previously used. The previous approach to education obligations sought obligations where a primary school reached 80% planning capacity, or a secondary school reached 90% capacity. The new education methodology calculates obligations based on the average number of pupils that the school(s) are over capacity over the 5-year period following submission of a planning application. The average number of pupils over 90% capacity will be expressed as a percentage of the number of houses proposed by the development against the total number of houses built within the school catchment during the 5-year period. This new approach only seeks obligations for the pupils the development is responsible for, so is more proportionate and nuanced than the previous methodology.

Revisions To Planning Guidance

- 4.9 The main issues raised by the representations are summarised below along with proposed changes to the Guidance and other amendments identified in **APPENDIX 1**.

Exemptions

- 4.10 The respondents suggested amended wording to make the exemptions clearer such as when discussing exemptions, remove the phrases 'amenable' and 'discretion of the Council' as this is not useful for developers. This has been amended in the final Guidance.
- 4.11 Consultation responses objected to developer obligations being sought for affordable housing units and suggested that if these are not made exempt then a lower per unit obligation compared to open market housing be implemented. Development of affordable housing impacts on the infrastructure and facility requirements in the same way that open market housing does. Further work will be undertaken to explore how to incentivise and accelerate the delivery of affordable housing while ensuring infrastructure is fully financed. An exemption for affordable housing units in not being pursued in the PG.

4.12 Brownfield development was initially included as a possible developer obligations exemption to support the aspirations of NPF4 and reflect informal discussions with Elected Members who expressed support for encouraging the redevelopment of previously used land and buildings. NHSG requested removal of town centre exemption for developments that create housing as all residential accommodation impacts on primary care services and requested that brownfield exemptions be updated to be for commercial development only. Town Centre exemptions for residential developments are included within the current Supplementary Guidance and their removal would unfairly impact on developments currently planned. The proposed brownfield exemption has been updated to specify that the exemption only relates to brownfield development within Town Centres. This reflects the town centre exemption within the current Supplementary Guidance which has operated successfully. The scope of the exemption has been narrowed to encourage the reuse of vacant land within Town Centres while minimising the impact on infrastructure delivery on the public sector. The revised exemption is necessary to incentivise town centre regeneration projects and reflect the significant additional costs involved in brownfield development. This update has been made as a result of the consultation responses received, as well as internal discussions relating to budgetary pressures. It is important that a balance is struck between encouraging brownfield development and ensuring that the burden for funding infrastructure does not fall on the council. This is the reason for proposing the exemption for brownfield development is restricted to town centre development only.

4.13 Respondents recommended that the guidance should emphasise that proposals will be assessed against policies in NPF4 and those in the LDP. These suggestions have been implemented.

Education

4.14 The land values and land size requirements for new schools were questioned by respondents. The land value costs for new build schools are identified on a case-by-case basis based on recent completed and proposed projects. Respondents questioned the evidence base for the Pupil Product Ratio (PPR). The PPR has been tested on a range of recently built and existing development across Moray.

4.15 It was suggested by respondents to adopt a sequential testing procedure to establish the most effective way to mitigate impact on schools. The responsibility to identify appropriate mitigations for the school estate lies with the Council's Education Service and the Planning Guidance is not an appropriate place for this.

Healthcare

4.16 Respondents noted a lack of evidence for healthcare obligations, namely no healthcare appraisal and no existing capacity for General Practitioner (GP) practices. The need for obligations towards healthcare is evidenced through guidance on floorspace requirements per GP, and number of patients per GP which allows the calculation for the floorspace requirements from development to be made. The existing capacity and number of patients registered to each GP practice are not in the public domain.

4.17 Concerns were raised by respondents over the evidence base for dental and pharmacy obligations. These had been removed from the draft guidance that was subject to public consultation as NHS Grampian are currently unable to provide an up-to-date evidence base

for these mitigations. Respondents raised concerns over GP shortages and the issues caused by these. Developer obligations are not sought for staffing resources, and it would not be appropriate to discuss these issues within the Guidance.

Transportation

- 4.18 A lack of detail was noted by respondents on what would trigger a transport assessment/statement for commercial developments. Transport Assessment guidance from the Scottish Government is used to determine when a Transport Assessment is required. The Planning Guidance is not an appropriate place to set out these requirements. Respondents requested that developers impacted by the provision of new active travel infrastructure in Buckie should be consulted specifically. The Planning Guidance consultation serves as the relevant consultation process for this obligation.

City And Town Centres

- 4.19 Respondents noted that LDP2020 does not contain a sufficient hook to include obligations related to city and town obligations in the draft SG. Town Centre obligations have been removed from the final Guidance as alternative funding opportunities for town centre regeneration are being considered through work being undertaken on maximising the socio-economic impacts arising from renewable energy developments associated with NPF4 policy 11.

Governance

- 4.20 It was claimed by respondents that 15 years is too long to spend obligations. This timeframe has not increased from the previous SG and Moray has a slower build-out rate, therefore the 15-year timescale is deemed to be reasonable to allow adequate time for the Council and NHS Grampian to be able to spend funds.
- 4.21 In the event that the Guidance is approved it will be a material consideration in the determination of planning applications (including applications to modify/discharge s75 agreements in terms of s75A of the 1997 Act). When considering any planning application going forward, it will be important to consider the impact on delivery of the required infrastructure for the particular development, on a case-by-case basis.

Viability

- 4.22 Respondents claim the guidance fails to consider land already acquired under the current guidance. If sites are unviable, then developers will be required to go through the Council's viability process, which has not changed. Supplementary Guidance for Developer Obligations has been in place in Moray Council since October 2016.

5. PROPOSALS

- 5.1 If the proposed changes arising from the responses in **APPENDIX 1** are agreed, the PG will be adopted by the Council on the same day and will be a material consideration in the determination of planning applications.

6. UPDATE

Developer Obligations received and secured

- 6.1 Developer Obligations are secured prior to planning permission being granted either through an upfront payment or in a series of staged payments through Section 75 legal agreements which set out trigger points for payments.

- 6.2 During the 2024/2025 financial year, developer obligations totalling £185,568.04 were received from upfront payments from 24 approved planning applications. A breakdown of the figures by obligation type for both financial years is given at Table 1 at **APPENDIX 4**.
- 6.3 During the 2024/2025 financial year, £557,702.09 was received from previously approved Section 75 legal agreements. A breakdown of the figures by obligation type is given at Table 2 at **APPENDIX 4**. The figures also include indexation and late payment fees where applicable
- 6.4 During the 2024/2025 financial year, a total of £74,263.00 was secured via Section 75 legal agreements. A breakdown of the figures by obligation type is given at Table 3 at **APPENDIX 4**. These secured amounts will be received by the Council in the coming years as the triggers are reached. Phased payments are index-linked to ensure obligations reflect inflation.

Affordable Housing

- 6.5 Commuted sums towards affordable housing for developments of 1-3 units are required to meet housing needs in the local housing market area as set out in NPF4 policy 16(e) and in policy DP2 of the LDP 2020. These contributions are not developer obligations, but the Strategic Planning and Development (SP&D) Team collects, holds and monitors the expenditure of these as well as developer obligations. A breakdown of the figures received and secured toward Affordable Housing is set out in Tables 1, 2 and 3 at **APPENDIX 4**.

Developer Obligations Spend

- 6.6 The SP&D Team works closely with other Council Services and NHS Grampian (NHSG) to monitor the spending of developer obligations are on relevant projects within the agreed timescales. NHSG currently face significant challenges in securing funding for capital projects, which has limited the spend of developer obligations funding. Developer obligations gathered from historic obligation types such as Sports and Recreation and Community Facilities and spent on projects in 2024/2025 are set out in Table 4 at **APPENDIX 4**.

7. SUMMARY OF IMPLICATIONS

SUBJECT	YES	NO
Corporate Plan and 10 Year Plan (Local Outcome Improvement Plan)	X	
Policy and Legal	X	
Financial	X	
Risk	X	
Staffing	X	
Best Value and Transformation		X
Property	X	
Information Communications Technology/Digital		X
Equalities. Social Inclusion and Economic Impact		X

7.1 **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Improved Collaborative Leadership, as part of continuous improvement through Best Value, will better enable the Council to fulfil the ambitions set out in its strategic plans.

a) Links to Council Corporate Plan – The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:

- Tackle Poverty and Inequality.
- Build Stronger Greener Vibrant Economy.
- Build Thriving, resilient, empowered Communities.

b) Links to Local Outcomes Improvement Plan – The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:

- Developing a diverse, inclusive, and sustainable economy
- Building a better future for our children and young people in Moray.
- Empowering and connecting communities.
- Improving wellbeing of our population

7.2 **Policy and Legal**

The Guidance will be a material consideration in the determination of planning applications when adopted.

7.3 **Financial**

The Council may need to provide for any adverse impact on existing infrastructure and facilities resulting from new development should developer obligations not be sought or the level sought does not cover the costs following viability appraisals.

Mechanisms such as forward funding of infrastructure projects carry an inherent risk associated with the pace and scale of future development and the timescales over which obligations will be achieved.

7.4 **Risk**

Co-ordination of infrastructure and cross service working are required in order to plan for the infrastructure that supports growth in line with the LDP2020 and NPF4 to ensure that Developer Obligations are sought towards the necessary infrastructure items and these projects are deliverable to support the residents of Moray.

If development is not planned for appropriately and supported by the necessary evidence provided by the relevant services, key agencies and community planning partners, then the Council cannot seek Developer Obligations to mitigate the impact of the development or apply the appropriate rate alongside use of good scenario modelling and information sensitivity analysis. If infrastructure is not well-planned and co-ordinated, the Council risks of not meeting the deadline for spending Developer Obligations and having to refund Developer Obligations to the developer with accrued interest. Therefore, the Council runs the risk of having to provide the infrastructure necessary to facilitate development at their own cost and a risk of appeal by developers. There is also a reputational risk to the Council should an appeal be

granted in the developer's favour.

If adequate resources and staffing are not provided, the Council runs the risk of collecting developer obligations but not having sufficient staffing capacity to deliver projects which would result in a refund of collected funds.

The Council should aim to provide certainty to developers over the level of developer obligations required. Excessive demands for obligations could constrain development in Moray and failure to achieve sufficient obligations for infrastructure requirements resulting from a development will place an additional strain on public services. Under the current financial pressures, it is not financially sustainable for the Council to bridge the funding gap if no developer obligations are secured and as an option developers could submit viability assessments if they consider the level of developer obligations render their development unviable.

The inclusion of Brownfield housing units as exemptions for Developer Obligations means that the developer obligations secured will be reduced and the Council will be responsible for a greater portion of the development costs of infrastructure.

Applications which have been minded to grant but have not yet been determined will be reassessed on the updated Guidance upon approval by this committee. For planning applications which have been determined and have a S75, it will be open to the Developer to make a s75A application to modify/discharge the s75 agreement, which will be considered on a case by case basis.

Complaints and objections to the level of developer obligations could cause delays to the development management process and could affect the performance standards for both Development Management and Strategic Planning and Development.

7.5 Staffing

Work on Developer Obligations is carried out within the Strategic Planning and Development Team, supported by officers in Education, Transportation, Housing, Legal, Finance, Estates, Open Space, Scottish Water and NHS Grampian. Challenges from developers result in significant staff time within the Strategic Planning and Development Team and other Council Services such as Legal, Transportation and Education to enable the Council to defend their position.

Adequate staffing in Legal Services is required to draft s75 legal agreements and modifications to avoid unnecessary delays in the process. Legal Services are currently under-staffed and have significant pressures from competing priorities.

7.6 Best Value and Transformation

There are no Best Value and Transformation implications to be considered.

7.7 Property

The level of developer obligations must be taken into account when purchasing and selling land. Higher developer obligations should result in a reduction of land value.

7.8 Information Communications/Technology/Digital

There are no Information Communications/Technology/Digital implications to be considered.

7.9 Equalities, Social Inclusion and Economic Impact

There is no requirement for an Integrated Impact Assessment (IIA) to be carried out.

7.10 Climate Change and Biodiversity Impacts

Future developments for infrastructure will take into account any impacts on climate change and biodiversity and be designed accordingly.

8. CONSULTATION

8.1 This report has been prepared in consultation with Executive Director Economy, Enterprise and Operations, Head of Growth, Planning and Climate, Chief Financial Officer, Service Manager Legal Services, Service Manager Transportation, Senior Engineer (Transportation), Service Manager Housing Strategy, Service Manager Environmental Services, Service Manager Leisure and Culture, Head of Education, L Rowan, Committee Services Officer, and the Principal Climate Change Officer have been consulted and comments incorporated into this report.

9. BACKGROUND PAPERS

9.1 None.

APPENDIX 1

Topic	Contributor	Summary	Response
General	NHS Grampian	<p>Welcomes the opportunity to submit representations on Moray’s draft Developer Obligations Supplementary Guidance 2024.</p> <p>NHS Grampian will continue to work closely with the Council to identify new facilities, those currently under pressure and the scale of contribution required.</p>	<p>Noted.</p> <p>Support noted and welcomed.</p>
	Scottish Forestry	No Comment.	Noted.
Exemptions	Homes for Scotland (HFS)	Welcomes the opportunity to comment.	Noted.
	Moray Estates/ Highland and Island Enterprise	When discussing exemptions, remove the phrases ‘amenable’ and ‘discretion of the Council’ as this is not useful for developers.	Noted and amended.
	Moray Estates/ Highland and Islands Enterprise	Support exemptions for ‘redevelopment of brownfield sites’ and ‘commercial development where the floor space is less than 1,000m2 or the site area is less than 1 hectare.	Support noted.
	Moray Estates/ Highland and Islands Enterprise	Change wording for commercial development exemption to “Developer obligations will be sought for commercial development where the floorspace is 1,000m2 or greater and where the	Noted and amended.

	<p>site area is 1 hectare or more.”</p>	
<p>Moray Estates/ Highland and Island Enterprise</p>	<p>Development of affordable housing should be exempt from Developer Obligations. If not exempt at least a lower per unit contribution compared to open market housing otherwise delivery of Affordable Housing is threatened.</p>	<p>Development of affordable housing impacts on the infrastructure and facility requirements in the same way that open market housing does. Further work will be undertaken to explore how to incentivise and accelerate the delivery of affordable housing while ensuring infrastructure is fully financed.</p>
<p>NHS Grampian</p>	<p>Under Exemptions and Student accommodation it should be clearly stated that contributions will be required for healthcare.</p> <p>Request inclusion of healthcare contributions for sheltered housing and extra care developments as these require GP and other NHS facilities. Nursing homes are seen as preventing admission to hospital, so primary care teams are responsible for increased care needs. Need more information on the level of care provided by care home staff.</p> <p>Request removal of town centre exemption for developments that create housing as all residential accommodation impacts on primary</p>	<p>The exemption for student accommodation clearly states that this exemption is for education only. Student accommodation is required to contribute towards healthcare, transportation and sports and recreation.</p> <p>Further research would be required to identify appropriate contribution levels for sheltered and extra care developments, given the level of care provided by care home staff. The Council looks forward to working with NHS Grampian further on this matter.</p> <p>Town Centre exemptions for residential developments are included within the current Supplementary Guidance and their</p>

		care services. Request that the brownfield development exemption is updated to be for commercial development only as all residential development will impact on primary care services.	removal would unfairly impact on developments which have no developer obligations factored into their costings. The Brownfield exemption has been updated to specify that the exemption only relates to development within Town Centres. This will ensure that development within Town Centres is supported while minimising the impact on infrastructure delivery.
Scope of contributions	Homes for Scotland	A national Housing Emergency has been declared. The implementation of overly restrictive developer obligations cannot be used to delay or prevent homes being delivered.	Agreed. Consider the level of developer obligations set out in the Planning Guidance to be reasonable and proportionate.
Evidence base			
Links with NPF4	Scottish Government	<p>The Supplementary Guidance should emphasise that proposals will be assessed against policies in NPF4 and those in the LDP:</p> <ul style="list-style-type: none"> - Page 24 'Open Space and Sports, Community & Recreational Facilities' → add 'The National Planning Framework' after 'the LDP' in the first sentence. - Page 25 'Play Opportunities and Destination Parks' → add 'The National Planning Framework' after 'the adopted LDP' in the first sentence. 	Noted and amended.

	Moray Estates/ Highland and Islands Enterprise	<p>Page 4 of the draft states that the Council will take decisions based on the adopted LDP, the proposed developments, and should also take into account NPF4 (especially Policy 18).</p> <p>Page 24 should refer to NPF4 Policy 21.</p>	<p>Noted and amended.</p> <p>Noted and amended.</p>
Green Networks and Access Improvements	Homes for Scotland	<p>Several examples that obligations will be sought do not have a sufficient hook in the LDP, for example cycle parking facilities and repair stations.</p> <p>New development can, and should, only contribute to what is fairly and reasonably related to the development which is proposed as established in Circular 3/2012 and the Elswick Supreme Court judgement ([2017] UKSC 66).</p>	<p>Requirements change throughout the course of the adopted LDP, and it is not reasonable to expect the Council to identify all contributions that may be required in the LDP.</p> <p>The LDP2020 Policy PP3 states that developer obligations will be sought towards transport, and Green Networks and Access Improvements. Cycle parking facilities and repair stations fall within these. Given that NPF4 is encouraging active travel, healthier lifestyles, etc. it is not unreasonable to ask for these to facilitate this.</p> <p>Agreed. All contributions sought relate to the proposed development and the Council consider them to meet the tests of Circular 3/2012 and the updated Circular 4/2025 and the Elswick Supreme Court judgement ([2017] UKSC 66).</p>

		<p>In the Elswick judgement, the reporter assessing the Aberdeen City and Shire Strategic Development Plan stated that the fund “<i>will only be used to gather contributions towards infrastructure improvements that are related to the developments concerned and strictly necessary in order to make any individual development acceptable in the planning terms</i>”. This principle must apply to all the contributions sought in the draft SG.</p>	
Education			
Serviced land	Homes for Scotland (HFS)	<p>Not clear what the land values for sites of new schools has been based on, information needs published.</p> <p>No justification for 2.5 hectare land size for a new primary school. Land requirements set out in The School Premises Regulation 1967 advise alternative land requirements to reflect varying school rolls.</p> <p>There is an element of potential double counting in the requirement for developer obligations for education, regarding transfer of serviced land at</p>	<p>The land value costs for new build schools are identified on a case by cases basis, and are informed by an independent valuation by the District Valuer.</p> <p>This figure is based on a provision of a modern school and associated facilities such as playing fields and SUDS based on recent completed and proposed projects. The 1967 regulations are 58 years old and education requirements have changed significantly since these regulations were published.</p> <p>Where a development is required to transfer serviced land at nil cost to the Council, the Council will pay for the part of</p>

		<p>nil cost. Collection of additional land value payments from other developers is not justified. If proportionate payments were required to equalise the financial burden of the developer having to transfer, and service, the school site, then they should be transferred to the developer that transferred and serviced land for 100% of the school. This is not the case in practice. The requirement for these additional funds, the prescribed use and whether or not that requirement meets the tests is not transparent.</p> <p>Propose that the Council purchase the serviced land from the developer and the subsequent payment of contributions towards land and building costs by all parties.</p>	<p>the land that is attributable to pupils generated by other developments. This contribution is front funded to the developer by the Council. Other developments generating pupils that are zoned to the new school will then be required to provide a proportionate contribution towards the land value element. This recoups the element front funded by the Council.</p> <p>What is proposed here equates to the same methodology that the Council currently use but incur extra costs associated with legal fees and officer time. The Council does not have a budget for this. This would also increase risk to the Council, as a developer could hold the Council to ransom over the land costs if they did not agree with the purchase price. This would hold up the provision of necessary infrastructure.</p>
<p>Pupil Product Ratios (PPRs)</p>	<p>Homes for Scotland (HFS)</p>	<p>No empirical evidence referenced to support pupil product ratios (PPRs). School population has stayed static at around 12,000 since 2019 despite the construction of almost 2000 houses, because of this it is suggested to devise a</p>	<p>The PPR has been tested on a range of recently built and existing development across Moray.</p>

		methodology to measure new-build occupancy and test the accuracy of the pupil product ratio figures.	
Housing Land Audit	Homes for Scotland (HFS)	Total number of outstanding homes assessed to be built in school's catchment area is not clear, SG refers to a 'Housing Land Audit' without detailing the year the audit was undertaken.	The Housing Land Audit is published annually, and the most recent published HLA will be when the contribution is calculated. Naming the current HLA would mean that the Planning Guidance would quickly become out of date.
Identifying contributions	Homes for Scotland (HFS)	Suggest adopting a sequential testing procedure to establish the most effective way to mitigate impact on schools: 1- Catchment review, determine if a neighbouring school/s could accommodate new pupils 2- If step 1 is not feasible, examine existing facilities to reconfigure/extend 3- If steps 1 and 2 are both unfeasible, identify location and scale of a new school 4- Assess whether to include replacement of any existing school	The responsibility to identify appropriate mitigations for the school estate lies with the Council's Education Service. The Planning Guidance sets out the basis of calculating contributions where a mitigation has been identified. It is not the place of the Planning Guidance to identify how capacity issues within schools should be mitigated. The proposed sequential testing procedure is oversimplistic and at odds with the infrastructure first approach, as there is no forward planning. It also does not factor in funding mechanisms and capital plan budget or programming.
Nursery Facilities	Homes for Scotland (HFS)	Council position that nursery costs will be covered by future guidance is unlikely to meet	Further work will be undertaken on this additional information at a later date and

		the tests within Circular 3/2012 and Policy 18 of NPF4.	incorporated into Developer Obligations that will be subject to further public consultation. It is important that we include the link within this Planning Guidance in order to deliver the aspirations set out in NPF4.
Healthcare			
Healthcare Provision	NHS Grampian	Welcomes inclusion of Health in SG as facilities are under pressure and will require either internal alteration, expansion or provision of new facilities. DOs are essential for to mitigate the impact arising directly for new residential developments.	Support noted.
Evidence	Homes for Scotland (HFS)	<p>No Healthcare Appraisal is referred to such that any evidence can be identified which would identify any need for healthcare contributions.</p> <p>SG is notably opaque and suggests that no detailed analysis of capacity has been undertaken. The tests set out in Planning Circular 3/2012 are not met. It cannot be objectively determined that the obligations are necessary, would relate to any specific proposed development, or is reasonable in all other respects. Recently upheld planning appeals</p>	<p>The need for contributions towards healthcare is evidenced through guidance on floorspace requirements per GP, and number of patients per GP. This allows us to calculate the floorspace requirements required from development.</p> <p>Planning Guidance is not the appropriate place for detailed analysis of capacity at specific healthcare centres.</p>

		<p>(POA-110-2015 and POA-110-2017) demonstrate the need to ensure compliance with the tests, which are also now contained within national planning policy.</p> <p>The draft SG does not appear to provide any evidence that an impact assessment on the impact of patients from new housing has been undertaken.</p> <p>The draft SG provides no information on the existing capacity of General Practitioner (GP) practices within the Council area or the number of patients currently registered with each GP practice. The SG lacks assessment of the impact of expected patients generated from these new homes on existing healthcare practices within their defined catchment areas.</p>	<p>The existing capacity and number of patients registered to each GP practice are confidential information and not within the public domain.</p>
GP Shortage		<p>The draft SG does not give sufficient consideration to the national shortage of GPs and associated support staff. Making financial contributions towards physical infrastructure is not necessarily the required solution to mitigate the impact of patients generated from new homes. Rather, there is a nationwide issue in the closure of existing GP practices, reduction in GP working hours and projected shortfall in available GPs that need to be addressed. The provision of financial contributions towards the</p>	<p>The shortage of GPs is a separate issue to the physical capacity requirements within GP practices. Developer obligations are not sought for staffing resources and it would not be appropriate to discuss these issues within the Planning Guidance.</p>

		<p>undefined physical infrastructure will not address these issues.</p> <p>SG doesn't objectively determine that healthcare obligations are necessary, would relate to any specific proposed development, or is reasonable in all other aspects. Therefore the tests set out in Circular 3/2012 are not met.</p>	<p>New development creates new demand on health centres which are required to be mitigated where they are operating at or above their design capacity. The number of patients per household support the position that new development relates to capacity issues within health centres.</p>
<p>Limitations of Developer Obligations</p>	<p>Homes for Scotland</p>	<p>Closure of rural GPs has forced more patients into Elgin practises, causing increased number but not from new housing developments.</p>	<p>Capacity issues within GP practices can be caused by a variety of issues. Contributions are only sought for the impact of new development on healthcare centres.</p>
<p>Contribution amounts</p>	<p>NHS Grampian</p>	<p>NHS Grampian will require considerable investment to provide the physical infrastructure and required staffing levels to operate the facility. Consideration should be given to the use of a single figure sum per residential unit rather than separate figures for permanent accommodation and internal reconfiguration as costs to reconfigure can be similar to new/extending facilities and developer obligations on their own do not fully cover mitigation costs.</p> <p>NHS Grampian will continue to work closely with</p>	<p>Historically, internal reconfiguration costs have been identified as costing less than permanent accommodation. The current costs in the Planning Guidance are index linked from existing costs provided to the Council by the NHS. If these costs have substantially changed then the Council look forward to reviewing the costs in conjunction with the NHSG when sufficient evidence comes forward.</p> <p>Support welcomed.</p>

		the Moray Council to identify new facilities, those currently under pressure as well as the scale of contribution required.	
Dental and Pharmacy Provision	Homes for Scotland (HFS)	Unreasonable to ask for dentistry and pharmacy contributions as these are typically private businesses. Building homes increases the business case for these new services.	Contributions towards dental chairs relate to NHS provision of dental chairs and pharmacy and not private provision.
	Homes for Scotland (HFS)	No evidence linking new homes and the need for additional dental chairs. Policy 18 of NPF4 and Circular 3/2012NPF4 is clear that infrastructure requirements must be informed by an evidence base which is based on evidence on infrastructure capacity, condition, needs and deliverability. Council required to carry out an impact assessment to provide evidence when seeking contributions towards healthcare. The direct requirements of additional patients can be assessed against accommodation available at existing practices.	Dental and pharmacy provision have been removed from the Planning Guidance until such time as sufficient evidence of the impact of new development on the existing infrastructure can be identified. It is important to keep the link to dental and pharmacy provision within the Planning Guidance, as when this evidence comes forward, contributions will be sought.
Appendix 6 wording	NHS Grampian	Appendix 6 Require 'healthcare' section to state "Contributions are sought for the closest Medical Facility the development is zoned to or any such facility that would serve the development" as service provision is changing, and developments may be allocated a service	Noted and amended.

		that best suits its needs as opposed to closest proximity.	
Transportation			
Guidance	Homes for Scotland	Note lack of detail available on when proposed transport improvements are intended to be delivered.	It is not the place of the Planning Guidance to identify timescales for provision of infrastructure.
Transport assessment	Moray Estates/Highland and Islands Enterprise	Provide guidance for commercial development on what would trigger a transport assessment/statement with this type of development.	Commercial developments are assessed on a case-by-case basis, and due to the large number of variables in commercial developments it is not possible to provide guidance which would be useful to developers within the Planning Guidance.
Buckie Active Travel Bridge	Homes for Scotland	Any developers impacted by the provision of new active travel infrastructure in Buckie should be consulted specifically.	Contributions towards the active travel bridge in Buckie are currently sought. The Planning Guidance consultation serves as the relevant consultation process for this contribution.
Open Space and Sports, community and recreational facilities			
NPF4	Moray Estates/Highland and Islands Enterprise	The draft guidance explains that new sports and recreation facilities will be required to meet the Council's Open Space requirements set out in the LDP, Open Space Strategy or other relevant guidance. This should also refer to the standards in NPF4, notably policy 21 (Play, recreation and sport). Developer obligations for	Noted and amended.

		such facilities should not relate to commercial development which should be expressed in the guidance.	
Commercial Contributions for Sports/ Recreation	Moray Estates/ Highland and Island Enterprise	Commercial developments should be exempt from sports and recreational contributions.	Commercial developments are not expected to contribute towards education, healthcare or sports and recreation.
City and Town Centres			
	Scottish Government	Want to know consultation procedure for town centre contributions as SG makes no mention of amendment at a later date. According to Circular 3/2012, information on standard charges, formulae and calculations should be set out in SG.	Town Centre contributions have been removed from the draft Planning Guidance.
	Homes for Scotland (HFS)	LDP does not contain a sufficient hook to include obligations related to city and town contributions in the draft SG. Paragraph 138 of Circular 6/2013 notes that: “...there must be a sufficient ‘hook’ in the [Strategic Development Plan] or LDP policies or proposals to hang the supplementary guidance on, in order to give it statutory weight.”	Town Centre contributions have been removed from the draft Planning Guidance.
Strategic Environmental Assessment (SEA)			
Strategic Environmental Assessment	Scottish Government	Seek clarification if SEA screening has been undertaken for new SG draft. A new SEA is required even if proceeding with much of what	SEA screening was undertaken for the draft guidance.

(SEA)		was screened out in 2017 as this is a separate piece of guidance and will go through an adoption process and therefore trigger SEA.	
Governance			
Unspent Contributions	Homes for Scotland (HFS)	Guidance should be amended to state that unused contributions should be returned after 5 years. Seeking to retain a contribution for 15 years raises questions as to whether the contribution sought will comply with the five tests within Circular 3/2012: Planning Obligations and Good Neighbour Agreements or that now form part of national planning policy through Policy 18: Infrastructure First within National Planning Framework (NPF) 4.	Moray has a slower build-out rate, therefore the 15 year timescale is deemed to be reasonable to allow adequate time for the Council and NHS Grampian to be able to spend funds given the timeframe required to construct larger infrastructure items. Some other local authorities operate with longer timescales for refunding unspent contributions, such as Highland Council with 20 years for developments between 1 and 49 houses.
	Moray Estates/ Highland and Island Enterprise	15 years to spend contributions is too long, 5 is preferable. If development puts pressure on services, these pressures should be remedied as soon as possible.	
Viability			
Viability	Homes for Scotland (HFS)	Fails to consider land already acquired under the current guidance. There is little possible recourse for these sites if the draft SG now renders these sites (potentially allocated sites) as unviable.	If sites are unviable, then developers will be required to go through the Council's viability process, which has not changed.

<p>Renewable Energy</p> <p>Maximising Net Economic Impact Supplementary Planning Guidance</p>	<p>Moray Chamber of Commerce</p>	<p>Keen to engage in future on the "Maximising Net Economic Impact Supplementary Planning Guidance."</p> <p>Note concerns:</p> <ol style="list-style-type: none"> 1. Risk of Disproportionate Developer Obligations 2. Potential for Reduced Community Benefits 3. Negative Impacts of a Precedent Set by Highland Council which raises expectation of financial contributions from developers, which has already been estimated by BIGGAR Economics to potentially reduce onshore wind development by 80% in the Highlands by 2030. 4. Undermining Scotland's Net Zero Commitments: Additional local-level obligations beyond the Scottish Government's national guidance could deter future investment, undermining both the confidence of investors and the broader national net zero strategy. <p><i>Renewable developers welcome the opportunity to maximise the social and economic benefits that their projects can bring and are keen to work with Moray Council to consider how this can best be achieved without risking their financial viability. For example, co-creating a framework to help best deliver against the needs of the region.</i></p>	<p>The Maximising Net Economic Impact Supplementary Planning Guidance is separate to the Planning Guidance and will be released for consultation separately.</p>
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Our members suggest that the forthcoming guidance be shaped by principles that maximise the socio-economic benefits of renewable projects for Moray while ensuring rapid deployment of onshore wind capacity. We recommend prioritising the following:

- Proportional and flexible community benefit schemes
- A framework that encourages onshore wind deployment alongside supply chain development
- The known onshore wind pipeline in Moray already contributes significantly to the local economy, supporting employment, local businesses, community funds, and GVA. These contributions are at risk if a restrictive developer obligation framework are introduced.

Members would appreciate the opportunity for a direct consultation with the Economic Development Team.



PLANNING
GUIDANCE

DEVELOPER OBLIGATIONS



2025



m.connect on-demand service

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1 Introduction

The sustainable economic growth of Moray requires the provision of infrastructure and facilities to deliver new development. Local authorities and other infrastructure providers across Scotland are struggling to provide infrastructure and facilities that will enable new development to happen without putting a strain on existing resources. Therefore, developers are required to contribute to the infrastructure and facilities to mitigate any adverse impact their development has on the existing network. However, developer obligations must be balanced carefully with development costs, sales values, land values and other policy requirements to ensure development remains viable and can continue to deliver the aspirations of the Council and Community Planning Partners for Moray's economic growth set out in the Corporate Plan.

This guidance focuses on developer obligations that vary according to the location and scale of development rather than those whose policy requirements will be applied uniformly across Moray (i.e. affordable housing, accessible housing, and compensatory planting). Failure to provide for policy requirements will render a development proposal contrary to the Local Development Plan for Moray (LDP). This guidance should be read in conjunction with the NPF4, LDP and any other relevant guidance.

The aim of this guidance is to set out a transparent and consistent approach to the likely infrastructure and facility requirements that will be sought for different types of development, the assessment methodologies that will be used to calculate the level of contribution required, and the rates applicable.

This guidance applies to proposals within the area covered by the Moray LDP. Within the Cairngorms National Park Authority (CNPA) proposals will be considered against the CNPA Local Development Plan (CNPA LDP) and Supplementary Guidance on Developer Contributions, which can be viewed at <https://cairngorms.co.uk/planning-development/>. Where there is a lack of detail on developer obligations within the CNPA LDP and Supplementary Guidance then the Moray Council Supplementary Guidance on Developer Obligations will be applied.

Purpose

The purpose of the document is to provide clear guidance on the:

- Developer obligations process;
- Infrastructure and facility requirements;
- Assessment methodology; and,
- Governance.

This guidance will help the development industry factor into viability appraisals the potential financial implications of likely infrastructure and facility requirements at an early stage of the development process to influence land values and provide greater certainty to communities of what the likely infrastructure and facility requirements of a development will be. The Council will work with its Community Planning Partners and key agencies to assess the likely infrastructure and facility requirements and ensure these are fair and proportionate to the impact of the development proposal.

The Council encourages developers and landowners to contact the Strategic Planning and Development team as early as possible in the development process so that an assessment of the likely infrastructure requirements and developer obligations can be undertaken which can be used to inform the land value/purchase price of the land.

Status

This guidance will be used as a material consideration after the date that the guidance is approved by the Planning and Regulatory Services Committee.

2 Context

Developer obligations are contributions sought from developers to mitigate the impact of their development on the community. When a development takes place there is a need for infrastructure and facilities to accompany it. This can include a wide range of infrastructure and facilities (e.g. schools, healthcare facilities, roads, public transport) depending on the scale and location of the development. Developer obligations are intended to ensure that developers make appropriate provision for any pressure on existing infrastructure and facilities or supply additional infrastructure and facilities to negate the impact of the development on the local community. Developer obligations are agreed before work on a development starts and are between the Council and the developer.

Evidence

Based on information available during the preparation of the Local Development Plan, and up to the third quarter of 2025, the Council has anticipated where the need for developer obligations will arise. It is not possible to identify this in every case.

The Settlement Statements within the LDP set out the key requirements for facilities and likely infrastructure to which development is required to contribute. However, Settlement Statements may be overtaken as circumstances change during the life of the LDP. It is unrealistic to expect the Council to anticipate every situation where the need for developer obligations will arise, and decisions will be taken based on the adopted LDP, NPF4, the proposed development and its impact on existing infrastructure and facilities, and the tests set out in The Scottish Government Circular 4/2025: Planning Obligations and Good Neighbour Agreements as set out below. The Council will maintain and work to the most up-to-date information on school rolls, the Housing Land Audit, the Council's Capital Programme, NHS Grampian's Asset Management Plan, and other relevant plans and strategies. Contributions primarily relate to capital costs and will be sought towards projects identified in these plans and strategies.

Where a mitigation changes after a contribution has been agreed or received from a developer, then the Council reserves the right to apply the contribution to the new mitigation. Should the cost of the new mitigation be less than the cost identified for the original mitigation then the proportional difference will be refunded to the developer.

Planning Policy

The Scottish Government Circular 4/2025: Planning Obligations and Good Neighbour Agreements sets out the circumstances in which planning obligations and good neighbour agreements can be used and how they can be concluded efficiently. Developer obligations (formerly planning agreements) or other legal agreements will only be used where issues cannot be resolved in another way such as attaching a condition to a planning consent. For example, a planning obligation/legal agreement will be required for phased contributions to infrastructure provision as each successor in title needs to be bound by the planning obligation/legal agreement. The Circular sets out 5 tests to be applied when planning obligations made under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) are sought.

Developer obligations sought must meet the tests set out in Circular 4/2025 and embody the infrastructure first principles with NPF4. Developer obligations must be:

- Necessary to make the proposed development acceptable in planning terms;
- Serve a planning purpose;
- Relate to the proposed development;
- Fairly and reasonably relate in scale and kind to the proposed development; and,
- Be reasonable in all other respects.

National policy and guidance on developer obligations including the 5 tests set out above are reflected in the adopted LDP.

Front Funding of Infrastructure

NPF4 policy 18 sets out that an integrated Infrastructure First Approach is to be taken to land use planning. Providing the infrastructure necessary to allow a development to proceed may require the Council or other partners to incur costs while working in partnership with developers, or through front funding of investment. Such expenditure will need to be recouped and where appropriate, contributions will be amended to reflect the actual costs incurred as opposed to the estimated costs set out in methodologies contained in this guidance. Circular 4/2025 provides that Local Authorities can recover proportionate payments from subsequent developments which benefit from initial investment until the costs have been recovered in line with the agreed planning obligation/legal agreement. Moray Council will continue to seek developer obligations for infrastructure once it is completed from sites which will utilise the additional capacity created.

*Buckie's Darling,
Buckie*



3 Process

LDP Delivery Group

An LDP Delivery Group has been set up by the Council to facilitate the alignment of investment plans and maintain an up-to-date evidence base to inform developer obligation assessments. The Group is led by Strategic Planning and Development and includes representatives from Transportation Services, Education Services, Housing Services, NHS Grampian and Scottish Water with scope to involve others as and when required.

The group identifies the infrastructure needed to support the growth associated with allocated sites within the Local Development Plan. This includes consideration of cumulative impact and the timing of infrastructure delivery to support growth.

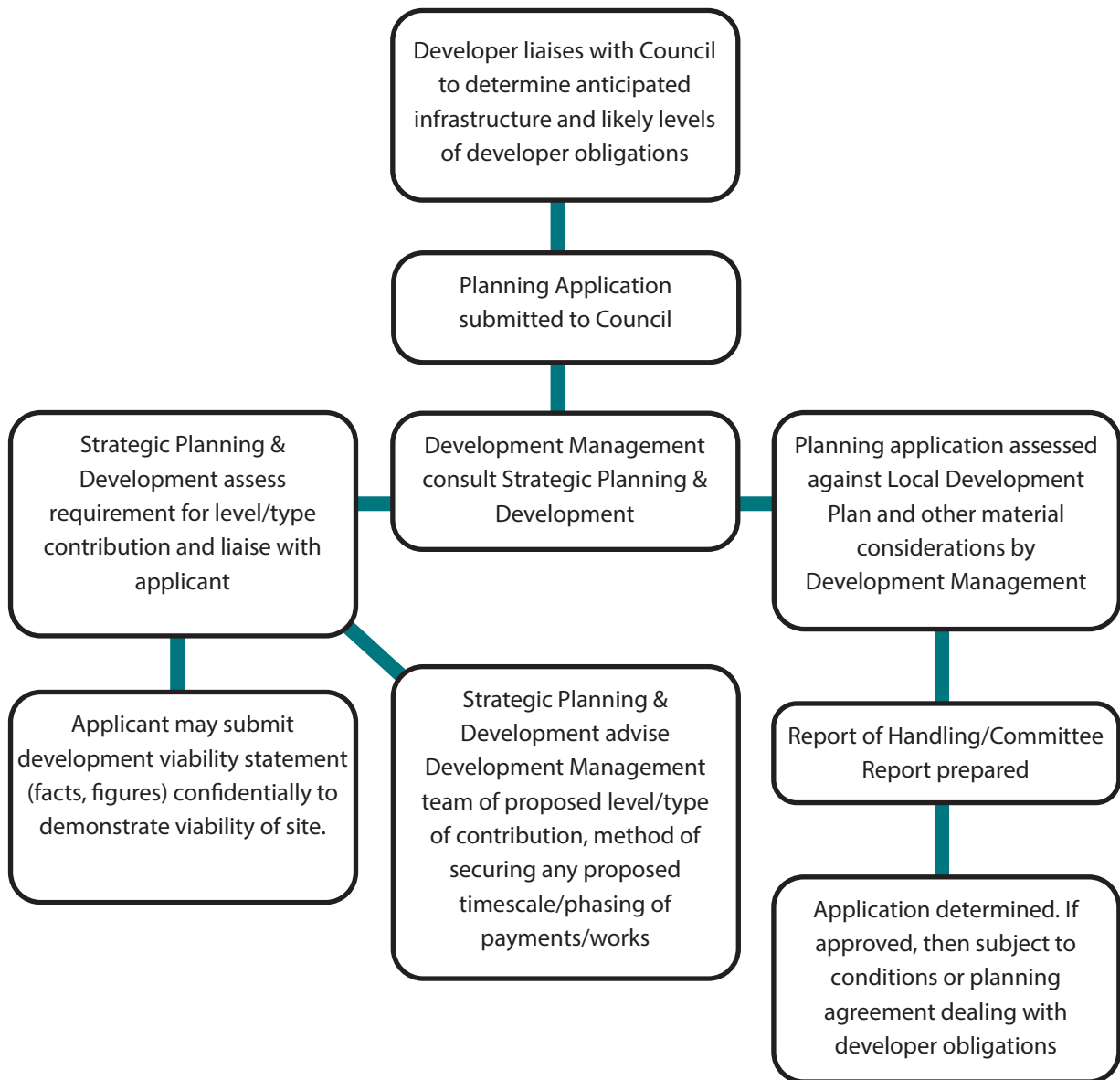


Diagram 1: Process Flow Chart

Dialogue on developer obligations can take place at any time with the Council. However, developers are encouraged to contact the Council as early as possible in the development process to ascertain the likely contributions that will be sought and their anticipated level so that these can be factored into early site development appraisal calculations and the extent to which these impact on the total development cost and the residual land value. This service is provided free of charge by the Strategic Planning & Development Team at the Council. The cost of meeting developer contributions and any other policy requirements must feature in any land valuations that determine residual land value.

When a planning application is submitted, the Council assesses what developer requirements are necessary to mitigate any infrastructure and/or facility deficiencies that are a direct result of the proposed development. These requirements are based on an assessment of existing facilities and infrastructure (taking into account any planning and funded improvements) to identify any infrastructure and facility capacity issues in absorbing new development. An assessment is provided to the developer by the Council setting out the contributions, methodology as to how these contributions have been calculated, and the justification for securing these. An example of a developer obligation assessment report is shown in Appendix 1.

The developer can reasonably expect to provide, pay for, or otherwise contribute towards the provision of infrastructure and facilities that would not have been necessary but for the development. Where a developer wishes to provide the infrastructure or facility in full, then this must be in agreement and to the satisfaction of the Local Authority. The basic premise is that the proposed development must not detract from the amenity of existing residents in terms of additional pressure the proposal would generate. In assessing developer obligations, the Council may take account of the cumulative impact of a number of proposed developments that gives rise to the need for mitigation. In these circumstances, the developer obligations sought will be on a pro-rata basis.

As the system of developer obligations in Moray has now been established for some time, and the guidance provides a transparent process for calculating developer obligations for sites identified in the LDP, developers who have purchased land without considering an appropriate level of developer obligations will be considered to have acted unreasonably and without due diligence.

A checklist setting out the actions developers will be expected to undertake and those that the Council will carry out in the identification, negotiation and agreement of developer obligations is set out in Appendix 2.

Planning Obligations/Legal Agreements

Developer obligations may be secured through upfront payments under Section 69 of the Local Government (Scotland) Act 1973, Section 48 of the Roads (Scotland) Act 1984 or Section 75 of the Town and Country Planning (Scotland) Act 1997. A legally binding Section 75 agreement (also referred to as a Planning Obligation) is likely to be required for larger developer obligations to secure through phased payments and in perpetuity with each successor in title. Therefore, if the developer sells the site the new owner takes on the responsibility of meeting the developer obligations.

Section 75 legal agreements are likely to be used for larger developments, particularly where there is phasing of payments and infrastructure. Section 75 agreements will be prepared in accordance with the Town & Country Planning (Scotland) Act 1997 and Scottish Government Circular 4/2025. An application may be made to modify an existing Section 75 agreement under Section 75A of the Act 1997 and this may result in the amendment of particular obligations either up or down, or may include obligations that were previously not sought at the time of the original application. Where an application proposes a net increase in the number of units from the original planning consent, a new assessment will be undertaken for these units and the obligations necessary will be reflected in the clauses of the Section 75 legal agreement relating to the development.

Legal agreements are signed off by all parties with an interest in the land and the Council before planning consent is issued and contain the payment structure for developer obligations as well as any other obligations required on the part of the developer or the Council. The exact payment terms will be a matter of agreement between the Council and the applicant.

Where a developer anticipates the need for a Legal Agreement they should prepare for this and include the time required to seek all land owners agreement within the project plan for the development.

Developer Obligations towards Moray Council infrastructure will be index linked to the General Building Cost Index (GBCI) as published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors (RICS) and obligations towards NHS Grampian infrastructure will be index linked to All in Tender Price Index (TPI) as published by Royal Institute of Chartered Surveyors (RICS). Contributions will be index-linked from the first anniversary of the execution of the relevant legal agreement.

A developer can apply to the Council to modify or discharge an obligation within a Section 75 legal agreement and has a subsequent right of appeal to the Directorate of Planning and Environmental Appeals (DPEA) if the authority refuses the application. These applications are assessed against the relevant development plan policies and five tests set out in Circular 4/2025.

The need for a legal agreement may be removed where financial contributions are to be paid as an upfront financial payment prior to planning consent being issued. This mostly relates to smaller development sites, where the level of developer obligation required is disproportionate to the legal costs to set up an agreement. In these cases, upfront payments will be required in order to meet this policy requirement. There may be delays relating to the clearance of funds depending on the method of payment chosen. Funds will not be deposited until planning permission is issued.

Viability

Developer obligations must be carefully balanced with development costs, sales values and land values to ensure development remains viable and can continue to deliver the Council's aspirations for Moray's economic growth and the delivery of affordable housing. This is substantiated in Circular 4/2025 which advises that the economic viability of proposals should be taken into consideration when applying developer obligations.

Where there are viability issues the Council may enter into discussion with the developer to negotiate an appropriate level of developer obligations following the submission of a viability assessment based on Appendix 5.

Viability Assessments

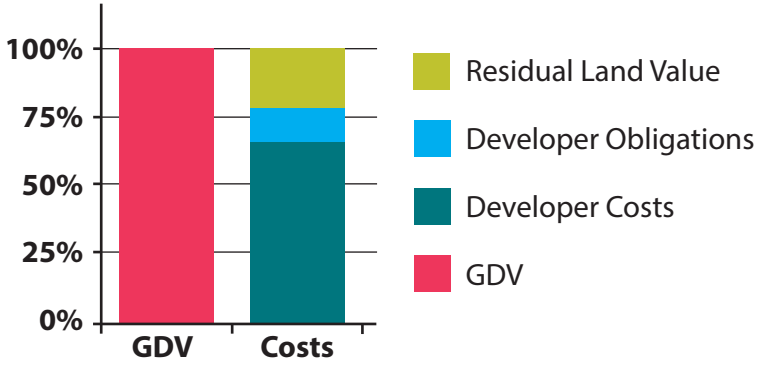
Where a developer considers that the level of developer obligations being applied renders their commercially viable proposal commercially unviable then they must bring this to the attention of the Council setting out the issues they consider to materially affect the viability of their proposal.

In these circumstances, a viability assessment and "open-book accounting" must be provided by the developer which Moray Council, via the District Valuer, will verify. For this service, the developer is required to pay the District Valuer's fee, which will be determined by the District Valuer on a case-by-case basis.

The information required by the applicant in order for the Council to undertake the review of the viability assessment is shown in Appendix 5. The Council will not consider the viability assessment until all the information required is submitted and to the satisfaction of the Council. Further advice is also available on the Royal Institute of Chartered Surveyors (RICS) website at www.rics.org.uk

Should a variation be considered acceptable an assessment report will be issued setting out what developer obligations have been agreed and the reasons for any change to the policy requirements. Planning applications where the negotiated value is a variation exceeding £50,000 will be reported to a meeting of the Planning and Regulatory Services Committee for their consideration/approval.

Gross Development Value GDV
 (total sales income from the development)
minus
Total Development Costs
 (construction costs, professional fees, developers profit, finance charges, developer obligations)
equals
Residual Land Value
 (amount to be paid to the landowner)



Freedom of Information

The Council may disclose information where it is obliged to do so, including where it is subject to request under the Freedom of Information (Scotland) Act 2002 (FOI) or the Environmental Information (Scotland) Regulations 2004. In such circumstances, the Council will seek the views of the developer and take them into account when considering and responding to any request. Where appropriate, developers are advised to obtain their own legal advice on this matter.



Community Orchard, Buckie

Exemptions

The Council have adopted the following exemptions:

- Student Accommodation. As this development will not generate resident children and place an additional burden on the existing schools, they will not be expected to contribute to Education facilities. A proposal to change these types of accommodation into mainstream housing will require planning permission, and an education contribution will be sought at this time (if necessary);
- HMO Accommodation. These developments will not be expected to contribute to Education, but may be required to contribute towards Healthcare; Sport and Recreational facilities and Transportation
- Sheltered, Extra Care, and Serviced Accommodation. These developments will not be expected to contribute to Education, Healthcare and Sport and Recreational facilities, but may be required to contribute towards Transportation;
- PNOTRE (Prior Notification) and PAPRE (Prior Approval). These developments will not be expected to contribute to Education, Healthcare and Sport and Recreational facilities, but may be required to contribute towards Transportation;
- Replacement Houses;
- Holiday Accommodation;
- Temporary caravans;
- Residential Annexe where it is conditioned to be ancillary to the main property;
- Town Centre Redevelopment of existing buildings for residential use where the original fabric is retained and redevelopment is achieved via internal conversion; or redevelopment of opportunity sites identified in Town Centre Masterplans adopted as a material consideration by the Council;
- Approval of Matters Specified in Conditions (AMC) planning application;
- Amendment of previously permitted planning application of 4 or more residential units results in a net increase of 1 SRUE or less than 1 SRUE;
- Sites with extant planning consent whereby: the previous planning consent is within the timeframe between consent being granted and expiry at the time of the verification of the current planning application; or the previous planning consent has commenced or developer obligations had previously been paid;
- Commercial Development where the floor space is less than 1,000m² or the site area is less than 1 hectare; and
- Redevelopment of brownfield sites within Town Centres

Governance

The Council and NHS Grampian will endeavour to spend the funds received on appropriate infrastructure and facilities within 15 years of the date of payment, or for those applications where phased payments are received through a Legal Agreement within 15 years of the date of final payment, unless otherwise agreed. Contributions not spent by the end of the relevant period will be refunded to the developer with any interest accrued within 21 days of receiving a written notice from the developer requiring to do so. Where applicable, net of any additional administrative costs directly attributable to the particular contribution to be refunded.

For applications where payment has been made upfront, where planning consent lapses as development has not commenced on the site within the period of the consent or a smaller dwelling built, developer obligations will be refunded to the applicant within 21 days of receiving a written notice from the applicant requiring it to do so, with any interest accrued.

Interest of 5% per annum above the Bank of England base rate will be charged on the late payment of developer contributions from 14 days after the date the developer obligations fall due until payment.

For residential developments, the Council will not expect the individual purchasers of the completed residential plots to have liability for any of the financial contributions.

Indexation

All rates as set out in this guidance are correct as of Quarter 3-2025 and will be reviewed and published every 12 months. Developer Obligations towards Moray Council infrastructure will be index linked to the General Building Cost Index (GBCI) as published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors (RICS) and obligations towards NHS Grampian infrastructure will be index linked to All in Tender Price Index (TPI) as published by Royal Institute of Chartered Surveyors (RICS). These rates will be reviewed every 12 months to ensure they are in line with actual costs incurred. The published index linked rate for the date the application is submitted will be used in the assessment report.

4 Infrastructure and Facility Requirements

Types of development

Developer obligations will be sought for the following types of development:

- **Residential development:** All proposals which involve the creation of new residential unit(s).
- **Commercial development:** All proposals where the floorspace is 1,000m² or where the site area is 1 hectare or more
- **Other applications:** Where the Council or NHS Grampian considers the proposal to be of a scale or type appropriate to merit consideration of developer obligations

Methodology

Developer obligations will be sought on a per-residential unit equivalent (unless otherwise stated). A three bedroomed residential unit will be taken as a “standard sized residential unit” (SRUE). The figures below show how the obligation is calculated.

Size of Residential Unit	1 bed	2 bed	3 bed	4 bed	5 bed	6 bed
Contribution	0.6	0.8	1.0	1.2	1.4	1.6

Where a planning permission in principle application is received and the precise mix of units is not available then the assessment will be based on 1 SRUE (3 bed unit) for each of the units proposed.

1 bed units will not be expected to contribute towards education facilities.

Infrastructure and facility requirements

Developer obligations will be sought for the following infrastructure and facilities:

- Education;
- Transport;
- Healthcare;
- Open Space and Sports, Community & Recreational Facilities;
- Play Opportunities and Destination Parks;
- Green Networks and Access Improvements

This is not intended to be an exhaustive list and requirements may change over time as additional mitigations are identified in the Council's Capital Plan and other relevant strategies. A further assessment of infrastructure and facility requirements will be undertaken on submission of a planning application.

Education

Contributions will be sought towards meeting the cost of improvements for nursery, primary, and secondary education infrastructure that is necessary as a direct consequence of residential development.

When and where do they apply?

Contributions will be sought from all residential developments where the school roll in the catchment primary and/or secondary schools exceeds 90% of its planning capacity as a result of the development, cumulatively along with other identified developments in the school catchment. This figure has been adopted due to the rural nature of Moray and the large number of schools with composite classes from a school estate which includes a number of older buildings which can restrict the number of pupils a school can accommodate. Additional Support Needs (ASN) provision can also limit the number of pupils which can be accommodated in a school as a result of increased space requirements for pupils with ASN needs. An ASN strategy is currently being developed by Education Services and this may require a separate contribution towards ASN.

The Scottish Government Guidance on Determining Primary School Capacity (2014) sets out that planning capacity is a physical, theoretical measure of the total number of pupils which could be accommodated in a school, based on the total number of teaching spaces, the size of those spaces and the class size maxima.

Where a mitigation is required, this will be provided by the most appropriate method by either a permanent extension, reconfiguration of the existing building to provide additional classroom space, through the erection of a new-build school, or by rezoning.

Mitigations are informed by collaborative work with Education Services, alongside Capital Plan allocations, the Learning Estate Strategy, and indicative measures identified in the Moray Local Development Plan.

How is the contribution calculated?

Contributions will be calculated for each development and are based on the Housing Land Audit (HLA) and published School Roll Forecast (SRF) for Moray using the following formula:

Average Number of Pupils Over 90% Capacity x Rate of Mitigation = Contribution

Contributions are calculated on the basis of the average number of pupils that the school(s) are over capacity over the 5-year period following the submission of a planning application.

The average number of pupils over 90% planning capacity will be expressed as a percentage of the number of houses proposed by a development against the total number of houses built within the school catchment during the 5-year period.

Where the proposed build out of the development is beyond 5 years, contributions for the remaining units for the extended period beyond 5 years will be calculated using the following formula:

Number of Houses Remaining x Relevant Pupil Product Ratio x Rate of Mitigation

The rates applicable to each mitigation are set out below:

Mitigation Measure	Cost per pupil	
	Primary School	Secondary School
Rezoning	£5,697.78	£5,697.78
Reconfiguration	£7,720.57	£15,441.17
Permanent Extension	£49,235.81	£60,446.37
New School	£69,204.67	£88,523.12

The rates per pupil as set out above reflect the recent costed projects within Moray, indexed in line with BCIS where appropriate.

If the identified mitigation is a rezoning exercise, then a contribution will be sought towards the cost of the rezoning consultation. School catchment rezoning is a separate statutory process so in the event that a rezoning application is not approved, then alternative mitigation would need to be explored. The rates for reconfiguration and rezoning are indicative as these may vary depending on the nature of the project proposed. The cost for rezoning may include costs towards reconfiguration or other infrastructure as part of the mitigation.

For primary schools, contributions will be used to create capacity for the relevant catchment area. As set out in the Education (Scotland) Act 1980 the Scottish Government require Local Authorities to allow out of zone placements and as such, capacity may be created at an alternative local school to reduce demand in the relevant catchment.

Pupil Product Ratio (PPR)

The number of pupils generated per residential unit (often referred to as the ‘pupil product ratio’) is set out below:

	Pupil Product Ratio (PPR)
Primary Education	0.3
Secondary Education	0.15

This PPR has been tested and proven to be reasonable in Moray.

New Schools

In larger developments, where the development as a whole or as a part of the masterplanned area generates the need for a new school the developer will be required to provide an appropriate sized area of land for the school: 2.5 hectares for a primary school. This figure is based on a provision of a modern school and associated facilities such as playing fields and SUDS. The land provided should be an appropriate shape, reasonably flat, accessible, transferred at nil cost to the Council, and serviced at the developer's expense.

Where the development does not fully require a new school, the Council will pay for the part of the land that is attributable to pupils generated by other developments. Other developments generating pupils that are zoned to the new school will then be required to provide a proportionate contribution towards the land value element, that the Council has front funded, in addition to the contribution to building costs. A per pupil rate for the land value element will be based on the total land value cost which will require an independent valuation to be undertaken.

Nursery Provision

New housing development may result in extra demand for early learning and childcare places, resulting in the need for a material increase in nursery provision. Future guidance on nursery provision, including rates will be provided.

*Linkwood Primary School
Elgin*



Transport

A developer will be required to undertake mitigation measures to ensure there is no adverse impact on the transport network as a direct result of their development or arising from the cumulative impact of development in the area. Transport interventions that are expected to be provided as part of a new development should be reflected in associated planning applications. The developer will be expected to deliver the infrastructure and measures at their cost and for cumulative impact through a proportionate contribution towards transportation interventions identified in the Elgin Transport Strategy or other location specific transport plans which may be agreed by the Council.

The Scottish Government Planning Guidance on Local Living and 20 Minute Neighbourhoods states that 'The Local Living and 20-minute neighbourhood concepts aim to create places where people can meet the majority of their daily needs within a reasonable distance of their home, by walking, wheeling or cycling'. Transport mitigation such as active travel connections and public transport provision may be identified to support local living. This will be determined on a case-by-case basis.

Transport infrastructure requirements and costs will vary from site to site. Developers are encouraged to contact the Council's Transport Development Team as early as possible in the development process to ascertain the likely transport infrastructure requirements that will be sought in order that these can be factored into early site development viability calculations.

A mitigation measure to the transport network that can be carried out by the developer will generally be secured via planning condition and where this is not possible a financial contribution will be sought through a legal agreement. Examples of modifications to the transport network and provision of sustainable travel secured through s75 can include:

- Funding of bus services to serve the development during early phases;
- Provision of or funding of public transport priority measures (e.g. bus gates);
- Installation of traffic signals, controlled pedestrian crossings and/or upgrading/refurbishment of existing traffic signal infrastructure;
- Provision or upgrading of roads, bridges and other infrastructure (e.g. new footways);
- Alterations to existing roads.

Examples of modifications to the transport network and provision of sustainable travel secured through conditions attached to a planning consent can include:

- Infrastructure to support Active Travel, in particular Routes to School;
- Travel plans to incentivise use of active travel infrastructure and public transport;
- Installation/upgrading of street lighting;
- Infrastructure to support Traffic Regulation Orders/Stopping-Up Orders;
- Passing places.

Examples of standard costs associated with sustainable travel and transport network improvements include:

- New bus shelter (Moray Council is required to deliver infrastructure within the existing public road): £5,075;
- Processing of Road Traffic Regulation Order (e.g. extend speed limit, waiting restrictions) as set out in the current Moray Council Fees and Charges schedule.

Local Authority provided public transport

Developer obligations will be sought from developments within rural and urban areas, where no public transport connection is available and will contribute to public transport provided by Moray Council to serve the additional residents generated by the new developments.

Mitigation Measure	Cost per SRUE
Moray Council provided bus	£418.00

Transport Assessments/Statements

For developments of 50 or more dwellings the final need for transportation developer obligations will be determined by a Transport Assessment (TA) which should be carried out by the developer.

For developments of 49 dwellings or below, a Transport Statement will be required and this will identify the existing transport infrastructure, travel characteristics associated with the site and the proposed measures to improve the infrastructure and services to encourage sustainable travel to the site. Detailed accessibility analysis and assessment of the traffic impacts would not normally be required.

The information required for a Transport Assessment/Statement can be found in Appendix 3. Developer obligations will be sought towards transport interventions at locations where there is a material increase in traffic. For example in Elgin at the A941 New Elgin rail crossing point and adjacent Edgar Road and Laichmoray junctions a material increase is anything in excess of 1% as these already operate above capacity during the peak periods, for all other locations in Elgin a material increase would be in excess of 5%. For all other locations in Moray the material impact will be considered to be 5% where there are currently operational issues and 10% elsewhere.

High quality design which prioritises active travel and the use of public transport and results in an identifiable reduction in the use of private cars evidenced through the Transport Assessment may be reflected in the final need for transportation developer obligations. The use of target mode shares will require justification and strong evidence of interventions to support active travel and public transport, and will only be considered where there is an agreed monitoring programme and clause within a S75 agreement which would secure an additional developer obligation towards public transport or active travel mitigation if targets were not met. If additional public transport or active travel measures cannot be provided then additional developer obligations will be sought towards mitigating the impact of additional vehicles on the transport network.

Cumulative Impact of Development on the Wider Transport Network

Development of a number of sites will have an effect on the operational performance of the transport network. When these sites are considered together this may require different mitigation measures than when considered individually. Additional assessments of key junctions on the trunk road network, utilising previously agreed capacity modelling parameters with Transport Scotland, will be undertaken and overall mitigation measures further developed for the cumulative impact of developments, taking cognisance of the needs of pedestrians and cyclists as the National Transport Strategy aims to make sure that public transport and active travel options are the preferred choice for people making short journeys.

Elgin

Elgin Transport Strategy (ETS) addresses the cumulative impact of development allocated in the Moray Local Development Plan 2020 up to 2030. The ETS sets out a series of transport interventions which seek to improve pedestrian and cycle access, develop public transport, ease congestion and make travel around Elgin more predictable and consistent. The ETS can be viewed on the Council's website at www.moray.gov.uk/downloads/file109528.pdf

The transport elements considered within this developer obligations guidance only apply to the local road network. Where any development has the potential to change the volume or nature of traffic using the Trunk Road Network (A95 and A96) further consideration will be required in discussion with the Council's Transport Development Team and with Transport Scotland. This further consideration may result in planning conditions and/or additional mitigation requirements related to the strategic transport network.

The final need for developer obligations will be determined through an agreed TA/TS. Contributions towards the transport interventions identified in the ETS will be sought from all residential development including windfall sites.

Transport interventions in the ETS are split into:

- Core: address both existing network constraints where development will have an adverse impact as this will exacerbate an existing situation and to provide for the additional demand for travel associated with new development;
- Directly related to development: interventions directly related to the development of a LDP site (e.g. replacement of bridge to enable two-way traffic);
- Council: specific improvements led and delivered by Moray Council (e.g. Moray Council Travel Plan). Contributions will not be sought towards transport interventions attributed solely to the public sector.

As noted previously, the transport elements considered within this developer obligations guidance only apply to the local road network and further discussions will be required where there is a potential impact on the Trunk Road. While indicative improvements to the A96 are included within the wider Elgin Transport Strategy the Council acknowledges that further and more detailed engagement on rationale for specific interventions, consideration of trunk road safety, impact on strategic traffic movements and design in accordance with Scottish Transport Appraisal Guidance and Design Manual for Roads and Bridges.

Elgin is split into five areas as shown on Plan A in Appendix 4. The transportation need for a development is calculated on the basis of where the development is located and where trips from the development would likely be passing through and is calculated using peak period car trips based on trip generation rates from TRICS which are the same as used in the Elgin Traffic Model. Information pertaining to TRICS and the Elgin Traffic Model is provided in Appendix 3.

Developments are required to proportionately contribute towards interventions within their respective areas and interventions within the central and commercial area given that the central and commercial area will attract trips from all residential developments within Elgin. Where an intervention is on or crosses boundaries contributions will be sought from developments in both areas.

The transportation need and associated level of developer obligations will be based on a Transport Assessment/Statement provided by the developer and agreed with Moray Council. The transportation need will be informed by the percentage increase in development traffic at the points of the transport network where ETS interventions are proposed, including Active Travel interventions particularly where increases in traffic would lead to community severance.

Where the TA/TS identifies a development impact of less than 1%, no developer obligation would be sought for that intervention. Where the TA/TS identifies that an improvement is required at one of the ETS interventions which is more onerous than that included in the ETS, then the developer will be required to develop and deliver mitigation measures at that location.

High level costs for each transport intervention have been supplied by the Council's transport consultants, Jacobs. These costs include an outline allowance for land purchase and utilities diversions. A table setting out the ETS transport interventions and associated costs are shown in Appendix 4.

Should the actual cost of a transport intervention following construction and operation be lower than that estimated through the ETS, then an appropriately apportioned refund will be provided where a developer has provided the full developer obligation for the transport intervention.

Buckie

In Buckie, developer obligations are required to enable the provision of new active travel infrastructure, including a new bridge over the Burn of Buckie, which would provide a new high quality, safe and direct connection from the Southwest Buckie development area to the eastern part of Buckie where the majority of existing and future employment opportunities are located, along with other facilities such as education, healthcare and retail.

A proportionate contribution will be sought from the sites which make up the Southwest Buckie Masterplan and R7 Muirton Road site, based on a per housing unit rate, with additional funding being provided by Moray Council to account for demand associated with existing housing to the west of the Burn of Buckie.

The current estimated cost for the active travel connection (September 2025 prices) is £2,033,365.67. The current number of housing units for relevant developments are:

Existing Housing:

- Silberg Drive 180 housing units;
- Alba Road 147 housing units; and
- Inchgower 112 housing units.

Development Sites:

- R7 Muirton Road (indicative capacity) 161 housing units; and
- R8 + LONG 600 housing units.

Total number of housing units which would benefit from the new infrastructure is 1200 (based on indicative site capacities in April 2024).

This gives an indicative rate for developer obligations towards the Burn of Buckie Active Travel infrastructure of £1,694.47 per housing unit at the time of writing this report. Note as planning applications are received then the number of housing units may increase/decrease. This will lead to a proportional change in the level of developer obligations sought.

Other settlements

For all other settlements and in rural areas, each planning application will be assessed on its own merits. Developers will be expected to meet in full the cost of all external works identified in the Transport Assessment and/or through the planning process and undertake these works. The developer may also be required to make an appropriate contribution towards mitigation measures on the wider transportation network, in particular active travel provision and public transport.

The Council may agree transport plans or specific interventions for other locations (e.g. Forres, Buckie) from time to time where the predicted growth from a range of sites indicates the need to set out a single approach to transport infrastructure improvements to mitigate the impacts of those developments or provide off-site infrastructure to support sustainable travel. Any requirement to contribute to the delivery of one of these plans or interventions will be consulted and set out as an appendix to this Guidance.



Healthcare

Healthcare facilities can include General Medical Services (GMS), Dental Services, Community Pharmacies and Health and Social Care Partnerships (where it can be identified there is need for provision in the GP Practice), or such other infrastructure systems relating to those which will offset the impact of development e.g., remote consulting, reconfiguration etc. Scottish Health Planning Notes and GP Premises Directions provide national guidance on standards and specification for healthcare facilities.

When and where does it apply?

It applies to all residential developments where the capacity of existing facilities will be exceeded as a result of the development. Site specific requirements are initially identified in the Settlement Statements within the LDP. Requirements for specific mitigations are identified in appendix 6.

The baseline is identified as the recommended number of patients of 1,500 per General Practitioner (GP). Although guidance refers to a GP, this can also include other Healthcare Professionals. The Primary Medical Services Directions and the Scottish Health Planning notes set out floor space and accommodation requirements. Primary healthcare provision also includes a number of Health and Social Care Partnership and link worker services located within the same facility. Additional floor space is therefore identified for this purpose.

Contributions may be sought for a new build facility, permanent extension, internal reconfiguration works or any other mitigation identified by NHS Grampian to provide additional capacity. The mitigation will be based on required infrastructure capacity (i.e. floorspace requirements) to deliver the number of GPs and support services as opposed to number of staff currently employed in premises.

On this basis, the following contribution per residential unit equivalent will be sought for each mitigation measure:

Mitigation Measure	Permanent Accommodation	Internal Reconfiguration
Contribution per SRUE	£1,838.45	£1,081.58

On larger residential development sites, where development as a whole or part of a masterplan generates a requirement for requirement for GP, Health and Social Care Practice Moray (HSCP Moray), facilities there may be a need to provide these on-site. Similar to education facilities, a proportional land value contribution will also be required. This may be in the form of serviced land at nil value cost or a financial contribution, which will be additional to the mitigation measure for build cost.

On larger residential development sites there may also be a requirement for an interim solution to be provided to ensure the residents can access a Healthcare Facility at the early stages of the development. This may be in the form of a commercial unit at nil rental cost for an agreed timeframe.

Open Space and Sports, Community & Recreational Facilities

New sports and recreation facilities such as sports pitches, parks and children’s play areas will be required to meet the Council’s Open Space requirements set out in the LDP, NPF4, Open Space Strategy or other relevant guidance.

Sports Pitches

The Review of Sport, Leisure and Recreational Provision in Moray, April 2014, identified that grass pitches in Moray are heavily used but are restricted by poor weather, lack of floodlighting, use of other activities and maintenance issues. The Review identified that the Scottish climate and vast amount of football that takes place on natural grass pitches are incompatible and unsustainable from a maintenance resource perspective. With the ever-improving developments of synthetic turf technology, the flexibility offered by the surface in terms of game size and the capacity for repeated play without detrimental effect is further evidence that a synthetic grass pitch located in every associated school group (ASG) area can ensure year-round outdoor sports pitch activity is available and reduce the pressure on natural grass pitches.

The sportscotland national average for synthetic grass pitches is 1.0 full sized pitch per 10,000 population. The Facilities Planning Model 2023 sets out that Moray provision currently aligns with the national average however 3 of Moray’s pitches have restricted access due to them being located on private property (Army, RAF and Private School) and 1 other pitch is not full sized.

A previous outdoor pitches strategy for Moray Council aimed to provide a synthetic grass pitch in every ASG in Moray. Current pitch provision in Forres falls below this intention therefore contributions will be sought towards a provision of an enclosed, floodlit, synthetic grass pitch in Forres to mitigate the adverse impact of proposed development on recreational sports facilities.

Mitigation Measure	Synthetic Grass Pitch (1.0ha)
Contribution per SRUE	£280.42

Contributions will also be sought towards the provision of grass pitches where new development creates strain on existing grass pitches. Contributions will be identified on a case-by-case basis.

Sports, Community & Recreational Facilities

Sports, community and recreational facilities are an integral part of new developments, particularly if existing provision would not have the capacity to cope with increased population. Moray Council has a sport and leisure capital investment plan which will continually evolve and align with the Council's capital plan. This specific investment plan will identify new facility requirements as well as existing refurbishment. Financial contributions may be secured towards internal reconfiguration or other works to enhance existing facilities, create an extension or a new build facility to help alleviate the impact of users arising from new development.

These facilities may include, but are not limited to, outdoor facilities such as multi use games areas (MUGA's), athletics facilities, lighting, fencing, spectator areas, changing facilities and indoor facilities such as swimming pools, fitness rooms, exercise studios, community meeting space and sports/gym halls.

Further consultation may be required both internally and with the local community to establish how facilities would be impacted to further evidence contributions required. Due to the significant variation of costs across sports, community and recreational facilities rates will differ and be applied accordingly.

Play Opportunities and Destination Parks

Developments will be required to provide play spaces in accordance with the adopted LDP, NPF4 and the Open Space Strategy or other relevant strategies and with reference to the Play Sufficiency Assessment. Contributions will be sought towards enhanced play provision in community parks which serve the development where the development will create strain on the existing play spaces. Contributions will be identified on a case-by-case basis.

Moray Council has identified Destination Parks in Aberlour (Alice Littler Park), Buckie (Ian Johnston and/or Linzee Gordon), Elgin (Cooper Park), Forres (Grant Park), Keith (St Rufus Park).

St Rufus Park (Keith)



These parks play a role within communities providing a greater variety of opportunities for play for a greater age range and may provide other facilities such as skateparks or pitches. These have wider catchments than neighbourhood or local equipped play areas. If existing provision would not have capacity to cope with increased population financial contributions may be secured towards enhancing, reconfiguring, extending existing facilities and/or new facilities within Destination Parks. This could include, but is not limited to, play provision, MUGA's, paths, seating and other furniture, lighting, or any proposals within approved guidance or masterplans.

Green Networks and Access Improvements

No development should be viewed in isolation and have a duty to contribute to the quality of their local environment by integrating into existing green networks and access routes. Off-site provision may be necessary and where this is the case, developer obligations will be sought.

Examples that developer obligations may be sought for include:

- New and/or improvements to existing core paths and active travel routes serving the development and/or connecting to existing core paths/active travel routes;
- Cycle parking facilities and repair stations at key destinations such as town centres, community facilities and town parks (e.g. Cooper Park in Elgin);
- Route or interpretative signage;
- Off-site sustainable urban drainage systems (all greenfield sites are required to provide this on-site however, it is acknowledged that this may not be practical on brownfield sites);
- New habit, wildflower planting, hedgerows and tree lines to connect green corridors and support ecological habitats and biodiversity; and
- Improvement of poor-quality open spaces as advised by the Open Space Strategy and Audit.

Planning conditions will be used where possible, however where core paths align with the Active Travel network delivery may be facilitated as part of the developer obligations towards the transportation network.

Developer obligations will be sought on a case-by-case basis.

Appendix 1

Developer Obligations Assessment Report



Please note that this assessment is hypothetical and demonstrates the methodology applied.

As set out below, a total developer obligation of £1,912,914.52 (£22,504.88 per unit) is required to mitigate the negative impact that this development proposal has on local education, transport and healthcare infrastructure.

Date:

Application Reference: 24/00000/APP

Description: Residential development of 85 houses and associated infrastructure at Moray Town

To: Development Management

Applicant:

I refer to the above-mentioned planning application under consideration by Moray Council.

This assessment is carried out in relation to policies contained within the Moray Local Development Plan (LDP), specifically policy DP2 Housing and PP3 Infrastructure & Services.

Copies of these policies can be found on the Council website at <http://www.moray.gov.uk/downloads/file133546.pdf>



This assessment report will set out the basis for any agreement you enter into with Moray Council.



Your application will be unable to be determined (in terms of delegated powers/reported to committee) until we have reached agreement in writing on the terms as set out in the assessment report.

Summary of Obligations

Infrastructure	Level of Contribution
Primary Education <i>New build Moray Primary School</i>	£796,545.41
Secondary Education <i>Extension at Moray Secondary School</i>	£523,238.48
Healthcare <i>Permanent accommodation at Moray Health Centre</i>	£152,591.35
Transportation	£662,717.27
Total Developer Obligations	£2,135,092.51

Breakdown of Calculation of Obligations

This section of the report sets out how the obligations outlined above have been calculated.

Calculation of Standard Residential Unit Equivalents (SRUE)

Applications are assessed on the basis of standard house unit equivalents (SRUE). This application is considered to comprise of the following:

5 x 1 bed (0.6 SRUE) = 3 SRUE

15 x 2 bed (0.8 SRUE) = 12 SRUE

50 x 3 bed (1 SRUE) = 50 SRUE

15 x 4 bed (1.2 SRUE) = 18 SRUE

This assessment is therefore based on 83 standard residential unit equivalents (SRUE).

INFRASTRUCTURE

Primary Education

Pupils from this development are zoned to Moray Primary School which has a mitigation identified as the result of new development. The development has been factored into the School Roll Forecast 2023 (SRF) on the following assumed phasing: 30 units in 2027, 30 units in 2028, and 25 units in 2029.

Education Services has identified that a new school will be required. The number of pupils over 90% capacity that this development is responsible for has been identified as 11.51.

Therefore, contributions are sought on the following basis:

$$11.51 \text{ pupils} \times \pounds 69,204.64 = \pounds 796,545.41$$

Contribution towards Primary Education = £796,545.41

Secondary Education

Pupils from this development are zoned to Moray Secondary School which has a mitigation identified as the result of new development. The development has been factored into the School Roll Forecast 2023 (SRF) on the following assumed phasing: 30 units in 2027, 30 units in 2028, and 25 units in 2029.

Education Services has identified that an extension towards Moray Secondary School will be required. The number of pupils over 90% capacity that this development is responsible for has been identified as 5.91.

Therefore, contributions are sought on the following basis:

$$5.91 \text{ pupils} \times \pounds 88,534.43 = \pounds 523,238.48$$

Contribution towards Secondary Education = £523,238.48

Transportation

Based on the interventions identified within the Elgin Transport Strategy (ETS), the Moray Council Transportation Service has confirmed that contributions will be sought to mitigate the impact of the proposed development on the transport network as detailed in Appendix 4.

The average contribution per unit is £7,796.67 and the following will be sought:

$$\pounds 7,796.67 \times 85 \text{ units} = \pounds 662,717.27$$

Contribution towards Transportation = £662,717.27

Healthcare

Healthcare facilities include General Medical Services (GMS), community pharmacies and dental practices. Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities.

The recommended number of patients is 1500 per General Practitioner (GP).

Healthcare infrastructure requirements have been calculated with NHS Grampian on the basis of national standards and specifications for healthcare facilities and estimating the likely number of new patients generated by the development.

NHS Grampian has confirmed that the existing health centre is operating at capacity and contributions will be required to increase capacity at the Health Centre. Therefore the following contribution will be sought:

Increase capacity at the Health Centre: $83 \text{ SRUE} \times \text{£}1,838.45 \text{ per SRUE} = \text{£}152,591.35$

Contribution towards Healthcare = £152,591.35

Appendix 2

Checklist for Developers and the Council in the Developer Obligations Process

Developers will be expected to:

- Check the Guidance on Developer Obligations for potential requirements along with any other relevant Supplementary Guidance.

Reflect all policy requirements set out in the Moray Local Development Plan and any site-specific requirements stipulated in the LDP Settlement Statements, Action Programme, Masterplans and Development Briefs, and undertake a TA/TS to an agreed scope.

- Contact the Council as early as possible in the development process to ascertain the likely obligations that will be sought and their anticipated level.
- Factor any developer obligations or other policy requirement/site specific requirement into development appraisal calculations. Reflect developer obligations in the development appraisal and in the value of the land.
- Establish and agree their preferred phasing of developer obligation payments and delivery of developer obligations, which will be included in a Section 75 or other appropriate legal agreement.
- Conclude any agreement timeously.

The Council will:

- Meet with developers early in the development process and issue an interim assessment setting out the anticipated level of developer obligations that will likely be sought.
- Prepare developer obligations assessment at pre-application and application stage when required.
- Negotiate and deal with the assessment of developer obligations and any planning obligations in a timely manner.
- Suggest the use of particular types of legal agreements, planning conditions, etc., appropriate to the circumstances.
- Only use planning obligations where they meet the tests set out in Circular 4/2025.
- Consider all relevant factors which may impact on the financial viability of the development scheme.
- Issue planning consent only when the Section 75 agreement or other appropriate legal agreement has been signed by all parties and (if required) the agreement has been recorded in the Register of Sasines or registered in Land Register of Scotland.
- Monitor contributions, seek payments when due and notify applicants of any change in circumstances that may affect the concluded obligation.

Appendix 3

Transportation

Information required for Transport Assessment (TA)/Transport Statement (TS)

The onus will be on the developer to provide a TA/TS which follows the Transport Scotland Transport Assessment Guidance 2012 and, where required use the Elgin Traffic Model.

Where developments are expected to create an increase in traffic, a completed **Transport Assessment Form** www.moray.gov.uk/downloads/file87671.pdf must be submitted by the developer to allow officers to consider the requirement or otherwise for further assessment.

Developers are urged to carry out early consultation with Transportation prior to the submission of development proposals. If a Transport Statement/Transport Assessment is required the scope should be agreed with Transport Development prior to the submission. A TA must provide:

- An assessment of travel characteristics*;
- A description of the measures which are being adopted to influence travel to/from the site*;
- A description of the transport impacts of the development in a dynamic network and how these will be addressed e.g. proportionate contribution towards intervention identified by the Elgin Transport Strategy.

And, include:

- Forecast of person trips generated by the development*;
- Forecast of person trips generated by mode of transport*;
- Appraisal of the routes from development to end destinations (schools, employment, local services) by foot, cycle, public transport and vehicle.

* Minimum requirement for Transport Statement.

Elgin Traffic Model

The Elgin Traffic Model is a macrosimulation model, the extents of which cover the whole of the Elgin road network. The model provides the facility to review the performance of the collective traffic system to check for changes in network performance and to determine the areas of the network where there would be an increase in traffic as a result of a development.

When use of the Elgin Traffic Model is required, developers and their consultants must first agree the scope of the assessment to be undertaken with the Transport Development Team and then complete an Elgin Traffic Model Access Form www.moray.gov.uk/downloads/file114455.doc

The model is operated by the Council’s transport consultant who will undertake any necessary changes to the model and run the testing scenarios. Output from the model runs will be provided as a report with model output data in the form of shape files (if required). There is a fee associated with accessing the model which will depend on complexity of any changes required to the base model and the number of scenarios tested through model runs. The payment of invoices will be through the Moray Council (data will not be released until payment has been received).

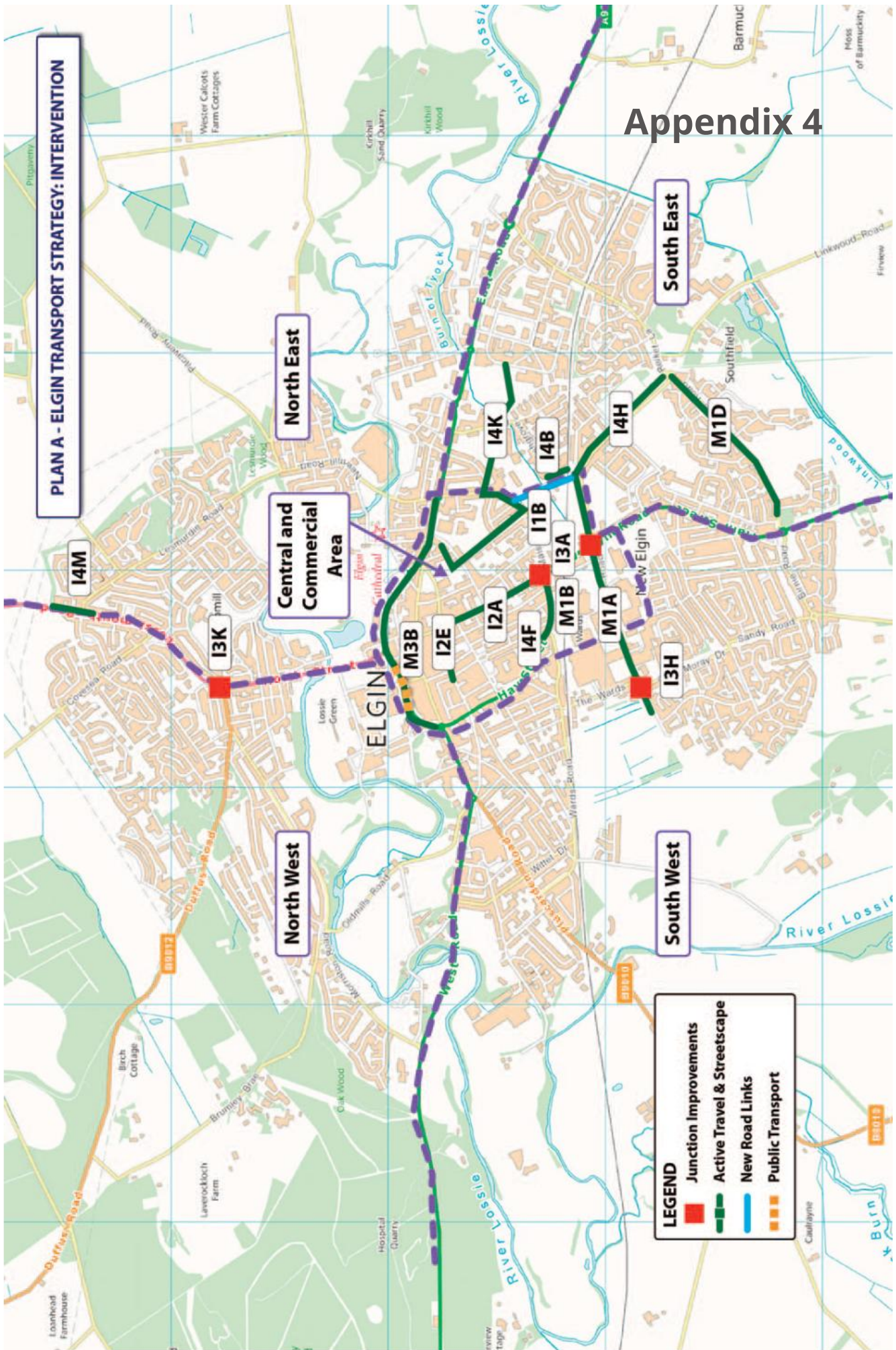
TRICS

The Vehicle Trip Generation rates used in the Elgin Traffic Model have been derived using TRICS. TRICS is the national standard system of trip generation and analysis in the UK and Ireland, and is used as an integral and essential part of the Transport Assessment process. The system allows its users to establish potential levels of trip generation for a wide range of development and location scenarios and is widely used as part of the planning application process by both developer consultants and local authorities.

Table 1- Trip Generation Rates

Residential Trip Generation Rates	Vehicle Trips Per Dwelling		
	Arrivals	Departures	Total
AM Peak	0.140	0.390	0.530
PM Peak	0.350	0.190	0.540

Appendix 4



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Table 2 – Elgin Transport Strategy Interventions

Indicative costs for each measure have been provided by our consultant Jacobs. They have been calculated by quantity surveyors based on available information and make an initial allowance for utility diversions and land costs.

Reference	Intervention	Cost
Central		
I1B	New north/south rail bridge: Ashgrove/Linkwood Road to Masondieu Road- two way arrangement with signals	£13,956,026
I2A	Moss Street – convert to one-way (northbound) & widen footways/cycle lanes	£906,667
I2E	South Street – pedestrianise between Commerce Street and Batchen Street	£1,394,870
I3A	New Elgin Road- improve performance/replace junctions North/South of railway	£3,640,613
I4B	New cycle/pedestrian north/south rail bridge: Ashgrove Road	£6,357,124
I4F	Station Road cycle lanes	£111,590
M1A	Edgar Road pedestrian crossing improvements	£90,666
M1B	Station Road/Maisondieu Road pedestrian crossing improvements	£313,846
M3B	Elgin Bus Station redesign/improve operation	£3,487,176
South-East		
I4H	Linkwood Road cycle lanes	£139,488
I4K	Pinefield to East End Primary School Active Travel Route	£295,866
M1D	Thornhill Road pedestrian crossing improvements	£313,846
North-West		
I3K	North Street/Morrison Road junction improvements	£34,871
I4M	A941/Lesmurdie Road: improvements to pedestrian/ cycle provision and crossing	£156,922
South-West		
I3H	Edgar Road/The Wards junction improvements	£418,461

Note: *this list does not include interventions which would be undertaken either solely by the public sector or interventions attached to a specific development.*

Full details of all of the interventions within the Elgin Transport Strategy can be found at: www.moray.gov.uk/downloads/file109528.pdf

Appendix 5

Information Requirements for Development Viability Assessment

The Applicant (who may, or may not be the end developer) is required to submit the following information to enable the Independent DSV and Council review of development viability:

- Financial Viability Appraisal as a hardcopy and as a 'live spreadsheet' in Microsoft Excel with working formulas; and
- Applicant Viability Data (AVD) form.

Please note that the Council will not consider the viability assessment until all the information required is submitted and to the satisfaction of the Council.

Applicant Viability Data (AVD) Form	
1) Initial Details	
A) Planning Application Reference Number (As listed on Council's public records - e.g. Council website): -	_____
B) Brief description of the proposed Development/Redevelopment: -	_____
C) Full postal address of the subject development site: -	_____
D) Please provide a plan which highlights the location of the subject development site	_____
E) Please provide a site plan which highlights the boundaries to the subject development site	_____
F) Please advise what the GROSS site area is (in hectares & acres)	_____
G) Please advise what the NET development area is (in hectares & acres)	_____
H) Please detail site density (number of houses per hectare & acre on a gross and net area basis)	_____
I) Please advise of the TOTAL Gross Internal Area (Calculated in accordance with the RICS code of measuring practice) to the new buildings to be built/converted/ refurbished (in square metres & square feet)	_____
J) Please include a hardcopy and an electronic copy (in Microsoft Excel with working formulas) of a policy compliant Financial Viability Assessment (FVA) including Developer Obligations and Affordable Housing Contributions	_____
K) Please confirm the land sales price expected to be paid or price paid	_____
L) Please provide an overview of the factors which are restricting full delivery of the Council's Developer Obligations and/or Affordable Housing Contributions	_____

2) Development periods (for finance calculations)

Description of item:	Assumed start date	Total length of period (months)	Distribution pattern (e.g. straight-line, S-Curve, Weighted etc)
A) Total development period			
B) Construction period (Private Housing)			
C) Construction period (Affordable Housing)			
D) Construction period (Commercial Development)			
E) Sales period (Private Housing)			
F) Sales period (Affordable Housing)			
G) Sales period (Commercial Development)			
H) Other (please specify)			

3) Gross development value (GDV)

A) Brief description of item being built (e.g. name of house type)	Type of item being built (e.g. private dwelling, affordable dwelling, office suite, etc)	Number of bedrooms	Gross Internal Area (GIA) of item (sqm)	Number of each item	Value (£s) per item	Total value (£s) of item
TOTAL						
B) Brief description of additions to GDV	Area of item (sqm)	Value (£s) per item				
Ground Rents	NA					
Service charges	NA					
Other (please specify)						
TOTAL						
TOTAL GDV						

4) Development Costs

Note: Please indicate if costs are inclusive or exclusive of VAT, the rate at which VAT is charged and whether VAT can be claimed back.

A) Development costs

Rate (if applicable):	Total cost (£s):	Description of cost:	VAT
TOTAL			

B) Exceptional (Abnormal) Development costs (Where applicable)

Rate (if applicable):	Total cost (£s):	Description of cost:	VAT
TOTAL			

C) Developer Obligations and Affordable Housing Contribution

Rate (if applicable):	Total cost (£s):	Description of cost:
TOTAL		

**TOTAL
Development Costs**

5) Development fees & charges:

Note: Please indicate if costs are inclusive or exclusive of VAT, the rate at which VAT is charged and whether VAT can be claimed back.

Description of item:	% Rate:	% of:	Total cost:	VAT
A) Professional fees		Base build cost		
B) Agency & Marketing (Private Housing)		GDV		
C) Agency & Marketing (Affordable Housing)		GDV		
D) Agency & Marketing (Commercial Development)		GDV		
E) Legal costs associated with disposals		% of GDV or £s per unit		
F) Finance- Debit interest		Borrowing		
G) Finance- Credit interest		Any development surplus		
H) Developer's return (profit) for Private Housing		GDV or cost		
I) Developer's return (profit) for Affordable Housing		GDV or cost		
J) Developer's return (profit) for Commercial Development		GDV or cost		
K) Site Acquisition costs				
L) Other (please specify)				
TOTAL Development fees & charges				
TOTAL COSTS				

Residual land value (TOTAL GDV - TOTAL COSTS)	
--	--

Guidance Notes and Checklist for Planning Applicants

Guidance notes for completing the AVD form and details of any relevant data/ supporting documentation to be provided.

1) Initial Details			
Item	Description	Notes	Check
A	Planning Application Ref. Number	<p>Provide planning application details including reference number as listed on the Council website.</p> <p>If a planning application has not been submitted or if there are any documents not available on the website, or if revisions have been made that are not available on the website please provide copies (e.g. plans, design and access statements, pre- application supporting documents etc.).</p>	<input type="checkbox"/>
I	Total Gross Internal Area	<p>Measurements should be stated in accordance with the RICS Professional Statement 'RICS Property Measurement' (2nd Edition) and, where relevant, the RICS Code of Measuring Practice (6th Edition).</p> <p>Measurement basis should be clearly stated and use a traditional measurement basis (e.g. NIA or GIA).</p>	<input type="checkbox"/>
J	Policy Compliant Financial Viability Assessment (FVA)	<p>Provide a hardcopy and electronic copy in Microsoft Excel with working formulas.</p> <p>RICS Professional Statement: Financial Viability in Planning: conduct and reporting sets out what should be included in FVAs and how they must be carried out. Appendix C of RICS Guidance Note 94/2012 is an indicative outline of what to include in a viability assessment (please note RICS are currently reviewing the 2012 guidance note and both the above mentioned documents refer to England however they are considered relevant to the process in Scotland). RICS guidance note, Valuation of development property, 1st edition, October 2019 will also be a relevant document.</p>	<input type="checkbox"/>
		The viability appraisal to include a cash flow as an Excel document showing how values have been assessed.	<input type="checkbox"/>
		The viability assessment to factor in the Council's stated policy requirements in respect of Developer Obligations and Affordable Housing Contributions.	<input type="checkbox"/>

Item	Description	Notes	Check
K	Land Value	Include the land sales price expected to be paid. Supply copy of an option or conditional agreement.	<input type="checkbox"/>
		Supply proof of the land deal e.g. missives and disposition if already purchased.	<input type="checkbox"/>
		The cost of meeting Developer Obligations and any other policy requirements must be taken into account when purchasing land.	
2) Development Periods (for finance calculations)			
A-H		Detail the development programme showing the anticipated period involved in development including pre-build, build period and marketing period.	<input type="checkbox"/>
		Include details for future phases, expected sales and rental growth, expected cost inflation and credit rates.	<input type="checkbox"/>
3) Gross Development Value (GDV)			
A	Description of item being built	Include name of house types as appearing on planning documents and as advertised. Detail number of bedrooms.	<input type="checkbox"/>
		Show the split between private housing, affordable housing and any commercial elements.	<input type="checkbox"/>
		Include estimates of sales values for residential properties, including supporting market evidence to support the estimated sales/lettings values.	<input type="checkbox"/>
		Detail the anticipated value of the affordable housing with supporting evidence of how these have been valued and the assumptions adopted. Include likely levels of rent and government grant received, details of any 'Design & Build' contracts entered into with Moray Council or a RSL (Registered Social Landlord).	<input type="checkbox"/>
		For the commercial elements of the scheme (if applicable) detail yields, including supporting evidence and any deductions for incentives, rent free periods, voids.	<input type="checkbox"/>
		Note the basis of measurement for each element (GIA-Gross Internal Area, NIA-Net Internal Area, NSA-Net Sales Area).	<input type="checkbox"/>

Item	Description	Notes	Check
B	Additions to GDV	Detail any existing income or any additional funds that will continue to be received over the development period.	<input type="checkbox"/>
4) Development Costs			
A	Development costs	Provide a QS cost schedule: <ul style="list-style-type: none"> ● full build cost estimate, not a summary ● showing how the costs have been estimated and including specifications, drawings and quotes where available <p>If a full cost schedule is not available, please provide an explanation (e.g. 'cost based on previous tender/ completed development' etc) of the assumed costs for all cost items included under sections 4A-4C (or shown within the appropriate sections of your submitted FVA) and reasons for providing assumed costs.</p>	<input type="checkbox"/>
		Detail separately the costs for the private housing, the costs for the affordable housing and the costs for commercial (if any).	<input type="checkbox"/>
		The costs to be per square metre based on GIA.	<input type="checkbox"/>
		The development costs to include the following: <ul style="list-style-type: none"> ● prelims ● demolition costs ● site preparation costs ● externals ● site works ● infrastructure including internal access roads, drainage, hard and soft landscaping ● substructure and superstructure ● internal finishes ● any other development costs <p>Each item to be detailed individually.</p>	<input type="checkbox"/>
		State whether costs are inclusive or exclusive of a contingency and state what the contingency is (% of build cost).	<input type="checkbox"/>
Indicate if costs are inclusive or exclusive of VAT, the rate at which VAT is charged and whether VAT can be claimed back.	<input type="checkbox"/>		

Item	Description	Notes	Check
B	Exceptional (Abnormal) development costs (where applicable)	<p>Detail any exceptional or 'abnormal' development costs. Include supporting reports for site abnormalities etc. and full cost estimates and build-up of how these costs have been assessed (state professional fees and contingencies separately).</p> <p>The following information will be required:</p> <p>Earthworks- a copy of the cut and fill model with existing and design levels and drawings plus any calculations by the Engineer/QS.</p> <p>Below ground obstructions- a copy of the site investigation report plus any calculations by the Engineer/QS.</p> <p>Retaining walls- drawings and specs indicating founds type, retaining wall details, sections, Rebar schedules and wall layouts with height. Plus any calculations by the Engineer/QS.</p> <p>Gas Protection measures- site investigation report confirming the presence of gas, specification and GIA of GF slabs that are affected.</p> <p>Foundations- design details, specification, lengths and pile cap or ring beam details of the piles required and to which plots.</p> <p>Quotations for any of the works.</p>	<input type="checkbox"/>
		Indicate if costs are inclusive or exclusive of VAT, the rate at which VAT is charged and whether VAT can be claimed back.	<input type="checkbox"/>
C	Developer Obligations and Affordable Housing Contribution	Detail any estimated Developer Obligations and Affordable Housing commuted payments (where applicable) as determined by The Moray Council.	<input type="checkbox"/>
5) Development Fees and Charges			
A	Professional Fees	<p>Detail separately the following professional fees:</p> <ul style="list-style-type: none"> ● architects ● Quantity Surveyor ● engineers ● planning consultant ● project manager ● any other professional fees. 	<input type="checkbox"/>

Item	Description	Notes	Check
		Provide an explanation of assumed costs included under sections 5A- 5L (e.g. 'cost based on previous tender/ completed development) and reasons for providing assumed costs.	<input type="checkbox"/>
		Indicate if fees are inclusive or exclusive of VAT, the rate at which VAT is charged and whether VAT can be claimed back.	<input type="checkbox"/>
B-D	Agency and Marketing	This would include: <ul style="list-style-type: none"> ● show houses ● sales personnel ● running costs ● any other cost associated with agency and marketing 	<input type="checkbox"/>
F-G	Finance	It is assumed that projects are fully funded by borrowing. Detail assumed interest rates for credit and debit.	<input type="checkbox"/>
H-J	Developer's return	Distinguish the level of return expected from the private housing, affordable housing and commercial development (if applicable).	<input type="checkbox"/>
		Detail whether the profit is a % of GDV or cost.	<input type="checkbox"/>
		Developer's return can comprise 'Profit' and what is sometimes termed 'Overheads'. Indicate whether the return includes Profit only or Profit and Overheads; and provide an itemised breakdown.	<input type="checkbox"/>
K	Site Acquisition costs	State separately any additional acquisition costs: <ul style="list-style-type: none"> ● Land and Buildings Transaction Tax (LBTT) ● VAT ● surveyor's fee ● legal costs ● any other site acquisition costs 	<input type="checkbox"/>
L	Other	Include any development costs or fees not captured elsewhere (e.g. planning costs such as building warrant, NHBB, etc)	<input type="checkbox"/>
6) Other Information			
		Include any other data or supporting documentation you consider relevant to enable an independent review of development viability.	<input type="checkbox"/>

The Applicant Viability Data form and Guidance notes have been developed by the District Valuer Service and finalised by Moray Council to ensure a transparent and consistent approach in dealing with viability assessments.

Appendix 6

Where a mitigation changes after a contribution has been agreed or received from a developer, then the Council reserves the right to apply the contribution to the new mitigation. Should the cost of the new mitigation be less than the cost identified for the original mitigation then the proportional difference will be refunded to the developer.

Education

Contributions are sought towards the zoned primary and secondary schools which serve the development.

Contributions will be sought for the proposed mitigation measures unless otherwise advised by Education Resources and Communities Service at the time of application.

Buckie High School		
Buckie High School	Contributions towards new build secondary school	£84,534.43 per pupil
Elgin Academy		
Seafield Primary School	Rezoning**	£5,441.05 per pupil*
Elgin High School		
Greenwards Primary School	New build primary school	£66,086.44 per pupil
Linkwood Primary School	New build primary school	£66,086.44 per pupil
Elgin High School	Extension at secondary school	£57,722.77 per pupil
New Elgin Primary School	Rezoning	£5,441.05 per pupil**
Speyside High School		
Mortlach Primary School	Rezoning	£5,441.05 per pupil*

* The rate provided for reconfiguration is indicative as these may vary depending on the nature of the project proposed.

** The rate for rezoning is indicative as this may vary depending on the nature of the project proposed. The cost for rezoning may include costs towards reconfiguration or other infrastructure as part of the mitigation.

Transportation

Transportation requirements are set out in Appendix 4.

Developer obligations will be sought from developments within rural and urban areas, where no public transport connection is available and will contribute to public transport provided by Moray Council

Healthcare

Contributions are sought for the closest medical practice the development is zoned to or any such facility that would serve the development..

While contributions may be identified for an extension to a medical facility or a new medical facility, reconfiguration works may be carried out in the interim to alleviate capacity constraints.

Buckie		
Seafield and Cullen Medical Practice	Contribution towards reconfiguration at the medical centre	£1,052.06 per SRUE
Elgin		
Maryhill Medical Practice	Contributions towards an extension at the medical centre	£1,788.27 per SRUE
Linkwood Medical Practice	Contribution towards a new build health centre	£1,788.27 per SRUE
Keith		
Keith Medical Group	Contributions towards a new build health centre	£1,788.27 per SRUE
Forres		
Forres Health Centre	Contribution towards an extension at the medical centre	£1,788.27 per SRUE
Lossiemouth		
Moray Coast Medical Practice	Contribution towards an extension at the medical centre	£1,788.27 per SRUE

Milnes		
Fochabers Medical Practice	Contributions towards a new build health centre	£1,788.27 per SRUE
Speyside		
Rinnes Medical Practice	Contribution towards an extension at the medical centre	£1,788.27 per SRUE
Aberlour Health Centre	Contribution towards reconfiguration at the medical centre	£1,052.06 per SRUE

Sports and Recreation

Contributions are sought from all development which is zoned to Forres Academy.

Forres		
Forres Academy	Contribution towards 3G Pitch in Forres	£259.67 per SRUE



From mountain to sea



REVIEW OF MORAY COUNCIL SCHOOL ROLL FORECAST METHODOLOGY

An independent review into Moray Council's School Roll Forecast methodology, school capacities and developer obligations assumptions, carried out by officers from Aberdeenshire Council's Learning Estates Team

Author: Rachael Goldring
Learning Estates Team Leader

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1. Introduction

- 1.1 The purpose of this report is to determine if the current methodologies and assumptions that are used to inform the future requirements of the learning estate and associated developer obligations are credible and robust, and if not, identify weaknesses and recommend revised methodologies and assumptions to address these.
- 1.2 Moray is located in the North East of Scotland bordering the Moray Firth coast to the north, Highland Council to the west and Aberdeenshire to the east and south. Moray has a population of around 95,000 people according to 2024 Mid-Year Population Estimates, the majority of whom are dispersed amongst the main towns of Elgin, Buckie, Lossiemouth, Keith, Forres, Fochabers and Dufftown. In addition to these well connected towns, there are a wealth of villages of all sizes and remote settlements in the Cairngorms.
- 1.3 Moray Council delivers primary and secondary education across 8 secondary schools and 45 primary schools. The primary schools form eight Associated School Groups (ASG) which then automatically feed into the secondary schools. Each of the main towns has a secondary school, with the exception of Elgin which has two secondaries. This is unusual in Scotland for a town the size of Elgin unless the other secondary school(s) is denominational. The National Records of Scotland 2023 Population Estimates show the population of Elgin as just over 25,000 people, Dumbarton is the only smaller town to have two secondary schools, but one is denominational. Kirkintilloch is the next largest town with more than one secondary, and again one of these is denominational. Table 1 below shows the towns and settlement groups with similar populations and the number of secondary schools operating.

Table 1: Comparison of number of secondary schools to population

Town	2023 Population	Number of Secondary Schools	Any denominational Schools
Saltcoats	31,800	2	Yes
Methil, Leven and Buckhaven	30,730	1	No
Kirkintilloch	29,960	3	Yes
Bathgate	29,330	1	No
Bonnybridge	25,710	1	No
Elgin	25,040	2	No
Vale of Leven	24,130	1	No
Arbroath	23,500	1	No
Dumbarton	21,030	2	Yes

- 1.4 Primary Schools in Moray vary greatly in size, ranging from Glenlivet Primary with a capacity of 47 and a roll of 15 pupils, to Bishopmill Primary with a capacity of 425 and a roll of 390 pupils during the 2024/25 session. Secondary schools are similarly varied, the smallest being Keith Grammar School with a capacity of 553 and a roll of 372 pupils during 2024/25 and the largest being Elgin Academy with a capacity of 1224 and a roll of 1074 pupils for the same period.

2. Accuracy and comparison

- 2.1. In this report when comparing the accuracy of forecasts, the approach has been to compare the forecast with the actual roll at one year intervals. For example, the accuracy for 2024 focuses on the forecasts made in 2023 for the following session versus the actual roll in 2024.
- 2.2. The decision to focus on year by year accuracy is to test the methodology. Whilst it would be possible to compare whether the predictions made five years prior were accurate, the reality is that so many of the factors involved in forecasting are subject to outside influence and variation. The factors being compared have not remained constant. The comparison would only be effective if exactly the same number of houses as planned had been built each year, and if all people buying those houses had the average number of children, and if all of those families chose to enrol at their zoned school.
- 2.3. A comparison between the forecast roll and the actual roll for the last three years was undertaken. Whilst the data was available for a greater number of years, it is widely accepted across Scotland that the impact of COVID in 2020 and 2021 impacted school roll forecasts. Housing development was interrupted, families changed decisions about living arrangements and staying on rates in secondary schools from S4 upwards were affected by the alternative assessment arrangements following lockdown. On this basis it was deemed appropriate to focus on more recent data.
- 2.4. Table 2 below shows the forecast and actual roll for the last three years at ASG level and for each secondary school, with totals for all primaries and all secondaries. Accuracy levels are generally good, and when considering the overall primary and secondary pupil numbers the accuracy of the forecasts is improving.

Table 2: Three Year Accuracy Comparison (Forecast vs Actual)

	2022			2023			2024		
	Total Forecast	Total Actual Pupils	% Accuracy	Total Forecast	Total Actual Pupils	% Accuracy	Total Forecast	Total Actual Pupils	% Accuracy
Buckie ASG	1081	1060	0.981	1056	1023	0.969	1009	1005	0.996
Elgin Academy ASG	1193	1113	0.933	1198	1194	0.997	1188	1216	1.024
Elgin High ASG	1090	1072	0.983	1091	1043	0.956	1074	1019	0.949
Forres ASG	1174	1112	0.947	1125	1103	0.980	1121	1077	0.961
Keith ASG	509	508	0.998	515	507	0.984	502	505	1.006
Lossiemouth ASG	874	869	0.994	848	835	0.985	838	846	1.010
Milnes ASG	530	537	1.013	528	531	1.006	524	511	0.975
Speyside ASG	460	456	0.991	442	445	1.007	448	443	0.989
Buckie High School	815	837	1.027	828	826	0.998	839	811	0.967
Elgin Academy	1070	1028	0.961	1074	1069	0.995	1076	1074	0.998
Elgin High School	837	831	0.993	853	842	0.987	846	855	1.011
Forres Academy	860	851	0.990	865	821	0.949	864	873	1.010

Keith Grammar School	417	377	0.904	396	370	0.934	382	372	0.974
Lossiemouth High School	606	617	1.018	665	658	0.989	679	656	0.966
Milnes High School	436	445	1.021	468	477	1.019	491	469	0.955
Speyside High School	421	402	0.955	411	395	0.961	385	378	0.982
All Moray Primaries	6911	6727	0.973	6803	6681	0.982	6704	6622	0.988
All Moray Secondaries	5462	5388	0.986	5560	5458	0.982	5562	5488	0.987

- 2.5. Officers discussed the challenges that certain variables bring to the forecasting process that impact particular schools. Kinloss (Forres ASG) and Lossiemouth are both home to military bases which results in significant transience in the pupil population. Forces families are stationed at the bases for varying timescales and can be frequently relocated. These families would not be captured in the NHS data used for determining children under school age and neither the Army nor the Air Force could be expected to provide supporting data regarding postings to Moray Council for the purposes of roll projections. Therefore, officers accept that there will be continued fluctuation in the rolls at the catchment schools that cannot be predicted with any great accuracy.
- 2.6. The other challenge that officers discussed is around forecasting the rolls at the three denominational schools. St Peter's Roman Catholic School in Buckie, St Sylvester's Roman Catholic School in Elgin and St Thomas' Roman Catholic School in Keith provide a denominational education to primary aged children across Moray. Enrolment is via application, and forecasting is based upon trends from previous years and internal knowledge. An adjustment is made to the NHS data for other schools within each ASG to create a P1 intake each year.
- 2.7. Cognisance must be given that the percentage accuracy is impacted by the sample size. In a small school, the difference of one pupil variance will have a larger impact on the accuracy percentage than it would on a large secondary school. This impact is different again when considering the forecasts for an ASG as a whole, or the total primary population.
- 2.8. Forecasting the number of primary pupils to within 125 pupils over the last two years across 45 schools is acceptable. In two out of the last three years, secondary school population has been forecast to within 75 pupils, with 2023 having a variance of 102 pupils. This indicates that at a high level, the forecasting methodology used by Moray Council is robust.
- 2.9. Accuracy levels for enrolments at Forres High School, Speyside High School and Keith Grammar School may also be impacted by pupils attending primary schools in neighbouring authorities who then return to their catchment school for secondary education, or vice versa.

Recommendation

1. Greater collaboration with officers in Aberdeenshire and Highland Councils to identify numbers of Moray based pupils attending schools in the neighbouring authorities.

3. Review of Other Local Authority Methodology

- 3.1 The forecast methodology used by Moray Council is derived from the same original methodology used by Grampian Regional Council. This original methodology and spreadsheet format is also used by Aberdeenshire Council and Aberdeen City Council, although each authority has evolved their process independently over the last two decades. During the last ten years Argyll & Bute Council, Orkney Island Council and North Ayrshire Council have also been trained in the Aberdeenshire Council methodology as they sought to review their individual approaches.
- 3.2 Across Scotland the methodology for preparing School Roll Forecasts is broadly similar, in that the current school roll is used as a baseline for projections and then data regarding housing, birth rates and placing requests is applied to project changes in pupil numbers. Variations in methodology are seen in authorities with a significant split between denominational and non-denominational schools; Gaelic Medium Education; high volumes of placing requests; and those with densely urban catchment areas.
- 3.3 A source of variation in many of the forecasts is the approach to applying pupil yield from housing. Some local authorities apply council-wide ratios to all primaries and secondary schools, whilst others have various ratios that are linked to a specific cluster of schools. Fife Council includes the pupil yield ratio at the point of development and also applies a ratio four years later to the P1 cohort to allow for the overall increase to the housing supply and children that are born in the new houses. A number of authorities recognise a need to either recalculate their ratios or review their approach to applying them but do not have the resources to prioritise that exercise.
- 3.4 There is also variation in the distribution of the pupil yield across each cohort of pupils. In some authorities the pupil yield is evenly split across all seven primary cohorts or all six secondary cohorts. Other authorities only apply housing yield to S1 to S4 cohorts. In some areas the proportion per cohort is fixed across all schools and weighted towards the lower age groups in primaries; in other areas the proportion per cohort is dependent on the school cluster so that neighbouring school groups have different ratios.
- 3.5 Another challenge faced by local authorities is the access to NHS data. Each NHS board provides data to their Councils in different ways, depending upon the data sharing arrangements in place. For Moray, Aberdeen City and Aberdeenshire Council the data provided by NHS Grampian changed in 2018. Prior to this point, data regarding children living in school catchments below school age was provided on a postcode basis with an extract from the NHS CHI database which could be analysed at granular level. Following a ruling by the Information Commissioner on the use of CHI data, the format changed with NHS data analysts providing a summary of the number of children living in each catchment area by age. For Moray Council and Aberdeenshire Council this approach has proved challenging when preparing forecasts for sparsely populated rural catchments, as the numbers are aggregated across a range of ages when lower than five. There are also many postcodes within both authorities that lie across two school catchment areas.
- 3.6 The range of publication also varies – Highland Council for example publish forecasts up to 15 years, West Lothian Council publish up to 10 years, whilst Aberdeenshire Council only publish data up to 5 years.

3.7 Across Scotland School Roll Forecasters from all 32 Local Authorities collaborate and share knowledge regarding their processes through an online forum. Moray Council officers have been members of this forum since its inception and have participated in many of the discussions and online conferences.

4. Comparison with Aberdeenshire Methodology

4.1 The school roll forecast methodology for Moray Council and Aberdeenshire Council are very similar. As mentioned above, both use a spreadsheet that originated when both organisations were part of Grampian Regional Council. The vast majority of the calculations within the spreadsheets remain the same, although each authority has made their own improvements over the years. Differences in approach can be seen in the following eight areas:

- Control Sheet
- NHS data distribution
- Staying on Rates
- Housing curtailment ratio
- Pupil yield distribution and Pupil Product Ratio
- Proportional adjustment factor
- Denominational Schools
- Additional Support Needs Enrolment

4.2 Both organisations have a spreadsheet for each Associated School Group (ASG), these being the cluster of schools that feed into each secondary school. This approach allows for a simple transfer of P7 pupils from the primary school forecasts into the S1 cohorts of the corresponding secondary schools each year.

Accuracy Comparison

4.3 The forecasts for the last three years from Moray Council and Aberdeenshire Council have been compared. Table 3 details the forecast total number of primary and secondary pupils for each year compared to the actual number of pupils.

Table 3: Comparison of Accuracy in Moray & Aberdeenshire School Roll Forecasts

	2022			2023			2024		
	Total Forecast	Actual Pupils	% Accuracy	Total Forecast	Actual Pupils	% Accuracy	Total Forecast	Actual Pupils	% Accuracy
All Moray Primaries	6911	6727	0.973	6803	6681	0.982	6704	6622	0.988
All Moray Secondaries	5462	5388	0.986	5560	5458	0.982	5562	5488	0.987
Aberdeenshire Primaries	20991	20865	0.994	20890	20525	0.983	20092	20125	1.002
Aberdeenshire Secondaries	15654	15869	1.014	15820	15852	1.002	16462	15892	0.965

4.4 Due to the significant difference in the number of pupils in each authority, it is difficult to directly compare them in terms of accuracy. Aberdeenshire has around three times the number of pupils as Moray; Aberdeenshire has over 3000 more secondary pupils than Moray has primary and secondary pupils combined. The geography of the two council areas also has an impact on forecasting. The proximity of Aberdeenshire schools to the Aberdeen City border and the relatively good transport connections, result in a large volume of placing requests. The differences notwithstanding, both authorities have relatively accurate forecasts.

Control Sheet

4.5 Moray Council uses a control sheet for each ASG which contains staying on rates, pupil yield ratios, birth rate factors and totals for each cohort of pupils across all schools. Aberdeenshire Council has a similar sheet but only uses it for totals of each cohort. Having a central point for the various ratios is helpful as it reduces the risk of errors that could occur from updating the information on each school sheet. This is a feature of the forecasts that Aberdeenshire Council may benefit from considering in their approach.

NHS Data

4.6 Both Moray Council and Aberdeenshire Council receive data regarding pre-school aged children in the same format from NHS Grampian. Each authority provides NHS Grampian with a list of postcodes for each catchment area and in return receives the total number of children living within that catchment area with dates of birth across five specific date ranges. This approach works well with larger schools that have a consistent turnover of new families but is more challenging for small rural schools. To prevent data protection breaches, where there are fewer than five children of a particular age bracket living within catchment, NHS Grampian aggregate the data across two or more age brackets until a total of five children appears.

4.7 The two anonymised extracts in Table 4 below show the data that is received for a large school and a small rural school.

Table 4: NHS Data Example

School	Age Group	Total
Large School	0 to 1	25
	1 to 2	32
	2 to 3	25
	3 to 4	29
	4 to 5	30
Small Rural School	0 to 3	9
	3 to 5	8

4.8 Moray Council apply the aggregated data to their forecasts in a different way to Aberdeenshire Council.

4.9 In the example above Moray Council would divide the aggregated number by the number of years that it covers, so would input 3 x 0-1 year olds, 3 x 1-2 year olds and 3 x 2-3 year olds, 4 x 3-4 year olds and 4 x 4-5 year olds. Aberdeenshire Council assess the possible combinations of numbers and considering the return from previous years try to select the most likely distribution. The Aberdeenshire approach is more time consuming than the Moray approach

and Moray would need to consider whether the impact on workload would be appropriate to achieve what may yield limited improvement in terms of accuracy.

Staying on Ratios

4.10 The current methodology for predicting the staying on rate of pupils in S5 and S6 is to apply a reduction to the cohort based upon a three year mean average. This ratio is calculated using the actual number of pupils in the cohort when they were in S3 and the subsequent reduction once they reach S5 and S6. Each secondary school has two ratios one for S5 and one for S6, and these are recalculated annually. This method is also used by Fife Council.

4.11 One of the potential disadvantages of the current methodology is that because the formula takes a cohort from two and three years prior, the changes that may have occurred in the last year from housing, placing requests or simply migration are not incorporated in the calculation. At present the impact of housing or placing requests are not factored into S5 and S6 predictions.

4.12 Assessing the accuracy of the most recent five years, there were only 6 correct projections of the actual number of pupils in the cohort out of a possible 80 instances. Furthermore, there were only 29 of the 80 predictions that were accurate to within 3 pupils. This is a 36% accuracy level to within 3 pupils. Table 5 compares the forecast and actual number of pupils in S5 and S6 for the last five years and provides the number of pupils variance in each instance.

Table 5: Accuracy of S5 and S6 forecasts in Moray Secondary Schools

	2020			2021			2022			2023			2024		
	SRF	Roll	Range	SRF	Roll	Range	SRF	Roll	Range	SRF	Roll	Range	SRF	Roll	Range
Buckie High S5	127	130	3	102	121	19	117	128	11	141	138	-3	164	138	-26
Buckie High S6	59	61	2	29	86	57	66	87	21	72	88	16	98	96	-2
Elgin Academy S5	150	149	-1	169	150	-19	151	146	-5	171	165	-6	150	150	0
Elgin Academy S6	117	121	4	108	105	-3	117	97	-20	103	112	9	121	115	-6
Elgin High S5	97	98	1	106	108	2	98	107	9	140	149	9	133	139	6
Elgin High S6	45	54	9	57	60	3	66	64	-2	62	49	-13	78	88	10
Forres High S5	116	101	-15	128	136	8	112	111	-1	127	130	3	137	130	-7
Forres High S6	69	77	8	69	69	0	79	80	1	71	61	-10	75	61	-14
Keith Grammar S5	53	66	13	61	55	-6	58	47	-11	71	62	-9	53	53	0
Keith Grammar S6	32	42	10	33	39	6	34	22	-12	30	23	-7	37	36	-1
Lossiemouth High S5	73	78	5	57	68	11	85	79	-6	87	92	5	95	80	-15
Lossiemouth High S6	43	36	-7	43	44	1	32	43	11	47	46	-1	51	53	2
Milnes High S5	63	75	12	54	54	0	70	67	-3	76	75	-1	68	67	-1
Milnes High S6	37	37	0	56	56	0	40	41	1	49	44	-5	51	28	-23
Speyside High S5	55	67	12	65	66	1	61	53	-8	56	67	11	62	60	-2
Speyside High S6	28	32	4	35	45	10	45	40	-5	40	22	-18	30	43	13

- 4.13 A number of other local authorities use a different calculation for determining staying on ratios (SOR). More commonly the average change between S4 and S5 is used for the S5 ratio, and the average change between the S5 and S6 cohort is used for the S6 ratio. An assessment was undertaken into whether calculating the SOR using this approach would have greater accuracy than the current methodology deployed by Moray Council.
- 4.14 Across the 80 instances, increased accuracy was seen for 36 predictions, and in 15 there was negligible difference. In these 15, whilst the formula returned a different result at decimal level, both methods returned the same rounded number. There were also 29 instances where the accuracy decreased. By changing the approach in 63% of cases over the last five years, the accuracy either improved or remained the same.
- 4.15 It was noted that in some instances the SOR calculation was adjusted to either an extended or reduced period of time to find an average. This appears to be in order to mitigate against some particularly high or low outliers that would affect the mean. This adjustment was then replicated using the alternative methodology, but whilst the new results were then closer to those in the Moray forecasts, the new results did not have a consistency in terms of accuracy.
- 4.16 In many instances both the original forecast and the amended methodology were significantly different from the reality. The accuracy of forecasting staying on rates is always variable. This element more than any other in the school roll forecasting process is the most influenced by intangible unrelated factors. Once pupils reach school leaving age then whether they remain enrolled at school will depend on a range of personal circumstances and socio-economic factors including but not limited to whether they intend to remain in higher or further education or seek employment; availability of subjects; exam results and the corresponding decisions of friends.
- 4.17 On that basis most authorities treat this element of the forecasts as an indicator of what the school roll is likely to decrease to rather than a finite projection. It is a high level indicator rather than a de-facto prediction.

Recommendation

2. Consider changing the SOR calculation to use the S4 and S5 cohorts for S5 and S6 respectively
3. Consider further adapting the forecasts to include other influencing factors such as housing.

Housing Curtailment Ratio

- 4.18 Moray Council applies a factor to some ASGs with volume housebuilding to reduce the number of units in future years. The purpose of this is to balance the strategic optimism of construction industry reporting with a more realistic delivery schedule. Aberdeenshire Council does not apply any reduction to the build out rates provided in the housing land audit when preparing forecasts, however it is recognised that officers within planning and delivery teams have adjusted the figures provided by developers when they are considered to be unrealistic.

- 4.19 The ratio is applied to the two Elgin ASGs, Buckie ASG and Forres ASG. It is not applied to Keith, Speyside, Lossiemouth or Milnes ASG. Further the ratio is only applied to sites where more than 10 units per year are projected. This is important as within those ASGs there are some small schools for which a reduction ratio could impact the viability of those schools in the forecasts.
- 4.20 The rate varies depending how far into the future the predicted build out rate is for. No ratio is applied to the current year, a 10% reduction is applied for the next two years, rising to 25% in years three and four, and subsequently applied at a rate of 30% for any build out rates that are five years or more hence.
- 4.21 The ratio is important in areas where the utilisation of schools is high and there is a risk of roll exceeding capacity. Using what may be overly optimistic build out rates could either result in developers being charged developer obligations that are not required and also may result in unnecessary capital expenditure to provide additional capacity. This approach is therefore measured and appropriate for areas historically house building as not been as prevalent as initially intended.
- 4.22 However, at the other end of the spectrum where small schools are at risk of closure/mothballing due to population decline, the removal or constraint of planned housing could give a false impression of poor viability. Therefore, it is important that the ratio is not applied to smaller developments or those with lower build out rates.
- 4.23 Given the requirement in the Act to consider alternatives to closure and the impact on the community, broadening the application of this ratio could have adverse impacts on any future consultation and give rise to opportunity for challenge from communities.

Recommendation

4. Moray Council should explicitly state within the School Roll Forecast methodology and Developer Obligations Supplementary Guidance that this is only applied where more than 10 units per year are planned, to ensure viability of rural communities.

Pupil Yield and Pupil Product Ratio

- 4.24 In Moray, the distribution of pupils from new housing into each cohort varies by ASG. It is calculated annually based upon the distribution of pupil population in each ASG. On this basis if an ASG has a larger number of pupils in P5, then more pupils from housing will also be allocated to P5. The total number of pupils expected from the housing built in catchment that year is multiplied by the Pupil Product Ratio (PPR) and then multiplied again by the cohort distribution ratio.
- 4.25 The Aberdeenshire approach is to have a static distribution that is applied to all primary schools across the authority. This is weighted more towards the lower stages of the school, as whilst the new build houses may be purchased by families with children of all ages, those with older primary aged children tend to keep them at their current schools than move them for one or two years.

- 4.26 In secondary school forecasts Aberdeenshire again has a static distribution of 0.25 for each year from S1 to S4. Moray calculates the distribution annually relative to the cohort size for S1 to S4.
- 4.27 Table 6 provides examples of the Moray distribution and the Aberdeenshire distribution.

Table 6: Cohort Distribution Ratio in Primary School Forecasts

Cohort	Ratio Applied in Buckie ASG 2024	Ratio Applied in Elgin Academy ASG 2024	Ratio Applied in all Aberdeenshire Primary Schools
P1	0.14	0.12	0.17
P2	0.11	0.13	0.16
P3	0.14	0.14	0.16
P4	0.14	0.14	0.14
P5	0.16	0.14	0.13
P6	0.16	0.16	0.12
P7	0.15	0.16	0.12

- 4.28 Whilst there is variation in the ratio applied by the two authorities, and indeed across ASGs in Moray, the direct impact of this on the forecast is limited. For a development of 30 houses, an additional 9 primary aged pupils would be expected. In the Buckie example above that would equate to 0.99 pupils in P2 and 1.44 pupils in P6. However, due to rounding, this would be one pupil in both cohorts.
- 4.29 In terms of the Pupil Product Ratio (PPR) that is applied to housing developments, Moray Council uses a static ratio of 0.3 for all primary schools and 0.15 for all secondary schools. Aberdeenshire Council has a range of ratios that are applied to individual schools depending on their location and rurality. Aberdeenshire Council recently audited the Pupil Product Ratio and made adjustments accordingly which feature in the latest school roll forecasts.
- 4.30 This audit involved identifying the postcodes which had new housing over the last five years, the number of houses built per year, and an analysis of how many additional children joined each cohort during the course of that session and in the subsequent session.
- 4.31 Whilst officers in Moray have not carried out a review of the PPR to the same extent as Aberdeenshire, this has been reviewed in recent years and officers are confident that their ratio is appropriate.

Recommendation

5. [Moray Council may wish to carry out a more detailed review of PPR when resources allow.](#)

Proportional Adjustment Factor

- 4.32 The proportional adjustment factor is a calculation that Aberdeenshire Council applies to primary and secondary school forecasts. This is designed to align the forecasts with the national population projections and to account for pupils who do not attend the mainstream schools within the authority for a variety of reasons. This could be that they attend a private or independent school, attend a special needs provision, attend a school in a neighbouring authority or are homeschooled. The calculation also factors in pupils from other authorities attending Aberdeenshire primary and secondary schools.

- 4.33 In recent years in Aberdeenshire the national population estimates have been significantly different from the actual number of pupils enrolled in the previous year and in the unadjusted forecasts. This is due to the last published dataset being pre-Brexit, pre-Covid and also dating before the economic downturn in the oil industry and the fishing industry. Therefore, officers have calculated the accuracy of the previous year's forecast and have applied that as an Accuracy Adjustment Factor until more up to date national data is available.
- 4.34 Moray Council has the proportional adjustment factor as an element of the formula for each year group; however, the factor is always set at a value of 1 so does not impact on the forecast in any way.

Recommendation

6. As Moray Council is effectively not using this element of the forecasts they may wish to remove it from the formula. Alternatively, they may wish to consider using an Accuracy Adjustment Factor to moderate the forecasts.

Denominational Schools

- 4.35 Aberdeenshire Council does not have any denominational schools within its boundaries, therefore, there is no provision within the Aberdeenshire methodology for calculating this factor of school roll forecasts. The methodology for Moray involves applying trends and averages to the NHS data in order to determine what the likely P1 intake will be each year. This is then deducted from the NHS data for other neighbouring schools accordingly. Whilst officers have advised that this is one of the most challenging aspects of school roll projections, the methodology is appropriate. The accuracy levels are good with P1 cohorts generally being within 3 or 4 pupils of forecast.

Additional Support Needs Enrolment

- 4.36 Within Moray each ASG has a base school that is designated for pupils with additional support needs. Parents submit a placing request to attend and within the placing request policy, pupils with ASN have priority 1 so the vast majority will be accepted. In Aberdeenshire all schools are expected to provide the same level of support in P1 and P2 so pupils would attend their mainstream zoned school. From P3 onwards those identified as requiring an Enhanced Provision place would be referred to the Local ASN forum who determine the applications. The small number who require a place at a Complex Needs Provision from P1 would be identified through a multi-agency approach and Child Planning Meeting. These pupils are accounted for through the proportional adjustment factor in Aberdeenshire forecasts.

5. Developer Obligations

- 5.1 Moray Council adopted the latest Local Development Plan in July 2020, and this will remain in place until the Council adopts the next Local Development Plan (LDP) in 2027. The Plan is supported by a suite of policies and documents, one of which is the Supplementary Guidance for Developer Obligations. The 2020 iteration of this document is the current applicable guidance which sets out, amongst other things, when contributions will be required for Education provision and the rates that will apply. Other contributions are collected for transport, healthcare, open space, sports and recreational facilities and for access improvements.
- 5.2 Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements sets out five tests which need to be applied when seeking developer obligations through a Section 75 agreement. These are:
- Necessary to make the proposed development acceptable in planning terms
 - Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area
 - Fairly and reasonably relate in scale and kind to the proposed development; and,
 - Be reasonable in all other respects.
- 5.3 As part of the preparation of the next LDP, Moray Council have prepared and consulted on a Draft Supplementary Guidance for Developer Obligations in 2024. Moray Council intend to adopt this guidance in December 2025, this guidance will be expected to replace the current 2020 guidance when the Plan is adopted in 2027.
- 5.4 In the current supplementary guidance developer contributions are triggered for Education when the anticipated completion of the development and all other approved sites within the catchment area result in the primary school operating above 80% of its planning capacity, or the secondary school operating above 90% of its planning capacity.
- 5.5 The draft supplementary guidance amends this threshold to the school operating at or above 90% of its planning capacity for both primary and secondary schools. The change to the developer contribution threshold for school occupancy seems sensible and appropriate. At 80% occupancy in a large school such as Seafield Primary School with a planning capacity of 474 pupils, there would still be around 95 spaces available. As this is applied in the context of utilisation on completion of the development, this element of the 2020 Supplementary Guidance may result in the authority securing fewer contributions as it would be harder to meet all five of the tests set out Scottish Government Circular 3/2012. At 90% occupancy the necessary mitigations can be put in place to counteract the impact of development. If Moray Council chose to wait until 100% capacity before triggering contributions, then the school has already reached capacity and pupils from the development cannot be accommodated.
- 5.6 The draft guidance introduces a more nuanced approach to calculating the contributions. Going forward calculations will be based on the average number of pupils that the school is over capacity for the next five years, this is a change to the blanket approach that was previously used. Furthermore, the new guidance explicitly confirms the existing practice that

one bedroom units will be exempt from Education contributions, this had previously been mentioned in the appendices as an example assessment report.

5.7 Both versions of the guidance use a Pupil Product Ratio (PPR) of 0.3 for primary schools and 0.15 for secondary schools. As discussed in Section 4.31, Moray Council are satisfied that this is an appropriate ratio that has been appraised by officers.

5.8 The two versions of the document also include the following statement:

For primary schools, contributions will be used to create capacity for the relevant catchment area. As set out in the Education (Scotland) Act 1980 the Scottish Government require Local Authorities to allow out of zone placements and as such, capacity may be created at an alternative local school to reduce demand in the relevant catchment.

5.9 This statement is useful as it allows the Authority some flexibility in managing the increase in pupils generated from the development. This is particularly relevant in Elgin where there are nine primary schools across two secondary school ASGs. Not all of these schools will be capable of meaningful extension, and this clause gives Moray Council the ability to propose alternatives to what may otherwise result in a new primary school being required.

5.10 Aberdeenshire Council's Supplementary Guidance uses a 100% occupancy threshold for both primary and secondary schools. Whilst this leaves no doubt that the cumulative impact of a given development will result in a school exceeding capacity, the timescales involved in delivering capital projects can result in schools reaching capacity but the necessary solution remaining in the future. Further by using 100% occupancy, a development could in theory bring a school up to 99.3% occupancy with space for a very small number of additional pupils, but the developer would not be required to fund any mitigations.

5.11 Across Scotland the threshold for requiring developer obligations varies. Whilst some other authorities also use the 80% initiation point as per Moray's current guidance, the majority of authorities across Scotland are using a threshold of between 90% and 100%. Therefore, the proposed changes by Moray Council will bring them in line with the majority of other authorities in Scotland.

5.12 As also discussed above in Section 4.29, Aberdeenshire applies the relevant PPR for that school, unlike Moray Council who have a set ratio for all schools. Aberdeenshire Council recently audited the Pupil Product Ratio and made adjustments accordingly which feature in the latest school roll forecasts.

Recommendation

7. For large scale development introduction of review clauses that at set periods to allow renegotiation of terms. This may be in the favour of either the Council or the Developer but is a way to mitigate against changing realities.

8. Moray Council proceed with the adoption of a higher threshold of 90% for education contributions as per the Draft 2024 Supplementary Guidance.

6. Dargavel Primary School

- 6.1 In 2022 Dargavel Primary School opened in Bishopton, Renfrewshire as a direct result of new housing development and the relevant Section 75 agreement. The school was originally planned with a capacity of 340 pupils against a development of 2500 houses and following an increase of the development to over 4000 units, the capacity of the planned school increased to 430 pupils. Enrolments at the new school were significantly higher than expected and following further revisions to the school roll forecasts it was estimated that a capacity of 1100 pupils may be required.
- 6.2 The decision of Renfrewshire Council to build the school with a capacity of 430 pupils has resulted in investigations and reports into how this could happen.
- 6.3 The lessons to be learned from the subsequent Bowles Report and Audit Scotland reports are not to build bigger than needed or to over-estimate demand, but instead to monitor the data and adjust plans accordingly. The biggest failing with regards to Dargavel was that the Council waited too long to consider that their plans for the new school might be insufficient, despite the empirical evidence pointing to that fact. There was a disconnect between those providing the data about school rolls and projections, and those involved in planning the school. Criticism was also levelled at the lack of foresight with regard to Developer Obligations and the Section 75 agreements. The wording of the agreement curtailed any funding for secondary school capacity increase at 200 pupils.
- 6.4 Moray Council are already heeding the lessons learned by reviewing the forecasts and reassessing whether the planned projects are appropriate.
- 6.5 In terms of developer obligations, the recommendation laid out above with regards to review clauses should mitigate the inability to predict more than a decade into the future with any great accuracy.

7. DPEA Planning Appeals

7.1 There have been 39 cases referred to the Scottish Government’s Planning and Environmental Appeals Division between January 2022 and December 2024 specifically relating to developer obligations. Of these, 11 cases relate specifically to challenges by developers regarding education contributions. Whilst the details of the individual cases vary, the success of the Council in defending them is clearly linked to the robustness of their roll projections, learning estate strategy and co-ordinated approach to planning and infrastructure. In cases where limited review of forecasts or pupil yield have taken place, or where the forecast has proved largely inaccurate; these have resulted in developers winning the appeal. Conversely where the strategies and data align and are supported by regular reviews that demonstrate the need for mitigations, the councils have been successful in getting the appeals dismissed.

7.2 The reporter in case POA 230-2017 (City of Edinburgh) makes “the following general observations on the appropriate approach to formulating policy for requiring contributions and making an assessment of what infrastructure is needed and how the costs of it can be fairly distributed...”

“The calculations are inevitably made at the outset and before the houses on the ...site are built and occupied ... They are forward looking and must be based (and can only be based) on future facing methodologies, assessments and assumptions...But where the payments are intended to be used and invested for future education services, certainty of future planning of services for the providers of such services is important;”

“The inevitably wide range of future uncertainties in the provision of education services makes any kind of detailed precision of contributions (and contribution calculation) difficult if not impossible to achieve... The detail of infrastructure solutions to such uncertainties inescapably is likely to evolve over time...”

“The complications in relation to anticipating future demand for schools and school places abound. These include factors such as the reputation of individual schools; how modern and up to date the buildings and facilities at schools are; the ability to apply to schools... on a placing request; the general complicating factor of the impacts from and of the non-State sector; specifically current uncertainties as to the impacts on that sector of changes to VAT on school fees...; variable factors over time such as birth rate changes or changing migration rates;... and decisions made on education grounds about maximum class size utilisation...”

“These factors will often have knock-on effects. More widely... modelling human behaviour is complex (which is another way of describing unknown unknowns). Unpredicted events can intervene in the best planning models... School roll projections are informed by annual updating. It follows from that, when assessed over an extensive time frame, that it is not an essential prerequisite for necessary mitigations (if identified as necessary) to have been fully identified and planned for, as at the date that the obligation is imposed... Equally the inability in advance to identify specifically the year in which mitigations are to be needed is not fatal to the approach of the Council.”

7.3 Moray Council’s approach to the Learning Estate comprising a breadth of data and analysis, along with the revised threshold for collecting developer obligations, should set the authority in good stead for any future appeals.

8. Capacity Calculations

- 8.1 Primary School capacities are calculated following the 2014 guidance set out by Scottish Government. The authority has a clear methodology that is applied to each school primary school and this is reassessed annually. A document is prepared for each primary school which details the size of spaces available for teaching and general purpose classes, the capacity of each room is determined by dividing the size by 1.7sqm space allocation standard. The capacity of each room is totalled, giving the planning capacity for the school. Each head teacher completes the document with the planned class configurations, and this utilisation is converted into the working capacity. There is strong governance in place through annual committee reports which confirm the working capacity for the year ahead. The planning capacity is used for longer term strategic planning and decision making, as per the national guidance, whilst the working capacity considers the year on year functional capacity of the school given the size of the individual year groups and the ability to configure those into classes whilst complying with the class size maxima.
- 8.2 Secondary School capacity does not have a nationally agreed methodology; however, Moray Council officers have been involved in a working group which has been set up by ADES to develop this methodology.
- 8.3 Whilst primary school capacity methodology is relatively straightforward as each classroom tends to be allocated to one group of pupils who are based in that room for the academic year; secondary capacity is determined by the number of periods a room needs to be allocated for a particular subject across the week and the ability to effectively timetable that space.
- 8.4 Subjects are categorised as practical and non-practical and have corresponding class size maxima. Pupils in each cohort are organised into sets, and the size of the cohort will determine the number of practical and non-practical sets. Practical subjects such as science and art are capped at 20 pupils per set and by their nature need to be taught in specific classrooms with the appropriate equipment. Non Practical subjects such as maths and history are capped at 30 pupils and whilst most schools are organised into faculties with dedicated classrooms per subject, these subjects can be taught in any appropriately sized non practical classroom. It is broadly agreed across Scotland that a room utilisation of between 70% and 85% is desirable, with further adjustments to occupancy made for subject choices, timetabling and curriculum delivery models. This approach allows for flexibility and supports in year movement of pupil numbers.
- 8.5 It is recognised that there has been an increase in pupils needing additional support in recent years, and a greater focus is given to ensuring that spaces within schools are appropriate to their needs. This often results in spare classrooms and general purpose spaces being adapted to provide specific spaces that can support physical therapy or support neurodiversity and help pupils to regulate. It is important therefore that capacity calculations take this into account and that roll increases do not impact negatively on pupils with additional support needs. A review is planned by both Aberdeenshire Council and Moray Council that will consider the impact of ASN spaces on overall capacity figures and baseline accommodation requirements.

9. Elgin High School

- 9.1 One of the purposes of this report was to independently assess Moray Council’s School Roll Forecast methodology and assumptions in light of a previous decision to extend Elgin High School. In the interim period between that decision being made and the current time, the roll projections for Elgin High School have reduced, and officers have questioned whether the extension should proceed.
- 9.2 Tables 7 and 8 show the one year accuracy levels of the School Roll Forecast for Elgin High School since 2019, and the accuracy of the 2019 forecast for each of the subsequent years respectively.
- 9.3 The additional 30 housing units built during 2020 and a much higher staying on rate in S5 and S6 than expected result in the forecast being under by 30 pupils in year one. This is compounded by the increased staying on rates in 2021 and 2022, and it is only when the housing development is lower than the 2019 forecast from 2022 onwards, that the roll and the forecast begin to realign.

Table 7: Year on Year Accuracy Elgin High School SRF

	2020			2021			2022			2023			2024		
	2019 SRF	Roll	% Acc.	2020 SRF	Roll	% Acc.	2021 SRF	Roll	% Acc.	2022 SRF	Roll	% Acc.	2023 SRF	Roll	% Acc.
Elgin High	723	753	1.041	783	796	1.013	837	831	0.992	853	842	0.987	846	855	1.011

Table 8: 2019 Elgin High School SRF Comparison

	2020			2021			2022			2023			2024		
	2019 SRF	Actual	Diff	2019 SRF	Actual	Diff	2019 SRF	Actual	Diff	2019 SRF	Actual	Diff	2019 SRF	Actual	Diff
Pupils	723	753	+30	756	796	+40	795	831	+36	817	842	+25	833	855	+26
Housing	75	105	+30	75	73	-2	95	59	-36	100	81	-19	111	84	-27
Placing Requests	0	5	+5	0	0	0	0	0	0	0	0	0	0	-5	-5
S5 & S6 Combined	142	152	+10	162	168	+6	156	171	+15	192	198	+6	190	227	+37

- 9.3 Scotland’s Learning Estate Strategy ‘Connecting People, Places and Learning’ emphasises the importance of maximising occupancy within the current estate. Ensuring that buildings are used efficiently and that space is not underutilised is especially important in areas with fluctuating demographics or rural catchment areas. Longer term sustainability is also important, and councils need to be aware of the environmental impact of capital works and of the embodied carbon within their existing estate.
- 9.4 Moray Council have commissioned an independent review of the capacity and utilisation of Elgin High School. The subsequent report from Building Spatial Intelligence will provide the Council with further evidence as to how to proceed.

- 9.5 The latest school roll forecasts do not support the requirement to extend Elgin High School. There is a national reduction in primary aged population, which in time will filter into secondary school rolls.

Recommendation

9. Once the methodology is confirmed from the working group into secondary school capacity, Moray Council may wish to apply this methodology to Elgin High School to further inform and ratify future decisions.

10. Conclusion

- 10.1 There is no proscribed approach for calculating school roll forecasts. The methodology used by most Councils is broadly similar, albeit with variations suited to the demographic landscape of each authority. Moray Council can be confident that their approach mirrors that of most if not all other Scottish Local Authorities to a large extent.
- 10.2 In directly comparing the methodology used by Moray Council and Aberdeenshire Council the similarities are greater than the differences. Both authorities apply a consistent baseline approach using current school rolls, housing data, birth rates, and placing requests, and both have adapted their processes in response to changes in data availability and local context. While minor differences exist—particularly in the handling of NHS data and the length of forecast publication—these do not significantly impact the robustness or reliability of the forecasts.
- 10.3 Moray Council’s continued engagement with the national forecasting forum further reinforces the credibility of its methodology and ensures alignment with evolving best practices across Scotland.
- 10.4 The accuracy of forecasts beyond a single year is particularly important for forward planning, especially in areas experiencing fluctuating housing development or demographic change. Multi-year projections support more strategic decision-making and help ensure that education infrastructure keeps pace with community needs. Whilst the focus of this report has been on the direct comparison of forecasts one year at a time, the longer term accuracy is also key. The ability to prepare accurate forecasts in the short term, gives confidence that longer term forecasts will also be relatively accurate if all conditions remain the same. The challenge for local authorities in their longer term forecasting relates to the variables outwith their control.
- 10.5 Furthermore, triangulating school roll forecasts with decisions on placing requests, planning application responses and capital investment decisions is essential. This integrated approach ensures that forecasts are not only technically sound but also practically aligned with development trends and funding priorities, thereby strengthening the Council’s ability to deliver timely and effective education provision.
- 10.6 The decision making or even the recommendation regarding whether to proceed with the Elgin High School extension, or to postpone it, or consider alternatives is not within the scope of this review. However, officers can be confident that the data which contributes to that decision is robust and the methodology is appropriate and relevant.

**Report Prepared by Rachael Goldring - Learning Estates Team Leader, Aberdeenshire Council
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Table 1. Developer obligations **upfront** payments by contribution type received in the last financial year

Financial Year	Consultations Received	Upfront Payments Received	Affordable Housing	Healthcare	Education	Sports and Recreation (Forres)	Transportation	Total Received
2024/2025	137	24	£65,950.00	£111,129.60	£0.00	£1,299.20	£7,189.24	£185,568.04

Table 2. Developer obligations payments received by contribution type from Section 75s for previously approved developments in the last financial year.

Financial Year	Affordable Housing	Healthcare	Education	Sports and Recreation (Forres)	Transportation	Total Received
2024/2025	£28,000.00	£356,206.79	£156,481.16	£0.00	£17,014.14	£557,702.09

Table 3. Developer obligations payments by contribution type secured via Section 75s in the last financial year. These secured amounts will be received by the Council in the coming years as the triggers are reached.

Financial Year	Consultations Received	Section 75 Agreed	Affordable Housing	Healthcare	Education	Sports and Recreation (Forres)	Transportation	Total Secured
2024/2025	137	5	£65,125.00	£9,138.00	£0.00	£0.00	£0.00	£74,263.00

Table 4. Developer Obligations spend by contribution type in the last financial year.

Financial Year	Contribution Type	Project	Total Spent
2024/2025	Affordable Housing	Affordable Housing Provision	£23,875.00
	Community Facilities	Various Projects for community groups	£497.88
	Library	Seating Provision	£18,917.98

Table 5. Developer Obligations received since the adoption of Developer Obligations Supplementary Guidance in October 2016

	Via S75	Via S69	Via Simplified Agreement	Via Upfront Payment
Contributions Received	£3,398,158.24	£119,856.25	£17,815.33	£1,757,863.88

Table 6. Developer Obligations Spent since the adoption of Developer Obligations Supplementary Guidance in October 2016

Contributions Spent	£2,578,017.95
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