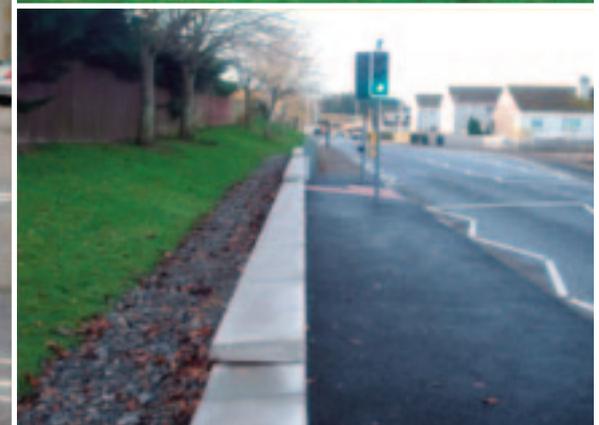


April 2020

SUPPLEMENTARY GUIDANCE



DEVELOPER OBLIGATIONS



MORAY LOCAL DEVELOPMENT PLAN



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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 Council's aspirations for Moray's economic growth.

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, open space and compensatory planting). Failure to provide for policy requirements will render a development proposal contrary to the Moray Local Development Plan 2020 (LDP). This guidance should be read in conjunction with the LDP, the Council's Open Space Strategy 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 used.

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.

Status

This guidance forms part of the statutory Moray LDP and will apply to all applications validated on or after the date of adoption of this guidance. Applications validated before the date of adoption of this guidance will be determined against the March 2018 version.

Planning applications with no Section 75 legal agreement

Section 75 legal agreements will not be used in cases, mostly relating to smaller development sites, where the level of developer obligation required is disproportionate to the legal costs to set up an agreement. In these instances, the developer obligation assessment reports will be reviewed where there are delays in developing a site and where requirements no longer reflect infrastructure impact, costs or policy. Multiple applications to extend timescale of these developments can result in obligations which do not reflect the impact of a development. An application for the whole or part of a site that already has consent will be subject to this Guidance.

Planning applications with Section 75 legal agreement

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 3/2012. 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.

The Council will maintain and work to the most up-to-date information on school rolls and Housing Land Audit. An up-to-date evidence base will be kept by the Council to inform developer obligation assessments. This Guidance will be reviewed every second year.

2 Context

Developer Obligations

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, 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. Contributions primarily relate to capital costs and will be sought towards projects identified in the Council's Capital Programme, NHS Grampian's Asset Management Plan, and other relevant plans and strategies. The Council's Capital Programme can be viewed at <http://www.moray.gov.uk/downloads/file132467.pdf> and NHS Grampian's Asset Management Plan can be viewed at <http://foi.nhsgrampian.org/globalassets/foidocument/dispublicdocuments---all-documents/ApprovedAMP2016.pdf>

Planning Policy

The Scottish Government Circular 3/2012: 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. **Planning 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.

All of these tests must be met. These are set out below:

- 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.

National policy and guidance on developer obligations including the 5 tests set out above are reflected in the adopted LDP2020 at policy PP3 Infrastructure & Services, which states:

“Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council’s Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.”

The LDP and Supplementary Guidance sets out circumstances where infrastructure and facility requirements will be sought. 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, the proposed development and its impact on existing infrastructure and facilities, and the tests set out in Circular 3/2012 as set out above.

Modification or Discharge of Developer Obligations

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 3/2012.

Community Benefits

Developer obligations differ from community benefits in that they are required to address the impact of any development rather than voluntary contributions, which do not form any part of the planning consideration. The Moray Council’s guidance on benefits for renewable energy developments can be viewed at <http://www.moray.gov.uk/downloads/file99070.pdf>

3 Process

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. The provision of infrastructure to support growth will often be provided before development occurs and before planning applications are received, as part of the Council’s infrastructure first approach advocated through the Planning (Scotland) Act 2019. The Council will continue to seek developer obligations for this infrastructure once it is completed from sites that will utilise the additional capacity created in recognition that the infrastructure was provided to enable that growth in the local area and is identified within the supplementary guidance and associated methodology.

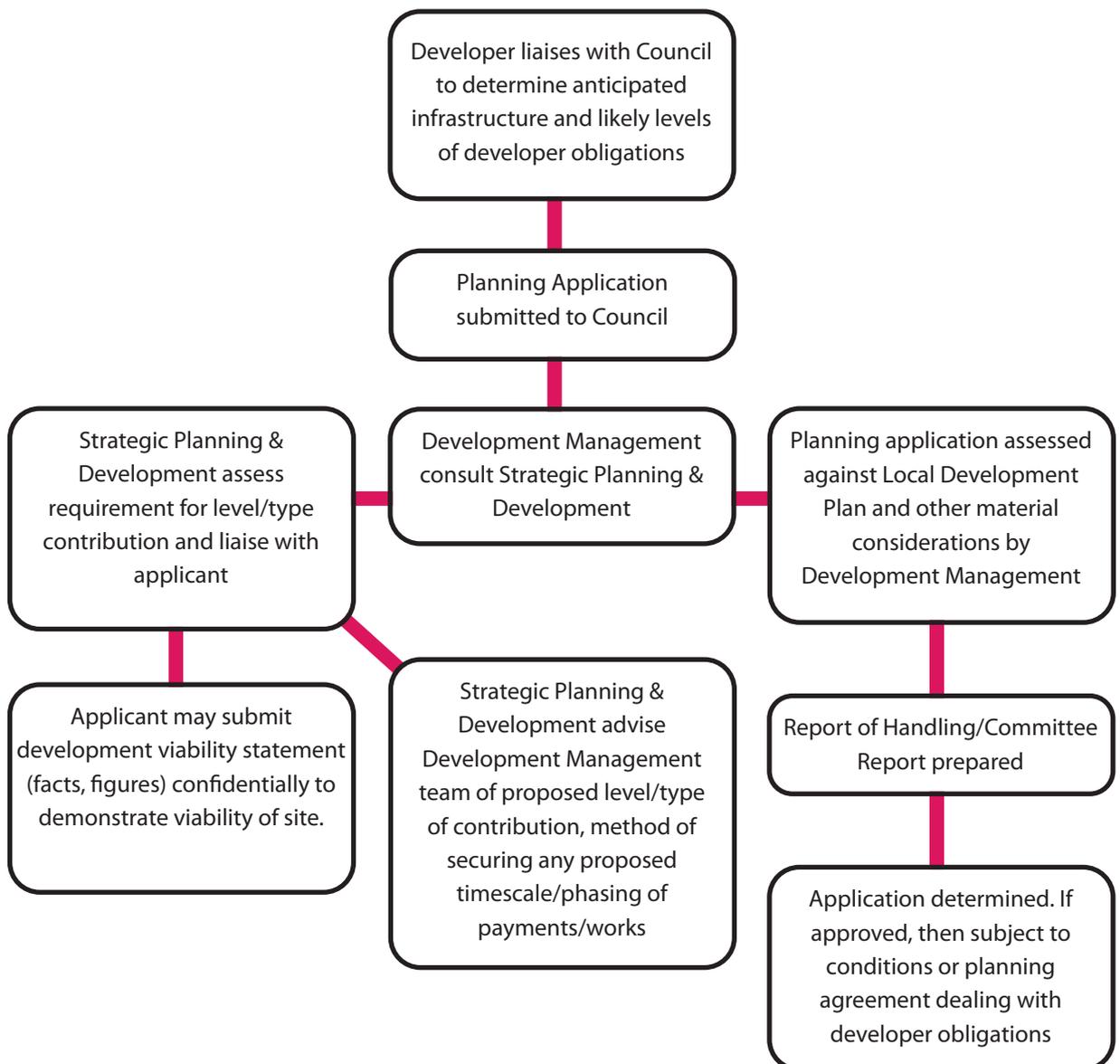
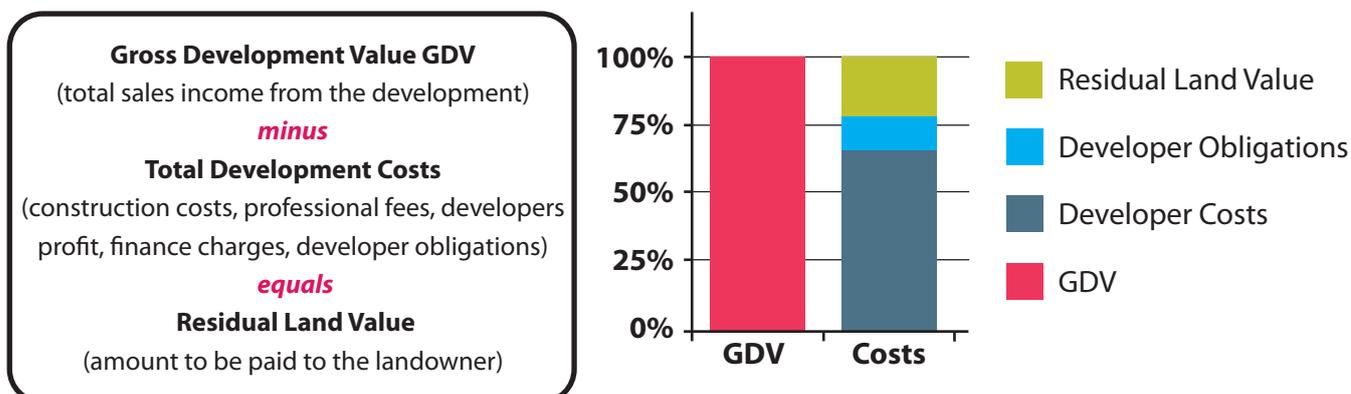


Diagram 1: Process Flow Chart

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 supplementary 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.

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.

A Planning Obligation or other legal agreement will only be used where developer obligations cannot be secured as conditions of planning consent. For example, a condition rather than a planning obligation may be used where there is an appropriate trigger such as prior to the commencement or completion of the house. This is normally the case for developer obligations the applicant is delivering such as a passing place which is usually sought prior to the commencement of development.

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 is often the case where the legal costs to set up an agreement is disproportionate to the level of developer obligation required.

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.

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 3/2012 which advises that the economic viability of proposals should be taken into consideration when applying developer obligations.

Whilst the Council previously operated a cap of £6,500 per residential unit, this was a temporary measure and given the Council's budgetary position maintaining this stance is no longer sustainable. Where there are viability issues the Council will 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. Officers have delegated authority to negotiate a variation in developer obligations up to the value of £50,000. 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.

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.

Phased Payments

The Council will consider phasing the payment of contributions to help facilitate the delivery of development. This will be based upon the phasing of the development and completions. The phased delivery of developer obligations will be set out in a Planning Obligation and/or other legal agreement. The exact payment terms will be a matter of agreement between the Council and the applicant. 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. Developer Obligations towards Moray Council infrastructure will be index linked to the General Building Cost Price Index (BCPI) 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.

Exemptions

Exemptions either in whole or in part will be at the discretion of the Council. The Council are amenable to 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);
- **Sheltered, Extra Care, Serviced and Holiday Accommodation.** These developments will not be expected to contribute to Education, Healthcare and Sport and Recreational facilities;
- **Replacement Houses** will be exempt from developer obligations;

- **Town Centre Redevelopment** of existing buildings for residential use and redevelopment opportunity sites identified in Town Centre Masterplans adopted as a material consideration by the Council will be exempt from developer obligations. This is to encourage the re-use of vacant floor space and redundant buildings to help town centres become more vibrant and add to their vitality;
- **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;**
- **Granny Annexe where conditioned to be ancillary to the main property;**
- **Approval of Matters Specified in Conditions (AMC) planning application;**
- **Residential unit above garage where conditioned to be ancillary to the main property;**
- **Temporary caravan; and**
- **Commercial Development where the floor space is less than 1,000m² or the site area is less than 1 hectare.**

Governance

The Council and NHS Grampian will endeavour to spend the funds received on appropriate infrastructure and facilities within 15 years of the date when planning permission is implemented (evidenced through the notice of initiation of development) or for those applications where phased payments are received (through a section 75 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, unless otherwise stated in the legal agreement. Where applicable, net of any additional administrative costs directly attributable to the particular contribution to be refunded.

For small scale developments, 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.

4 Infrastructure & 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 a new residential unit.
- **Commercial Development:** All proposals where the floor space is 1,000m² and above, or the site area is more than 1 hectare.
- **Other** applications where the Council or NHS Grampian considers the proposal to be of a scale or type of development 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.

The rates set out for mitigation measures will be index linked to BCPI Q4, 2019 for Moray Council infrastructure and TPI Q4, 2019 for NHS Grampian infrastructure, unless otherwise stated.

Infrastructure & Facility Requirements

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

- Education;
- Transport;
- Healthcare;
- Open Space, Sports & Recreational Facilities; and,
- Access Improvements.

Obligations will be sought through delivery on-site, off-site or financial contributions. A list of the policy and anticipated infrastructure requirements for each settlement is set out in Appendix 6.

A summary of the general range of developer obligations for different types of development is set out below:

Infrastructure Requirement				
Type of Development	Education	Transport	Healthcare	Open Space, Sports & Recreational Facilities
Residential	√	√	√	√
Business/Tourism	X	√	X	X
Retail	X	√	X	X
Industrial	X	√	X	X

Education

Contributions will be sought towards meeting the cost of improvements for primary and secondary infrastructure that is necessary as a direct consequence of the development. Information on current school rolls can be found on the Council's website at <http://www.moray.gov.uk/downloads/file100126.pdf>

Primary Education

Contributions are sought where a primary school is operating, or is forecast to be operating following completion of the proposed development and extant planning permission(s) at 80% and above its planning (physical) capacity. The Scottish Government Guidance on Determining Primary School Capacity (2014) sets out that the planning capacity is a physical, theoretical measure of the total number of pupils the school can accommodate based on the number of classrooms, size of the classrooms and maximum class sizes. The planning capacity should be used for broad strategic issues relating to school provision, such as forward planning for the school estate.

Secondary Education

Secondary school capacity is calculated using a formula that takes account of maximum class sizes, pupil age, subject choice and time tabling. The formula used to measure capacity has been approved by the Council and has been in use for many years. Contributions are sought where a secondary school is operating, or is forecast to be operating following completion of the proposed development and extant planning permission(s) at 90% and above its capacity.

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.

Mitigation Measures

Where there is a capacity issue, the situation will be addressed by considering the following mitigation measures with the rates applicable to each set out below:

Mitigation Measure	Cost per SRUE (unless otherwise stated)	
	Primary School	Secondary School
Reconfiguration	£1,729*	£1,729*
Permanent Extension	£4,324 per m ²	£3,101 per m ²
New School	£8,858 (650 capacity) <i>plus proportional land value</i>	£4,876 (800-1200 capacity) <i>plus proportional land value</i>
Rezoning	£1,276	£638

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

The rate per pupil is based on the Pupil Product Ratio, Scottish Futures Trust (SFT) space metric and average cost per m² (based on recent Moray school projects).

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.

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 (based on a 650 capacity). 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.

Learning Estate Strategy

The Learning Estate Strategy considering the long term education asset needs for Moray is currently being prepared. This work will take several years to complete as it will involve staff recruitment, statutory procedures and extensive community engagement.

In the meantime the current methodology of using annual housing land audits, school roll projections and the education mitigation measures identified in the Moray Local Development Plan 2020 and Appendix 6 of this Guidance for rezoning, extensions and new schools will be used.

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.

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): £4,000;
- Processing of Road Traffic Regulation Order (e.g. extend speed limit, waiting restrictions) excluding cost of signage and markings: £1,437.

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 service	£302.60

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. However in order to provide an indication of the likely developer obligations required to address the cumulative impact of development in Elgin in advance of the undertaking of the TA/TS, a methodology has been developed through the ETS. 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 indicative 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.

A developer will be issued with an indicative transportation need based on new development traffic travelling through an intervention. However, given the ETS interventions are multi-modal the demand for travel by all modes of transport needs to be taken into consideration. Therefore, the indicative transportation need and associated level of developer obligations could be revised once a Transport Assessment/Statement has been provided by the developer and agreed with Moray Council. The revised 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.

In order to assist developers when they are undertaking an early stage development appraisal an initial indication of transportation developer obligations can be provided setting out the cost of transport interventions based on a split 50% for developer and 50% for the public sector. The initial indication could change following consideration of an agreed TA/TS undertaken by the developer.

During the initial consideration of a planning application, a draft developer obligation assessment will be issued based on a 50/50 split to provide an indication of contributions that may be sought to mitigate the impact of the proposed development on the transport interventions set out in the ETS. Following consideration by the Council of an agreed TA/TS provided by the developer, a final developer obligation assessment will be issued setting out the actual impact of the proposed development on the transport interventions in the ETS and associated contributions.

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.

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 for other locations (e.g. Forres) 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. Any requirement to contribute to the delivery of one of these plans will be consulted and set out as an appendix to this Supplementary Guidance.

Healthcare

Healthcare facilities can include General Medical Services (GMS), Community Pharmacies and Dental Practices. Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities.

General Medical Services

The recommended number of patients is 1,500 per General Practitioner (GP). The Scottish Health Planning Notes identify a floor space requirement per GP of 271m². 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 will be sought where the capacity of existing facilities is exceeded as a result of the proposed development and will be directed towards healthcare facilities serving the residents from the development. Contributions may be sought for a new build facility, permanent extension or reconfiguration of internal space to provide additional capacity.

The way in which healthcare is being delivered is changing and a more flexible approach is required. The use of technology and transport solutions will play a big part in the future provision of healthcare within new and emerging communities. However, at this time contributions will not be sought towards these mitigation measures.

Site specific requirements (as provided by NHS Grampian) are identified in the Settlement Policy and Infrastructure Requirements set out in Appendix 6.

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	£1,523	£896

On larger residential development sites, where development as a whole or part of a masterplan generates a requirement for healthcare 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.

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.

Dental Practices

The recommended number of patients is 1,500 per dental chair. The Scottish Health Planning Notes set out typical accommodation requirements. Based on a 2 chair Dental Practice a floor space of 276m² is required.

Contributions will be sought where the capacity of existing facilities is exceeded as a result of the proposed development and will be directed towards healthcare facilities serving the residents from the development. Contributions may be sought for a new build facility, permanent extension or reconfiguration of internal space to provide additional capacity.

The way in which healthcare is being delivered is changing and a more flexible approach is required. The use of technology and transport solutions will play a big part in the future provision of healthcare within new and emerging communities. However, at this time contributions will not be sought towards these mitigation measures.

Site specific requirements (as provided by NHS Grampian) are identified in the Settlement Policy and Infrastructure Requirements set out in Appendix 6.

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	£517	£304

On larger residential development sites, where development as a whole or part of a masterplan generates a requirement for healthcare 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.

Community Pharmacies

The recommended number of patients is 4,000 per Community Pharmacy. To meet the needs of today's patients it is recommended that a minimum floor space requirement for a new pharmacy of 183m² is required.

Contributions will be sought where the capacity of existing facilities is exceeded as a result of the proposed development and will be directed towards healthcare facilities serving the residents from the development. Contributions may also be sought for a new build facility, permanent extension or reconfiguration of internal space to provide additional capacity.

Site specific requirements (as provided by NHS Grampian) are identified in the Settlement Policy and Infrastructure Requirements set out in Appendix 6.

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	£386	£227

Open Space, Sports & 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 Policy EP5 Open Spaces of the LDP and Open Space Strategy, which in summary, sets out the following standards:

Type of Development	Open Space Requirement			
	Landscaping	Minimum 15%	Minimum 20%	Minimum 30%
Residential:				
1-9 units	√			
10-50 units		√		
51-200 units			√	
201+ units				√
Industrial		√		
Business Park				√

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. Some pitches are not open to the public or have restricted access times. The Review identified that the Scottish climate and vast amount of football that takes place on natural grass pitches are incompatible and unsuitable. 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 of the preference for synthetic grass pitches.

Enclosed, floodlit synthetic turf (3G) Pitch

The sportsScotland national average for synthetic grass pitches is 0.9 pitches per 10,000 population. The Facilities Planning Model 2018 sets out that Moray currently meets 0.5 pitches per 10,000 population. This means Moray's provision is significantly lower at 20,000 residents per 3G pitch than the national average of 10,000 residents per 3G pitch.

The Moray Council aims to provide every secondary school with convenient/adjacent access to a 3G pitch. Current pitch provision in Forres falls below national standards in terms of both quality and quantity, therefore contributions will be sought towards a provision of an enclosed, floodlit synthetic turf (3G) pitch in Forres to mitigate the adverse impact of proposed development on recreational sport facilities.

Mitigation Measure	3G Pitch (1.0ha)
Contribution per SRUE	£203

Access Improvements

Access Improvements will be sought from residential, commercial and industrial development where they will be used by residents, employees and customers of a new development in its entirety (e.g. core paths through new development or from the new development to an existing core path). This will normally be achieved by planning conditions, but where core paths align with the Active Travel network (in Elgin and secondary growth area) delivery may be facilitated as part of developer obligations towards the transportation network.

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 £269,988.99 (£13,499.45 per unit) is required to mitigate the negative impact that this development proposal has on local education, transport and healthcare infrastructure.

Date:

Application Reference: 20/00000/APP

Description: Residential development of 20 dwellinghouses and associated infrastructure at Hamilton Drive, Elgin, Moray

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 www.moray.gov.uk/downloads/file123059.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>Moray Primary School</i>	£115,453.99
Secondary Education <i>Moray Secondary School</i>	£Nil
Healthcare <i>Reconfiguration of Moray Health Centre and 1 Additional Dental Chair</i>	£32,640.00
Transportation	£121,895.00
Total Developer Obligations	£269,988.99

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

10 x 2 bed (0.8 SRUE) = 8 SRUE

5 x 3 bed (1.0 SRUE) = 5 SRUE

This assessment is therefore base on 16 standard residential unit equivalents (SRUE).

Please note the 5 x 1 bed units (3 SRUE) will not be included within any calculations for education infrastructure mitigation as 1 bed units are assumed not to generate any pupils.

INFRASTRUCTURE

Primary Education

The impact of the proposal on education infrastructure is assessed on 13 SRUE (16 SRUE – 3 SRUE) as 1-bed units are not assumed to generate any pupils. Therefore, the proposal will generate 3.9 pupils (13 SRUE x 0.3 pupils per SRUE).

Pupils from this development are zoned to Moray Primary School which is currently operating at 81% planning (physical) capacity. The development has been factored into the School Roll Forecast 2019 (SRF) on the following assumed phasing: 3 units in 2020, 6 units in 2021, 6 units in 2022 and 5 units in 2023. The school roll forecast will continue to exceed 80% planning (physical) capacity year on year as a result of the proposed development.

Given there is no scope for expansion or increasing capacity, Education Services has confirmed that pupils from this development will attend a new Primary School. Therefore, contributions are sought on the following basis:

$$13 \text{ SRUE} \times \text{£}8,858 = \text{£}115,154$$

A serviced site for the new primary school is to be acquired by the Council. Contributions are sought towards the cost of acquiring this land for the proportion of pupils attributable to this development. Based on a land value of £50,000 for a serviced 2.5 ha site for a 650 pupil primary school, the value proportioned to this development is:

$$\text{£}50,000 / 650 \text{ pupils} = \text{£}76.92 \text{ per pupil}$$

$$3.9 \text{ pupils} \times \text{£}76.92 = \text{£}299.99$$

Contribution towards Primary Education = £115,453.99

Secondary Education

Moray Secondary School has sufficient capacity to accommodate the additional households therefore no contribution will be required in this instance.

Contribution towards Secondary Education = £Nil

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 £6,094.75 and the following will be sought:

$$\text{£}6,094.75 \times 20 \text{ units} = \text{£}121,895$$

Contribution towards Transportation = £121,895

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) and floorspace requirement per GP is 271m².

The recommended number of patients is 1500 per Dental Chair and the typical floorspace requirement is 276m².

The recommended number of patients is 4000 per Community Pharmacy and the minimum floorspace requirement is 183m².

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 (based on the average household size of 2.19 persons*).

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 and provide 5 Additional Dental Chairs to accommodate the additional patients as a direct result of this development. Therefore the following contribution will be sought:

Increase capacity at the Health Centre: 16 SRUE x £1,523 per SRUE = £24,368.00

Dental Chairs: 16 SRUE x £517 per SRUE = £8,272.00

* *Census 2011*

Contribution towards Healthcare = £32,640.00

Appendix 2

Checklist for Developers and the Council in the Developer Obligations Process



Developers will be expected to:

- Check the Supplementary 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 3/2012.
- 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	0.168	0.532	0.700
PM Peak	0.596	0.297	0.893

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	£10,909,587
I2A	Moss Street – convert to one-way (northbound) & widen footways/cycle lanes	£708,752
I2E	South Street – pedestrianise between Commerce Street and Batchen Street	£1,090,386
I3A	New Elgin Road- improve performance/replace junctions North/South of railway	£2,845,909
I4B	New cycle/pedestrian north/south rail bridge: Ashgrove Road	£4,969,437
I4F	Station Road cycle lanes	£87,231
M1A	Edgar Road pedestrian crossing improvements	£70,875
M1B	Station Road/Maisondieu Road pedestrian crossing improvements	£245,337
M3B	Elgin Bus Station redesign/improve operation	£2,725,966
South-East		
I4H	Linkwood Road cycle lanes	£109,039
I4K	Pinefield to East End Primary School Active Travel Route	£231,282
M1D	Thornhill Road pedestrian crossing improvements	£245,337
North-West		
I3K	North Street/Morrison Road junction improvements	£27,259
I4M	A941/Lesmurdie Road: improvements to pedestrian/ cycle provision and crossing	£122,668
South-West		
I3H	Edgar Road/The Wards junction improvements	£327,116
Total		£24,716,181

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

Transportation Worked Example

Indicative Calculation for Developer Obligations to address Cumulative Impact of Development Traffic in Elgin

This is an indicative calculation prior to submission of a Transport Assessment, and will be revised once an agreed Transport Assessment has been provided by the developer.

Worked example is for R9 Hamilton Drive site which has an indicative capacity of 20 dwellings.

The methodology is based on the number of trips for a residential development as a proportion of the whole number of trips associated with unconsented residential development from the MLDP 2020, using the vehicle trip generation rates shown in Table 1 in Appendix 3. Table 3 below shows the current unconsented MLDP residential sites, their indicative capacity and the peak period vehicle trip generation.

Table 3

Site	Total dwellings	AM Peak		PM Peak	
		Arrivals	Departures	Arrivals	Departures
R2 Edgar Road	75	13	40	45	22
R3 Bilbohall South	105	18	56	63	31
R4 South West High School	107	18	57	64	32
R5 Bilbohall West	50	8	27	30	15
R6 Knockmasting wood	85	14	45	51	25
R7 The Firs	10	2	5	6	3
R8 Alba Place	6	1	3	4	2
R9 Hamilton Drive	20	3	11	12	6
R11 Findrassie/Myreside	1000	168	532	596	297
R12 Lossiemouth Rd North East	150	25	80	89	45
R13 Lesmurdie Fields	70	12	37	42	21
R14 South Lesmurdie	15	3	8	9	4
R16 Barmuckity	190	32	101	113	56
R21 Palmers Cross	20	3	11	12	6
R22 Spynie Hospital	50	8	27	30	15
Windfall Sites ¹	240	40	128	143	71
Total	2193	368	1168	1309	651

¹ Windfall sites - supplied by Strategic Planning & Development team

The R9 Hamilton Drive site is located in the north-west quadrant of Elgin, see Plan A. The indicative calculation would therefore be based on the Elgin Transport Strategy interventions within that Quadrant and the Central and Commercial Area. Table 4 indicates the relevant interventions with a '1'. A '0' indicates that the intervention would not be included in the indicative calculation. However should a subsequent TA identify a material impact at a given intervention where a '0' is shown then a developer obligation will be sought towards the mitigation of cumulative impact on the transportation network.

Table 4 Interventions to be included in indicative calculation

	Cost	R9 Hamilton Drive	Total vehicles from all residential developments
Cars - vehicles / Peak Periods		32	3111
Cars - vehicles / Peak Periods		1.02%	100%
Central and Commercial Area			
I1B New north/south rail bridge: Ashgrove/ Linkwood Road to Masondieu Road- two way arrangement with signals	£10,909,587	1	3111
I2A Moss Street convert to one-way (northbound) & widen footways/ cycle lanes	£708,752	1	3111
I2E South Street - pedestrianise between Commerce Street and Batchen Street	£1,090,386	1	3111
I3A New Elgin Road- improve performance/ replace junctions North/South of railway	£2,845,909	1	3111
I4B New cycle/pedestrian north/south rail bridge: Ashgrove Road	£4,969,437	1	3111
I4F Station Road cycle lanes	£87,231	1	3111
M1A Edgar Road pedestrian crossing improvements	£70,875	0	720
M1B Station Road / Maisondieu Road pedestrian crossing improvements	£245,337	1	3111
M3B Elgin Bus Station redesign/improve operation	£2,725,966	1	3111
South-East Quadrant			
I4H Linkwood Road Cycle Lanes	£109,039	0	303
I4K Pinefield to East End Primary School Active Travel Route	£231,282	0	0
M1D Thornhill Road pedestrian crossing improvements	£245,337	0	303
North-West Quadrant			
I3K North Street/Morrison Road junction improvements	£27,259	1	2088
I4M A941/Lesmurdie Road: improvements to pedestrian/cycle provision and crossing	£122,668	1	2088
South-West Quadrant			
I3H Edgar Road / The Wards junction improvements	£327,116	0	720
	£24,716,181		

Table 4 also shows the current estimated cost of each intervention, the total number of vehicle trips from all of the development sites and number of vehicle trips from Hamilton Drive, which at this time is the 1.02% of the total trips (across all development sites). Within the North-West quadrant the number of vehicle trips from Hamilton Drive is 1.64% (across the development sites which would pass through the relevant interventions, R9 Hamilton Drive, R11 Findrassie, R12 Lossiemouth Road North East, R13 Lesmurdie Fields, R14 South Lesmurdie and R22 Spynie Hospital).

Where there is a split between the public sector and developer obligations, e.g. a scheme addresses an existing constraint/background growth and future travel demand associated with development the cost is reduced to 50%. It should be noted that interventions attributable solely to the public sector or to a particular development have been omitted from the calculation.

The costs for each intervention are apportioned to each of the developments which are within the same area as the intervention, using the proportion of development peak period vehicle trips.

For interventions within the central and commercial area, the costs are apportioned across all development sites.

Table 5 shows the indicative Transportation obligations sought towards the interventions within the area (north-west) and the central and commercial area. The contribution rate per dwelling is also shown.

Table 5- R9 Hamilton Drive Draft Transportation Developer Obligations

R9 Hamilton Drive Summary Intervention	Developer Obligation
Central and Commercial Area (1.02%)	
I1B Ashgrove Road to Maisondieu Road new road link	£55,861
I2A Moss Street convert to one-way (northbound), widen footways, provide cycle lanes	£3,629
I2E South Street – pedestrianise between Commerce Street and Batchen Street	£5,583
I3A New Elgin Road/Edgar Road and Laichmoray junction improvements	£14,572
I4B Ashgrove Road cycle bridge	£25,445
I4F Station Road cycle lanes	£447
M1A Edgar Road pedestrian crossing improvements	£0
M1B Station Road / Maisondieu Road pedestrian crossing improvements	£1,256
M3B Bus station redesign / improve operation	£13,958
South-East Quadrant (0%)	
M1D Thornhill Road pedestrian crossing improvements	£0
I4H Linkwood Road Cycle Lanes	£0
I4K Pinefield to East End Primary School Active Travel Route	£0
North-West Quadrant (1.64%)	
I4M A941/Lesmurdie Road junction improve pedestrian and cycle provision	£936
I3K North Street/Morrison Road junction improvements	£208
South-West Quadrant (0%)	
I3H Edgar Road / The Wards junction improvements	£0
Total	£121,895
Rate per Dwelling	£6,094.75

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

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)	
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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"/>

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"/>

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	<p>Provide a QS cost schedule:</p> <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"/>
		<p>The costs to be per square metre based on GIA.</p> <p>The development costs to include the following:</p> <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"/>

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"/>
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"/>

		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). Detail whether the profit is a % of GDV or cost. 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"/> <input type="checkbox"/> <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

Settlement Policy & Infrastructure Requirements

A list of policy and anticipated infrastructure requirements has been prepared for each settlement in the Local Development Plan (LDP). This list is not exhaustive as it is unrealistic to expect the Council to anticipate every situation where the need for a developer obligation may arise. A further assessment of infrastructure requirements that need to be mitigated against as a direct result of the proposed development will be undertaken on submission of a planning application, or earlier should the developer contact the Council at the initial stages of a development viability appraisal. An assessment report setting out the likely necessary infrastructure requirements will be issued at that time.

All sites allocated in the LDP will be expected to contribute to the infrastructure identified. Obligations will be sought from other development sites (e.g. windfall sites, rural development, additional development permitted on previously consented sites and proposals considered to be an acceptable departure from the LDP). The table includes sites that have planning consent but are not yet under construction.

Development will be expected to contribute to infrastructure requirements where the thresholds identified in this SG are met (i.e. where the number of pupils generated by a proposed development exceeds the capacity of a secondary school, at 90% or above).

Transport Proposals (TSP) are identified in the LDP for each site. These transport requirements are not exhaustive, and do not pre-empt anything that might result from a Transport Assessment/Transportation Statement. Developers are encouraged to contact the Council's Transport Development Team early in the development appraisal process.

