

# Planning Committee

10.00am, Thursday, 27 February 2014

## Developer Contributions and Affordable Housing Guidance – finalised version

Item number	5.4
Report number	
Wards	All

### Links

Coalition pledges	<a href="#">P8</a> , <a href="#">P17</a> , <a href="#">P18</a> ,
Council outcomes	<a href="#">CO7</a> , <a href="#">CO19</a> , <a href="#">CO22</a> ,
Single Outcome Agreement	<a href="#">SO1</a> , <a href="#">SO4</a>

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# Executive summary

## Developer Contributions and Affordable Housing Guidance – finalised version

### Summary

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Following the approval of the Proposed Local Development Plan (LDP March 2013) the Council's approach to developer contributions and affordable housing has been revised. The purpose of this report is to seek the Committee's approval of finalised guidance on Developer Contributions and Affordable Housing (Appendix 2) and agreement to use it as a material planning consideration.

### Recommendations

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It is recommended that the Committee approves the finalised guidance on Developer Contributions and Affordable Housing (Appendix 2) and agrees to use it as a material planning consideration.

### Measures of success

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A measure of success is an efficient and effective approach to land use planning, which ensures that new developments are suitably served by supporting infrastructure, while ensuring that they are not burdened by overly onerous requirements that may prohibit development taking place.

### Financial impact

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There are no direct financial impacts arising from this report. Indicative costs for infrastructure and other actions set out within the finalised guidance are taken from the Proposed Action Programme. These are subject to change as the LDP proceeds to adoption in 2015. The first adopted Action Programme will be reported to the Planning Committee within three months of the adoption of the LDP itself. It will also be reported to the Corporate Policy and Strategy Committee to inform the corporate capital investment programme as appropriate.

### Equalities impact

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An Equalities and Rights Impact Assessment has been carried out. There is no equalities impact arising from this report.

## Sustainability impact

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The impact of this report in relation to the Climate Change (Scotland) Act 2009 Public Bodies Duties has been considered, and the outcomes are summarised below:

- The proposals in this report will have a positive impact on carbon emissions because the report deals with the application of policy in relation to developer contributions. Development Plans set out policy which aims to reduce carbon emissions from new developments (ensuring best location in terms of policy on transport, design, open space and education) and the policy implements this.
- The proposals in this report will have a positive effect on the city's resilience to climate change impacts because the report deals with the application of policy in relation to developer contributions. Development Plans set out policy which aims to reduce carbon emissions from new developments (transport, design, open space and education) and the policy implements this.
- The finalised guidance will help achieve a sustainable Edinburgh because it aims to implement policy relating to development contributions and affordable housing, ensuring that infrastructure is delivered to make sustainable places and the development of affordable housing.
- The finalised guidance will help achieve a healthy and resilient economy by ensuring that the housing, economic and mixed use proposals within development plan are delivered.
- The finalised guidance will have no impact directly on natural resources, although it implements development plan policy that aims to use resources efficiently and protect biodiversity.

## Consultation and engagement

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Draft guidance was published for a period in which interested parties could make representations either supporting it or seeking change. That period ran for eight weeks from 19 August 2013. Discussion with relevant Council services also took place during the consultation period. A summary of responses to the consultation is provided in Appendix 2 and summarised below.

## Background reading / external references

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**[Circular 3/2012](#)** – Planning Obligations and Good Neighbour Agreements

**Edinburgh City Local Plan** – January 2010 ([www.edinburgh.gov.uk/eclp](http://www.edinburgh.gov.uk/eclp))

**Rural West Edinburgh Local Plan** (Altered June 2011) ([www.edinburgh.gov.uk/rwelp](http://www.edinburgh.gov.uk/rwelp))

**Proposed Local Development Plan** – [Report to Planning Committee 19 March 2013](#)  
([www.edinburgh.gov.uk/localdevelopmentplan](http://www.edinburgh.gov.uk/localdevelopmentplan))

**Local Development Plan: Aims & Delivery** – [Report to Corporate Policy & Strategy Committee 4 December 2012](#)

**Developer Contributions and Affordable Housing – draft for consultation** – [Report to Planning Committee 3 October 2013.](#)

**Edinburgh Public Realm Strategy**, December 2009

**Public Realm Strategy: Annual Review 2011/12** – [Report to Planning Committee 1 March 2012](#)

[Developer Contributions and Affordable Housing](#), guidance, May 2011

**Economic Resilience Action Plan**, [report to full Council, 16 October 2008](#)

## Developer Contributions and Affordable Housing Guidance – finalised version

### 1. Background

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- 1.1 On 24 February 2011, Committee agreed that a suite of planning guidance should be consolidated and targeted at user groups. The consolidation into six pieces of guidance is almost complete:
- Developer Contributions and Affordable Housing Guidance (approved May 2011, draft revised guideline approved for consultation May 2013, revised finalised version appended to present report)
  - Guidance for Businesses (approved December 2012)
  - Guidance for Listed Buildings and Conservation Areas (approved December 2012)
  - Guidance for Householders (approved December 2012)
  - Edinburgh Design Guidance (approved May 2013)
  - Streetscape Design Guidance (consultative draft ready for Committee approval)
- 1.2 On 19 March 2013, Committee approved the proposed Edinburgh Local Development Plan (LDP). The LDP sets out a new policy approach to developer contributions and infrastructure provision linked closely with the proposed Action Programme.
- 1.3 On 16 May 2013, Committee agreed to revise the approach currently being taken in relation to developer contributions for tram and noted that a full review of the overall approach to developer contributions, in light of the proposed Local Development Plan, was to be carried out.
- 1.4 On 3 October 2013, Committee agreed draft guidance on Developer Contributions and Affordable Housing for consultation purposes.

## 2. Main report

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### **Proposed Local Development Plan (March 2013) and Action Programme approach**

- 2.1 The Proposed Local Development Plan (LDP March 2013) sets out a new approach to developer contributions and infrastructure provision linked closely with the Proposed Action Programme. Policies DtS1 (Developer Contributions) and DtS2 (Retrospective Developer Contributions) require developer contributions from any development if:
1. It will have a net impact on infrastructure capacity; and
  2. It is necessary to mitigate that impact by providing additional capacity or otherwise improving existing infrastructure.
- 2.2 The Action Programme sets out the actions required to help mitigate the impact of strategic and planned growth and to deliver the proposals identified within the Plan. Following the approval of the Proposed Local Development Plan the policy approach to developer contributions and infrastructure has been reviewed to reflect the proposed LDP and Action Programme approach.

### **Draft Guidance (October 2013)**

- 2.3 Draft guidance on Developer Contributions and Affordable Housing was approved by Committee on 3 October 2013 for consultation purposes. The draft guidance set out the contributions that developers will be required to make in order to ensure that the necessary mitigation is delivered with new development. Developer contributions will only be required where they are necessary, proportionate and directly related to the impact(s) of the development.
- 2.4 For the housing, economic and mixed use developments listed within the Plan, the draft guidance set out the contributions which will be secured towards actions identified within the Action Programme. These included road and junction improvements, public transport provision and school facilities. The draft guidance outlined Action Programme 'Contribution Zones' within which legal agreements will be used to secure developer contributions towards infrastructure improvements which are needed to mitigate development across a wide area.
- 2.5 In addition to the requirements set out within the Action Programme, the draft guidance also set out where it may be necessary to secure the delivery of other improvements in order to facilitate new development in the city. This included affordable housing provision, local transport improvements, open space and public realm.

### **Publicity and Engagement**

- 2.6 The draft guidance was published for a period in which interested parties could make representations either supporting it or seeking change. That period ran for eight weeks from 19 August to 13 December 2013. The following groups and organisations were consulted: the key agencies, neighbouring authorities, house builders, development industry, amenity bodies, and community organisations. Discussion with relevant Council services also took place during the consultation period.
- 2.7 24 responses were received to the consultation. These included responses from the key agencies: Historic Scotland, Scottish Natural Heritage, and Transport Scotland as well as two community councils, Grange and Liberton and Gilmerton. Responses were also received from the Archdiocese of St Andrews and Edinburgh, Homes for Scotland, SEStran, SportScotland, and Spokes as well as 15 housing developers, landowners and housing associations.
- 2.8 The responses received are summarised in Appendix 1. The majority of responses supported the guidance in principle with respondents recognising the strategic approach taken by the guidance, which will allow for development to be proactively planned for. Additionally, respondents recognised that the guidance could help provide a degree of certainty to developer contributions as well as enhancing transparency. However, respondents highlighted a number of issues, which are summarised below, with the Council's response and proposed changes, if required.

### **Prematurity**

- 2.9 A number of respondents replied to the consultation highlighting that the publication of the guidance was premature to the publication of the revised LDP. This is in respect of additional housing allocations which may follow from the supplementary guidance to the SDP and the requirement for cross-boundary contributions for trunk road infrastructure.
- 2.10 In this regard, the Council published the Proposed LDP in March 2013 as its plan-led response to housing development pressures facing the city. It includes a revised policy context for funding infrastructure provision (Policies DtS 1 and 2). A number of applications for major housing developments are currently being progressed by developers and landowners. It is therefore appropriate for the Council to provide the detailed guidance on how the new policy context will be applied to those applications in time for them to be determined by the sub-committee, following the revision of the LDP.
- 2.11 The Action Programme includes some actions relating to trunk road junctions, but in most cases the actions are to safeguard any land needed through the Development Management process. Additional actions, including those for cross-boundary strategic transport contributions, will be included as part of future editions of the Action Programme.

## **Delivery and funding**

- 2.12 Respondents were supportive of the fact that the Council recognises that the development industry alone may not always be able to front-fund all infrastructure and that they will have a financial role to play, i.e. other forms of funding will be required. However, respondents requested certainty that the Council will deliver the necessary infrastructure and forward fund where this is consistent with the vision and strategy of the plan. In this regard, the concerns of the respondents are recognised within the guidance, and in order to facilitate delivery of infrastructure associated with planned development in the LDP, corporate working arrangements have been established to ensure that all service areas take account of the LDP proposals (see [Report to Corporate Policy and Strategy Committee](#), 4 December 2012).

## **Viability**

- 2.13 Respondents requested that the guideline should clearly explain how land and abnormal costs will be factored into overall developer contribution levels. The finalised guidance now clarifies the Council's approval with regard to viability.

## **Education Contributions**

- 2.14 Respondents queried whether the calculation to determine education contributions was in accordance with the Circular. The responses highlighted that any contribution should be based on the population generated by a development and not on 'an area' basis. Respondents preferred the calculation to be based on a rate per unit with different rates for flats and houses included. In this regard, the calculation has been revised in the final guidance and now uses flats and houses as multipliers with the hectare calculation being used as 'safety net' to ensure that low density schemes that produce a high number of children still make an appropriate contribution.
- 2.15 The finalised guideline is provided in Appendix 2, with, where possible, the change outlined above highlighted. Minor changes have been made to the layout, and technical corrections made to the guidance where required.

## **Next Steps**

- 2.16 Once finalised, this guidance will be used to interpret relevant policy in the adopted Edinburgh City Local Plan and Rural West Edinburgh Local Plan, and the emerging Local Development Plan.
- 2.17 Following the finalisation of the SDP SG and approval of the revised LDP, it is the intention for the Annexes of the guidance to be reviewed and replaced as appropriate. To help facilitate this, items with potential to change when the



revised LDP and Action Programme are reported (e.g. generic costs, nature of individual infrastructure actions) are in annexes which can be monitored and updated at least annually, with each updated Action Programme.

### 3. Recommendations

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- 3.1 It is recommended that the Committee approves the finalised guidance on Developer Contributions and Affordable Housing (Appendix 2) and agrees to use it as a material planning consideration.

#### Mark Turley

Director of Services for Communities

### Links

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<b>Coalition pledges</b>	<b>P8:</b> Make sure the city's people are well-housed, including encouraging developers to build residential communities, starting with brownfield sites. <b>P17:</b> Continue efforts to develop the city's gap sites and encourage regeneration. <b>P18:</b> Complete the tram project in accordance with current plans.
<b>Council outcomes</b>	<b>CO7:</b> Edinburgh draws new investment in development and regeneration. <b>CO19:</b> Attractive places are well maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm. <b>CO22:</b> Moving efficiently – Edinburgh has a transport system that improves connectivity and is green, healthy and accessible.
<b>Single Outcome Agreement</b>	<b>SO1:</b> Edinburgh's economy delivers increased investment, jobs and opportunities for all. <b>SO4:</b> Edinburgh's communities are safer and have improved physical and social fabric.
<b>Appendices</b>	1.Summary of consultation responses 2.Draft Developer Contributions and Affordable Housing



**Summary of Consultation Responses (responses grouped by issue)**

1. General Principle of Approach and use of Contribution Zones
2. Transition Arrangements
3. Special Considerations / Agreement Mechanics
4. Annex 2a – Education
5. Annex 2b – Tram
6. Annex 2c - Strategic Transport
7. Annex 2d - Strategic Public Realm
8. Annex 3a - Affordable Housing
9. Annex 3b - Transport and Public Realm
10. Annex 3c - Open Space

**1. General Principle of Approach**

Responses

- Scottish Natural Heritage , SESTran, Transport Scotland, Grange Community Council, Liberton & District CC
- Barratts / David Wilson Homes, Cruden Homes, Haliday Fraser Munro, Hallam Land Management, Homes for Scotland, IBG, Mactaggart & Mickel, Persimmon Homes, Port of Leith Housing Association, Stewart Milne, Taylor Wimpey, Wallace Land and Investment, West Craigs Ltd

<b>Issue</b>	<b>The Council's Response</b>
<p><b>Prematurity</b></p> <ul style="list-style-type: none"> <li>• It is premature to publish draft guidance in light of the revision to the Proposed Local Development Plan.</li> </ul>	<ul style="list-style-type: none"> <li>• The Council published the Proposed LDP in March 2013 as its plan-led response to housing development pressures facing the city. It includes a revised policy context for funding infrastructure provision (Policies DtS 1 and 2). Representations on those policies mostly seek assurance that the tests of the relevant Circular will be met by the Council, but do not challenge the principles of the new policy context. It is therefore a significant material consideration. A number of applications for major housing development are currently being progressed by developers and landowners. It is appropriate for the Council to provide the detailed guidance on how the new policy context will be applied to those applications in time for them to be determined by the sub-committee following the revision of the LDP. As part of the revision of the LDP, it is the intention for the Annexes of the guidance to be reviewed and</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

Issue	The Council's Response
<p><b>Circular 3/2012</b></p> <ul style="list-style-type: none"> <li>• Critically important that policy adheres to Circular 3/2012 (tests and new net impact).</li> <li>• The extent to which the use of Planning Agreements has been extended beyond the scope of the tests of Circular is queried. The Council should prove that a detriment is being created, including a direct relationship between developments in the proposed zones and their impacts, and therefore the necessary mitigation.</li> </ul>	<p>replaced as appropriate.</p> <ul style="list-style-type: none"> <li>• In preparing this guideline, the Council has had regard to the Circular and is satisfied that the approach being taken is consistent with the Circular.</li> <li>• The use of planning agreements has not been extended beyond the scope of the Circular. The mitigation measures identified through the Action Programme have been derived from assessment of the impacts arising from the land releases set out in the Local Development Plan. Infrastructure requirements arising from the policies and proposals within the LDP have been assessed within the Transport and Education Appraisals (March 2013). The revised LDP will be accompanied by similar assessments.</li> </ul>
<p><b>Action Programme</b></p> <ul style="list-style-type: none"> <li>• The annual update of AP, with monitoring of changes to infrastructure and costs is crucial. A rolling timetable of the update to the AP should be published. The Proposed AP currently lacks information to assess the financial implications. There should have been an update to the AP with the consultation. The AP should contain details of how new mechanisms will be added or whether public consultation will be undertaken.</li> <li>• AP is a moving target which makes figures in guidance inappropriate. Costs may shift dramatically between land purchase and obtaining planning consent/signing a section 75 agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• Arrangements for reporting future editions of the Action Programme will be set out in the relevant Committee reports. The accompanying reports for each Action Programme will summarise the main changes from the previous one, and the reasons for any additional actions or changes to actions. Action Programmes are a statutory requirement to set out the actions necessary to deliver LDPs and SDPs. The Plans themselves are subject to consultation and engagement, as are applications for individual developments. An additional level of consultation is unnecessary.</li> <li>• Applicants affected by the inclusion of an action and subsequent proposals for a S.75 agreement can challenge its reasonableness by appeal.</li> </ul>
<p><b>Use of Contribution Zones</b></p> <ul style="list-style-type: none"> <li>• Broadly accepted as a strategic and proactive approach on the grounds that it may provide a degree of certainty as well as enhancing transparency. Potential for to proactively plan for</li> </ul>	<ul style="list-style-type: none"> <li>• Noted</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

Issue	The Council's Response
<p>future development.</p> <ul style="list-style-type: none"> <li>• Queried the process to identify future Contribution Zones? I.e. would there be a consultation period?</li> <li>• Why have zones if contributions will be taken both in and outside of the zone? Should they be fixed? The words 'or near to' should be clarified or removed.</li> </ul>	<ul style="list-style-type: none"> <li>• Future contribution zones will be identified within the relevant action programme. As noted above applications can appeal the reasonableness of a contribution required to an action programme action.</li> <li>• Contribution zones drawn for simplicity and ease of use. In some cases a development site may lie within a zone, but have its vehicular access from a different road unrelated to relevant action(s). In such cases, it may be unreasonable to apply the contribution zone. In other cases, a site might lie outwith, but is accessed from a route which relates to the relevant action and is of a scale which has a demonstrable impact. It should be noted that the contribution zone approach allows later developments which benefit from the capacity provided by an earlier intervention to contribute to paying off any borrowing needed. This will help spread the cost of infrastructure enhancements more equitably between developments of different time periods.</li> </ul>
<p><b>Delivery and funding</b></p> <ul style="list-style-type: none"> <li>• Supportive of the fact that the Council recognises that the development industry alone will not be able to front fund all infrastructure and that they will have a financial role to play, i.e other forms of funding (capital receipts from school estate disposals / infrastructure fund in a similar manner to other councils)</li> <li>• Certainty that once they have paid any contribution it is the Council who then takes the responsibility for the delivery of the necessary infrastructure. Council needs to forward fund where this is consistent with the vision and strategy of the plan. Payment of up front contributions is not justified unless the Council is committed to forward fund and deliver.</li> <li>• Cumulative impact of the obligations required will render some</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> <li>• This is recognised. New corporate arrangements have been established to ensure that all service areas take account of the LDP proposals.</li> <li>• The guidance makes clear in the Special Considerations/Agreement Mechanics section that where a development cannot bear the cost of the</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

Issue	The Council's Response
<p>developments non-viable / repercussions on site layout</p>	<p>necessary contributions the Council look at alternative funding mechanisms. However, it is also made clear that if a viability argument is accepted it does not mean that permission will be issued. It may be that a scaled down development or refusal is the appropriate approach.</p>
<p><b>Cross boundary strategic transport contributions</b></p> <ul style="list-style-type: none"> <li>• Requirement to address boundary issues between authorities. Requires a collaborative approach and an agreed process needs to be developed. Suggest that the Council does not finalise the guidance until such time as the work has been progressed as to it being able to inform the guidance. This may require a further consultation.</li> </ul>	<ul style="list-style-type: none"> <li>• The contributions zones identified within in the proposed Action Programme (March 2013) are for transport interventions identified as essential to allow the new housing proposals in the LDP to proceed. Those interventions were identified in the Transport Appraisal which accompanies the Proposed LDP and which was prepared with input from Transport Scotland. Those interventions do not include upgrades to trunk road junctions. The Action Programme includes some actions relating to trunk road junctions, but in most cases the actions are to safeguard any land needed through the Development Management process. Additional actions, including those for cross- boundary strategic transport contributions, can be and will be included as part of future editions of the Action Programme.</li> </ul>
<p><b>Effective Consultation</b></p> <ul style="list-style-type: none"> <li>• Consultation does not provide alternative options; query whether this really meets the criteria for effective and proper consultation.</li> </ul>	<ul style="list-style-type: none"> <li>• The revised policy context for funding infrastructure provision (LDP Policies DtS 1 and 2) has previously been considered through the preparation of the LDP, including at MIR stage. There is no requirement for non-statutory planning guidance to set out alternative options.</li> </ul>
<p><b>Community Involvement</b></p> <ul style="list-style-type: none"> <li>• Early consultation with Community Councils affected by the proposed development should be built into the Guidance. Planning Concordat does not seem to be referred to in the Draft.</li> </ul>	<ul style="list-style-type: none"> <li>• These references are not necessary in this guidance. Early consultation is covered by the PAN process for major developments. In addition, community groups and individuals have the opportunity to comment on planning applications when they are lodged. It is a planning authority's role to assess whether a development will give rise to a need for infrastructure enhancements, and whether a financial contribution is appropriate. In doing so a planning authority must meet the tests of the relevant Circular.</li> </ul>

## 2. Transitional Arrangements

Responses:

- Homes for Scotland, Liberton & District CC
- Persimmon Homes

Issue	Response
<p><b>Use of Guidance</b></p> <ul style="list-style-type: none"> <li>• Confusion on whether the draft guidance is to be applied by Development Management from now or whether it will be used only once approved by Committee.</li> </ul>	<ul style="list-style-type: none"> <li>• The situations in which the guideline will be used in advance of adoption of the LDP are set out within the Transitional Arrangements section of the guidance.</li> </ul>
<p><b>Appeals</b></p> <ul style="list-style-type: none"> <li>• it is not clear how the advice in the guidance will apply to appeals</li> </ul>	<ul style="list-style-type: none"> <li>• The guidance sets out the detail of the Council's approach to infrastructure delivery and provides further detail on how policies will be interpreted. It will therefore be a material consideration in determining planning applications and/or appeals.</li> </ul>

## 3. Special Considerations / Agreement Mechanics

Responses

- Homes for Scotland, Liberton & District CC
- Barrats / David Wilson Home, Cruden Homes, Haliday Fraser Munro, Hallam Land Managements, Persimmon Homes, Stewart Milne, Wallace Land & Investment

Issue	Response
<p><b>Viability</b></p>	

APPENDIX 1 – Summary of Consultation Responses

<ul style="list-style-type: none"> <li>Should clearly explain how land and abnormal costs will be factored into overall developer contribution levels. It is limiting to only have regard to viability. Cost of cumulative contributions must also be taken into account. Should include a standard set of financial viability parameters with a worked example in final version.</li> </ul>	<ul style="list-style-type: none"> <li>Where it can be demonstrated that these are such abnormally high site preparation costs the requirement to make a contribution may be varied or even waived. These costs could include remediation of contamination or unusual infrastructure requirements, but not normally the cost of land purchase. These costs cannot be set out as a standardised set of financial parameters as each site situation is dealt with individually. Additional text has been added to the finalised guidance to clarify this.</li> </ul>
<p><b>Use of S75 Agreements</b></p> <ul style="list-style-type: none"> <li>Use of planning conditions or section 69 agreements is supported as more efficient alternative.</li> </ul>	<ul style="list-style-type: none"> <li>The guidance highlights that with regards to developer contributions, Section 75 agreements will normally be required, however, it is accepted that other arrangements may be made where smaller contributions are to be paid up-front.</li> </ul>
<p><b>Payments</b></p> <ul style="list-style-type: none"> <li>Flexibility over agreeing timescales for payments is supported. A Mix of tariff and lump sum payments may be necessary, contributions linked to annual sales on a tariff basis and paid annually in arrears.</li> <li>Holding funds for other actions in a Contribution Zone a site lies within does not conform to Circ 1/2010, Para 19, other actions which emerge after a site is complete clearly cannot be related to the impact of that development. A time limit should be placed upon how long the council can retain funds without spending them on works.</li> </ul>	<ul style="list-style-type: none"> <li>A revised 'Model Agreement' is being prepared to reflect the revised guidance. The Council will seek payments in good time in order to allow infrastructure to be in place when it is required.</li> <li>The Council has set out the actions required to support new development in these areas. It is unlikely that actions will be changed dramatically but it may be that some revision is required in the light of circumstances on the ground e.g. windfall development within a Contribution Zone that necessitates new actions or revisions to existing actions to address increased cumulative impact. In any case, the agreements entered into will provide time limits for using contributions and for returning them in they are not spent in time.</li> </ul>

**4. Action Programme Requirements - Annex 2a – Education**

Responses:



APPENDIX 1 – Summary of Consultation Responses

- Archdiocese of St Andrew’s and Edinburgh, Homes for Scotland, Liberton & District CC, sportscotland
- Barrats / David Wilson Homes, Cruden Homes, Dunedin Canmore, Hallam Land Management, IBG, Mactaggart & Mickel, Persimmon Homes, Stewart Milne, Taylor Wimpey, Wallace Land & Investment, West Craigs Ltd

Issue	Response
<p><b>Calculating contributions – approach</b></p> <ul style="list-style-type: none"> <li>• Use of hectares not in accordance with the circular, should be based population generated and not on ‘an area’ basis. No link to the impact created by the development. Preferred option is that of a rate per unit. Attempts to take account of population and housing densities. Different rates for flats and houses should be included.</li> <li>• Figures are based on the higher level of density within LDP. If net developable areas are increased through detailed design developer cannot be penalised by paying additional sums.</li> <li>• Hybrid of gross area and net developable area which means the amount of development that can be obtained on a site is overestimated.</li> </ul>	<ul style="list-style-type: none"> <li>• The calculation to determine the education contributions has been revised. The guidance now uses both a rate per unit (flats and houses) and the hectare calculation being used as safety net to ensure that low density schemes that produce a high number of children still make an appropriate contribution.</li> <li>• The capacity assessments set out in the Revised Environmental Report take account of known site constraints, and provide leeway for unknown constraints and the masterplanning process to come up with schemes which meet density and housing mix policies and contribute to placemaking. The assumed capacity ranges are relatively low and will result in mostly low rise housing rather than flatted development. An even lower density approach would not represent good use of land and infrastructure, and would lead to unnecessary need for further greenfield housing land release.</li> <li>• Developable area used is established in Revised Environmental Report assessments. If additional capacity turns out to be possible, the consequences for infrastructure will need to be assessed again.</li> </ul>
<p><b>Calculating contributions - cost &amp; evidence of school provision</b></p> <ul style="list-style-type: none"> <li>• Factoring in cost of land</li> <li>• Insufficient evidence of school costs. A detailed school</li> </ul>	<ul style="list-style-type: none"> <li>• The cost of land for providing a school will be determined through the Action Programme process. This cost will be factored into the developer contributions required, in a way that would not prejudice the developer providing the land and taking into account for any potent shortfall the Council.</li> <li>• Costs of providing new schools and school extensions are with the LDP</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

<p>specification and cost breakdown should be provided. i.e benchmark of £2,500 per m<sup>2</sup> for building new schools. Costs are excessive being significantly higher than in the 2011 approved guidance. Viability is questionable if a contribution of c£10,000 per residential unit is sought.</p> <ul style="list-style-type: none"> <li>• School capacity and comprehensive catchment review / rationalisation of the school estate should be used to part offset the cost of new school provision.</li> </ul>	<p>Education Appraisal (March 2013). The appraisal used previous feasibility studies to assess the proposed works to schools required and to set a benchmark.</p> <ul style="list-style-type: none"> <li>• Noted, reports on school capacity and catchments to Education, Children and Families Committee on this matter will be taken into account when updating the LDP Action Programme.</li> </ul>
<p><b>RC Primary provision</b></p> <ul style="list-style-type: none"> <li>• Provision of primary school places for baptised RC pupils is already proving problematic in SE Edinburgh.</li> </ul>	<ul style="list-style-type: none"> <li>• A strategic assessment of the education infrastructure required to support the proposed LDP housing growth is set out within the Education Appraisal (March 2013). Within South East Edinburgh, the Education Appraisal identifies that the new housing sites are expected to generate an additional 47 Roman Catholic primary pupils. The two existing Roman Catholic schools, are operating with high occupancy rates; however, this is in part due to attendance by non Roman Catholic baptised children. It is considered that existing schools will be able to accommodate these additional pupils provided that management controls are applied to primary 1 in take to give priority to baptised Roman Catholics.</li> </ul>

**5. Annex 2b – Tram**

Responses:

- Barrats / David Wilson Homes, Dunedin Canmore, Mactaggart & Mickel, Taylor Wimpey, West Craigs Ltd

Issue	Response
<ul style="list-style-type: none"> <li>• Contributions for the future possible completion of Phase 1a should be replaced with contributions to specified and achievable public transport improvements in the short to</li> </ul>	<ul style="list-style-type: none"> <li>• This matter was considered by Committee last year and will be revisited in due course. However, at the current time the policy will continue to apply.</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

medium term.	
<ul style="list-style-type: none"> <li>The level of contribution refers to distance from a tram zone. As the distance from a stop is the advantage to the site, the calculation should be done on that basis.</li> </ul>	<ul style="list-style-type: none"> <li>This is not a new policy and it is not considered appropriate to revise this approach in this way. The objective of the policy is to mitigate the impact of development on the transport network. If the tram does not serve this purpose, despite the calculation matrix, exceptions can be made.</li> </ul>
<ul style="list-style-type: none"> <li>Seek clarification that tram contributions will not be sought from developments in South East Edinburgh.</li> </ul>	<ul style="list-style-type: none"> <li>The LDP safeguards land for a tram line to the south east of the city, however there are no plans for this line at the current time.</li> </ul>
<ul style="list-style-type: none"> <li>If contributions are no longer being sought for sections of the tram line that are now not proceeding, any contribution paid thus far should be returned with interest.</li> <li>A clear statement as to the legal basis for seeking retrospective contributions should be provided.</li> <li>Table 2 should be included to allow calculations to be made.</li> </ul>	<ul style="list-style-type: none"> <li>The Council's position is that the terms of these agreements will be followed.</li> <li>It would not be the Council's position to provide legal opinions we have received</li> <li>Noted and amended.</li> </ul>

**6. Action Programme Requirements - Annex 2c Strategic Transport**

Responses:

- Homes for Scotland, Liberton & District CC, Spokes Transport Scotland
- Barrats / David Wilson Homes, Cruden Homes, Dunedin Canmore, Hallam Land Management, IBG, Mactaggart & Mickel, Taylor Wimpey West Craigs Ltd

<b>Issue</b>	<b>Response</b>
<p><b>Assessment</b></p> <ul style="list-style-type: none"> <li>The problems identified are presenting themselves at present. They should not be considered as a direct consequence of the proposed development. The works fail to comply with the circular.</li> </ul>	<ul style="list-style-type: none"> <li>The Actions required to mitigate the impact of planned development within the LDP have been established through the LDP Transport Appraisal, as well as the West Edinburgh Transport Appraisal, and the North Edinburgh Transport Action Plan. The guidance therefore complies with circular 3/2012.</li> </ul>
<p><b>Calculating contributions – approach</b></p> <ul style="list-style-type: none"> <li>Proposed tariff based on the cumulative cost is generally acceptable subject to the final sum being agreed and</li> </ul>	<ul style="list-style-type: none"> <li>Noted</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

<p>reasonable in terms of scale or kind for the improvements. Use of per unit is appropriate albeit a sqm basis would be more precise.</p> <ul style="list-style-type: none"> <li>Scale and kind of contributions can only be assessed once a development proposal has been submitted. Increased importance should be given to site specific transport assessments rather than pre-empting them with the guidance.</li> </ul>	<ul style="list-style-type: none"> <li>The finalised guidance sets out the approach to deal with strategic-level contributions, developers will still be required to provide a TA or a Transport Statement to identify site specific actions.</li> </ul>
<p><b>Strategic Transport Contribution Zones</b></p> <ul style="list-style-type: none"> <li>Attributing the whole cost of measures to the proposed developments is too simplistic and potentially ignores general traffic growth and the impact of trip generation from out-of-zone development. Approach could lead to certain developers paying excessive amounts while other sites stall and windfall sites coming forward within area will not be accounted for.</li> <li>Must be clear where the boundary is and where requirements start and stop.</li> </ul>	<ul style="list-style-type: none"> <li>The reasonableness of disregarding the impact of those parts of a development which lie outwith the boundary of the contribution zone will be considered on a case-by-case basis.</li> <li>Contribution zones have been drawn for simplicity and ease of use. In some cases a development site may lie within a zone, but have its vehicular access from a different road unrelated to relevant action(s). In such cases, it may be unreasonable to apply the contribution zone. In other cases, a site might lie outwith a zone, but is accessed from a route which relates to the relevant action and is of a scale which has a demonstrable impact.</li> </ul>
<p><b>Cycling</b></p> <ul style="list-style-type: none"> <li>The current use of transport contributions, to widen or enlarge junctions, runs counter to CEC Transport policies of priority for active travel. Contributions should focus on the Cycle City Network, Family-Friendly Network (FFN), in the Active Travel Action Plan (ATAP), as well as on cycle routes close to the developments.</li> <li>Transport-related contributions should reflect the city's target of 15% of journeys to work by 2020. A similar percentage of Developer Contributions should be allocated for cycling.</li> </ul>	<ul style="list-style-type: none"> <li>The Proposed LDP safeguards a number of potential off-road cycle routes. These cycle safeguards focus on the routes identified by transport policies.</li> <li>Development sites will be expected to contribute to identified cycle infrastructure. This infrastructure forms one part of the modal share of a development site which also includes road and public transport infrastructure.</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

<ul style="list-style-type: none"> <li>• Concept of 'Contribution Zones' (including the Tram Zone) to collect contributions for off-site cycle paths.</li> <li>• Provision of external links to connect to the wider network will be challenging where 3<sup>rd</sup> party land is involved.</li> </ul>	<ul style="list-style-type: none"> <li>• As specific, timebound projects to implement these emerge, there is potential to add contribution zones for those projects which are demonstrated to have significant benefits which would mitigate any net transport impact of potential developments.</li> <li>• Noted. The requirements for 3<sup>rd</sup> party land to facilitate development will be identified within the relevant Action Programme and the Council will facilitate with delivery where required.</li> </ul>
<p><b>Other</b></p> <ul style="list-style-type: none"> <li>• Should be made clear that development other than residential use will contribute to strategic transport contributions.</li> </ul>	<ul style="list-style-type: none"> <li>• Both residential and commercial development is potentially subject to a policy. A matrix similar to tram to establish cost per unit/cost per sqm retail or office will be established.</li> </ul>

**7. Action Programme Requirements - Annex 2d Strategic Public realm**

Responses

- Homes for Scotland
- Barrats / David Wilson Homes, Hallam Land Management, Stewart Milne, Taylor Wimpey

Issue	Response
<ul style="list-style-type: none"> <li>• Not clear how any contribution for public realm could be readily attributed in scale and kind to any development. Public realm contributions are inappropriate as it is argued that developers through planning gain, open space requirements, play areas, homes, roads improvements are already contributing to improved public realm.</li> </ul>	<ul style="list-style-type: none"> <li>• A new process is being developed which will help set priorities for public realm investment. The methodology is being developed and will be reported to Committee in due course. This section in the finalised guidance will be updated following the approval of the methodology.</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

<ul style="list-style-type: none"> <li>• Need to re-consult on the draft guidance following review of the public realm contributions.</li> </ul>	<ul style="list-style-type: none"> <li>• The development of the public realm strategy will form the basis of its own reports to Committee and will be consulted upon as appropriate.</li> </ul>
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**8. City-wide requirements - Annex 3a Affordable Housing**

Responses

- Liberton & District CC
- Barrats / David Wilson Homes, Dunedin Canmore, Mactaggart & Mickel, Wallace land and Investment

<b>Issue</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>• Recommend that the impact of other developer contributions is considered in relation to affordable housing. Planning gain charges to Affordable Housing projects should be reconsidered.</li> </ul>	<p>Housing, whether within an affordable tenure or not, still requires supporting infrastructure. For this reason it has been a long standing policy of the Council to treat affordable housing projects in the same way as other housing developments.</p>

**9. City-wide requirements - Annex 3b - Transport and public realm**

Responses

- Liberton & District CC, SNH
- Barrats / David Wilson Homes, Dunedin Canmore, Mactaggart & Mickel, Persimmon Homes, Taylor Wimpey

<b>Issue</b>	<b>Response</b>
<p><b>City wide requirements</b></p> <ul style="list-style-type: none"> <li>• Sites located with a Contribution Zone should not be required to contribute to city-wide requirements. This will lead to an inconsistent and potentially unfair approach.</li> <li>• Requirements should be presented at pre-application stage, with confirmation of costs set out within the processing agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. Clarification has been made in the guidance to the requirements for site specific contributions for local improvements and those strategic contributions to be identified as part of the Public Realm strategy. The guidance has been amended from 'city wide' to 'site specific'.</li> <li>• Noted and agreed.</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

<p><b>Cycling</b></p> <ul style="list-style-type: none"> <li>• Cycling and open space should be considered together. This would meet requirements of policy test 2 of circular 3/2012.</li> <li>• First line should be amended by inserting “and pedestrian, cycle and public transport” between the words “road” and “network” in the first line and “and pedestrian and cycle” between the words “off road” and “links”.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted. Encouragement of walking and cycling is at the heart Council proposals to promote more sustainable travel. Much of Edinburgh’s cycling network also forms part of its green network (abandoned railway alignments, paths along river banks and the canal towpath) and considered to be open space.</li> <li>• Agreed and amended</li> </ul>
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**10. City-wide requirements - Annex 3c - Open Space**

Responses

- Liberton & District CC, sportscotland
- Barrats / David Wilson Homes, Dunedin Canmore, Mactaggart & Mickel, Persimmon Homes, West Craigs Ltd

<b>Issue</b>	<b>Response</b>
<ul style="list-style-type: none"> <li>• Factoring charges for affordable housing units as part of a larger housing development can be prohibitive for tenants on low incomes.</li> <li>• Should make it clear that the off-site provision should be in sufficiently close proximity to funding development.</li> <li>• Where a development proposal will lead to the loss of an outdoor sports facility and compensation is being provided, then that compensation should be clearly related to the replacement sports facility, and should NOT go into a wider pot. Failure to take this approach would not be compliant with SPP.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted</li> <li>• LDP Policies and the approved Open Space Strategy set out the policies and strategy which ensure that contributions taken towards open space provision go towards identified actions. These actions are identified with regards to the relevant OSS standards and / or identified need.</li> <li>• Noted. The guidance links to the Open Space Strategy, which identifies the priorities for improvement. The Open Space Strategy is due to be reviewed in 2015.</li> </ul>

APPENDIX 1 – Summary of Consultation Responses

<ul style="list-style-type: none"><li>• Bullet point should be added: <i>Public parks can be provided as part of the wider land holdings of a site, potentially outwith the site allocation, if nearby and within land controlled by developers. CEC should be obliged to adopt any park land.</i></li></ul>	<ul style="list-style-type: none"><li>• Noted. Not agreed. Provision of open space should be provided as part of the development site, if required by the Council's standards, or as a contribution towards identified off-site improvements within the Council's Open Space Strategy. There should be adequate arrangements for ongoing management and maintenance, these can either be factoring on behalf of the council, or adoption. The Council will only adopt significant open space if financial contributions towards ongoing revenue costs are provided.</li></ul>
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## **DEVELOPER CONTRIBUTIONS AND AFFORDABLE HOUSING GUIDANCE**

### **Finalised Version – October 2013**

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# DEVELOPER CONTRIBUTIONS AND AFFORDABLE HOUSING GUIDANCE

February 2013

## INTRODUCTION

### Who is this guidance for?

This guidance applies to all new development throughout Edinburgh. More detailed guidance on the circumstances in which policies apply is provided in the following sections.

### What does it do?

This guidance interprets policies in the Edinburgh City Local Plan (ECLP, 2010) and the Rural West Edinburgh Local Plan (2006, altered 2011). It also applies to new applications for sites identified within the Proposed Local Development Plan (March 2013).

Relevant ECLP Policies:

- Policy Hou 7 – Affordable Housing
- Policy Com 2 – School Contribution
- Policy Tra 2 – Planning Agreements
- Policy Tra 3 – Tram Contributions
- Policy Des 3 – Development Design
- Policy Des 7 – New Pedestrian Routes in the City Centre
- Policy Ca 1 – The Central Area

The Rural West Edinburgh Local Plan (2006, altered 2011) Policy Imp 2 Planning Agreements (read in conjunction with Schedule 2 of the Action Plan) sets out equivalent policy provision.

This guidance also refers to contributions towards open space. The relevant local plan policies are interpreted in the Council's Open Space Strategy (2010).

Relevant Proposed LDP Policies

- Policy DtS1 (Developer Contributions)
- Policy DtS2 (Retrospective Developer Contributions)
- Policy Des 8 – Public Realm and Landscape Design
- Policy Env 18 – Open Space Protection
- Policy Env 20 – Open Space in New Development
- Policy Hou 6 – Affordable Housing
- Policy Hou 3 – Private Open Space in Housing Development

This guidance takes account of Circular 3/2012 and other relevant government advice on contributions and legal agreements.

## TRANSITIONAL ARRANGEMENTS

This guidance will be used to interpret relevant policy in the adopted Edinburgh City Local Plan and Rural West Edinburgh Local Plan, and the emerging Local Development Plan. The guidance will be reviewed in the light of any changes to the development plan or the review of the Action Programme.

### How does it relate to other guidance?

This document is part of a suite of non-statutory planning guidance: *(insert images of suite of guidance documents in final draft)*

## GUIDANCE

This guidance sets out the contributions that developers will be required to make in order to ensure that necessary mitigation is delivered with new development, and that the housing, economic and mixed use developments listed within the LDP are delivered.

### Part 1 - Affordable Housing

Planning permission for residential development, including conversions, consisting of 12 or more units should include provision for affordable housing amounting to 25% of the total number of units proposed. For proposals of 20 or more dwellings, the provision should normally be on-site. Whenever practical, the affordable housing should be integrated with the market housing. The detail of how developers will be expected to deliver this is provided in Annex 1.

### Part 2 – Action Programme Requirements

For the housing, economic and mixed use developments listed within the Plan, the Council has identified the necessary infrastructure requirements in the Action Programme. The circumstances in which contributions towards the Action Programme will be required are set out below in Part 1 – Action Programme Requirements and in **Annex 1**.

For proposals listed in tables 2 - 5 of the Proposed LDP () and shown on the proposals map, or that fall within a contribution zone, planning permission will be granted subject to legal agreements being secured towards the relevant actions within the Council's Action Programme.

The Action Programme sets out actions to help mitigate the impact of strategic and planned growth and to deliver the proposals identified within the LDP. For the proposals listed within the Plan, contributions will be secured towards actions identified within the Action Programme. These include road and junction improvements, public transport provision and school facilities.

Infrastructure requirements or priorities may be revised through the Action Programme process and the contributions required will reflect this. The Action Programme will be updated annually to take account of any changing circumstances and to include further details, where available, on each action.

In the case of sites not identified within the plan, the net impact on infrastructure capacity will be assessed. If it is necessary to mitigate that impact by providing additional capacity above and beyond the actions identified within the Action Programme, the Council will consider whether a legal agreement can be used to mitigate those impacts. These identified infrastructure requirements may be added to the actions in the Action Programme.

The Council will always ensure that contributions are proportionate to the impacts arising from any new development and used to mitigate those impacts. Where any development proposal is likely to give rise to unacceptable impacts it should be noted that planning permission may be refused

### **Contribution Zones**

The Action Programme identifies road, tram, school and public realm infrastructure improvements which are needed to support development across a wide area. Each of these actions has an identified Contribution Zone within which legal agreements will be used to secure developer contributions. Where development is proposed on the edge of, or near to an Action Programme Contribution Zone, the Council will assess whether or not a contribution towards the Action Programme is appropriate.

Payment of contributions will be linked to the Action Programme requirements and index linked to the BICS All in Tender Price Index with a base date of 2012.

### **Education Contribution Zones**

The education infrastructure requirements to meet this growth from the planned development sites within the LDP are set out in the current Action Programme (X) and in Annex 2a. For any residential proposal the following calculations shall be made:

$(\text{Number of Houses} \times \text{House Tariff}) + (\text{Number of Flats} \times \text{Flats Tariff}) = \text{Contribution Value 1}$

And

$\text{Number of Hectares} \times \text{Cost per Hectare} = \text{Contribution Value 2}$

The higher of the two contribution values shall be the contribution sought in relation to any residential development proposal.

Notes:

- House Tariff - is calculated using the 'child product' for a house (established through the Education Appraisal). This is used to calculate the percentage of pupils coming from houses in any identified site based on the proportion of flats and houses set out in the Education Appraisal and the percentage of the cost of schools attributable to the houses. The cost identified is then divided by the number of houses to give the cost per house.
- Flats Tariff - is calculated using the 'child product' for a flat (established through the Education Appraisal). This is used to calculate the percentage of pupils coming from flats in any identified site based on the proportion of flats and houses set out in the Education Appraisal and the percentage of the cost of schools attributable to those flats. The cost identified is then divided by the number of flats to give the cost per flats.
- Cost per Hectare – is calculated by dividing the total cost of schools by the number of hectares attributable to identified sites.
- The purpose of also using the Cost per Hectare to provide a contribution is to ensure that any proposals that are below the density levels anticipated also make an appropriate contribution to the cost of providing school capacity.

### Transport Contribution Zones

The transport infrastructure requirements from the planned development sites within the LDP are set out in the current Action Programme (Tra 1-24 ) and in **Annex 2b**.

Contributions will be calculated using a tariff based on the **cumulative cost of the actions per unit**.

### Tram

Where the proposed tram network will help to address the transport impacts of a development, a contribution will be sought towards its construction and associated public realm works.

### Strategic Public Realm

Where a strategic public realm action has been identified within the Public Realm Strategy, which will help address the public realm requirements of a development, a contribution will be sought towards its construction.

### Retrospective Contributions

Developer contributions will continue to be sought towards the construction of infrastructure identified in the Action Programme, after the construction works are completed and until the associated borrowings have been repaid. Where the Council intends to borrow money to deliver infrastructure improvements and then recover, either in part or full, this money through continuing to seek contributions from

developers, the details of the amount being borrowed will be identified in the Action Programme.

### **Part 3 – Site Specific Requirements**

In addition to the requirements set out within the Action Programme, there are a number of site specific requirements for which contributions will also be sought. Further guidance is provided in below and in Annex 3.

In addition to the Action Programme Requirements, it may be necessary to secure the delivery of other site specific improvements in order to facilitate new development in the city. Developer contributions will only be required where they are necessary, proportionate and directly related to the impact(s) of the development.

Where any development proposal fails to meet any other LDP policy requirements or is likely to give rise to unacceptable impacts, the Council will consider whether a legal agreement can be used to mitigate those impacts or offset any failure in order to comply with policy. However, it should be noted that in cases where it is not possible to do so, planning permission may be refused.

#### *Transport and public realm*

All development that has an impact on the road network or off road, cycle and pedestrian links will be required to make contributions to ensure that these impacts are satisfactorily mitigated. This will be assessed on a case by case basis taking account of Action Programme improvements, where applicable. Detailed guidance is provided in Annex 3b.

#### *Open Space*

Where development proposals are unable to deliver any required open space as part of the development, or involve loss of open space, contributions will be sought to deliver improvements off-site. The circumstances in which contributions will be sought are set out in Annex 3c.

### **SPECIAL CONSIDERATIONS**

Where it can be demonstrated that there are such abnormally high site preparation costs that addressing the provisions of this guideline threatens the financial viability of developing the site, the requirement to make a contribution towards physical and social infrastructure may be varied or even waived.

Such costs could include remediation of contamination or unusual infrastructure requirements, but not normally the cost of land purchase. It is accepted that for a development to be viable an appropriate site value needs to be achieved by the landowner and an appropriate return for the developer, taking account of market conditions and risk, needs to be achieved. However, developers should take account of the Council's policies in bidding for land. The Council will not accept over-inflated land values as a reason for reducing contribution requirements.

The level of any reduced requirement will be based upon an appraisal of the relevant financial information, which must be made available to the Council. However, if it is not financially viable to meet the requirements of this guideline it may be that the development proposal will be refused.

Alternatively, it may be that in order for development in a particular location to be approved with a lower level of contribution, the scale or intensity of the development itself may have to be reduced, if alternative means of funding necessary infrastructure cannot be identified.

## **AGREEMENT MECHANICS**

The Annexes attached to this guideline provide further advice on the way in which contributions are calculated. Once these requirements are agreed, the timescales for delivery will be agreed between the Council and the applicant. A Section 75 agreement will normally be required, although other arrangements may be made where smaller contributions are to be paid up front.

The Council needs to ensure that contributions are received in good time to allow necessary infrastructure to be delivered in step with new development. However, the Council appreciates that the timings of payments may have implications in terms of project cash flow and will take this into account in agreeing terms. In the interests of facilitating such discussions, the Council has prepared a Model Legal Agreement, which can be downloaded from the Council's website.

It is anticipated that planning applications will be submitted and construction started at varying timescales. Whilst collecting cumulative contributions, the Council may apportion monies received to deliver the infrastructure needed to support the first phases of development on the ground. Developers will be required to demonstrate that a site can proceed in the short term prior to the delivery of other infrastructure projects that the site would be expected to contribute to.

Within Contribution Zones, any remaining contributions will be held and be put towards other actions within the contribution zone that the site lies within as and when required. Future iterations of the Action Programme will provide details of the phasing and delivery of the infrastructure needed to support strategic growth.

## **AUDIT AND REVIEW PROCEDURES**

This guidance will be reviewed as part of the development plan process and will be revised in the light of any changes to the development plan or the review of the Action Programme, Affordable Housing Provision, site-specific transport requirements, the Public Realm Strategy or Open Space Strategy.

In addition, on-going assessment will be carried out to ensure that policies are only applied where it is necessary to do so and revisions to this guidance will be made accordingly. Applicants also have the statutory right to apply to the Council for the modification or discharge of a Section 75 agreement.

## **Annex 1 – Affordable Housing**

*This section in the published guidance will incorporate guidance and practice note from 2011 guideline, with technical updates as required.*



## Annex 2a - Education Contribution Zones

### Assessing the requirements

The education infrastructure capacity requirements to meet growth from the planned development sites within the LDP are set out in the current Action Programme. These actions have been established by the LDP Education Appraisal (March 2013)

### Generic costs of education infrastructure

*(costs at July 2013) Note these are recently updated costs from C&F and are not in the March 2013 Education Appraisal.*

<b>Primary School</b>	
Primary school extension	£270,000 per class
New single stream primary school	£5.64 Million* 2,400 sq m with a working capacity of 210 pupils + 20/20 nursery
New double stream primary school	£8.70 Million* 3,700 sq m with a working capacity of 420 pupils+ 40/40 nursery
New three stream primary school	£11.52 Million* 4,900 sq m with a working capacity of 630 pupils + 60/60 nursery
<b>Secondary School</b>	
Large Secondary school extension	Indicative cost of £2.5million per 100 pupils generated

\*Excludes any land acquisition costs and/or any site specific and/or abnormal costs which are to be established through the LDP Action Programme.

### Education Infrastructure Contributions

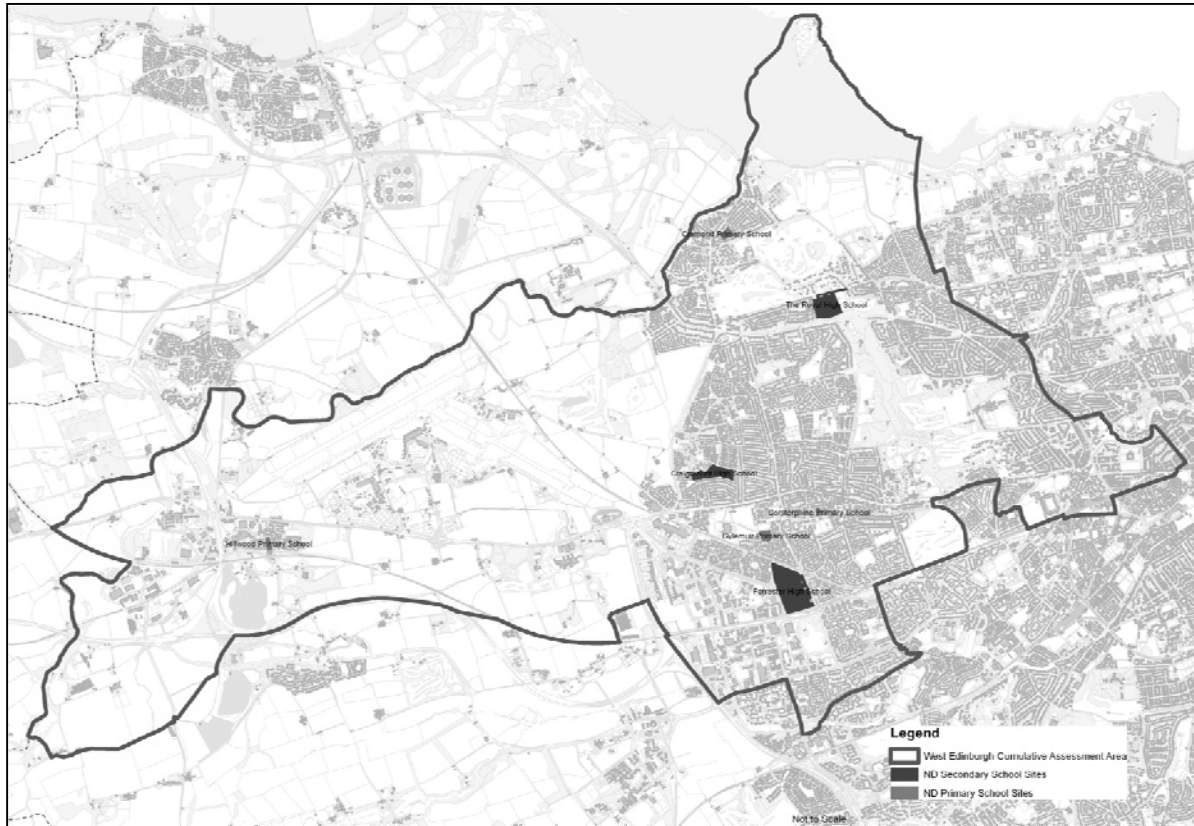
The education infrastructure requirements to meet growth from the planned development sites within the LDP are set out in the current Action Programme (page x). Contributions towards these actions will be calculated using:

*Note: this is to be amended by to include an additional option to calculate contributions per house*

Cumulative cost of Education Contribution Zone Actions / hectare (ha) of developable area
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### Contribution Zones

## West Education Contribution Zone



### Developable Areas

Maybury	50
Cammo	20
International Business Gateway (equivalent in mixed use development)	8
Edinburgh Park / South Gyle (equivalent in mixed use development)	14
<b>Total</b>	<b>92 ha</b>

### Cost of education infrastructure actions

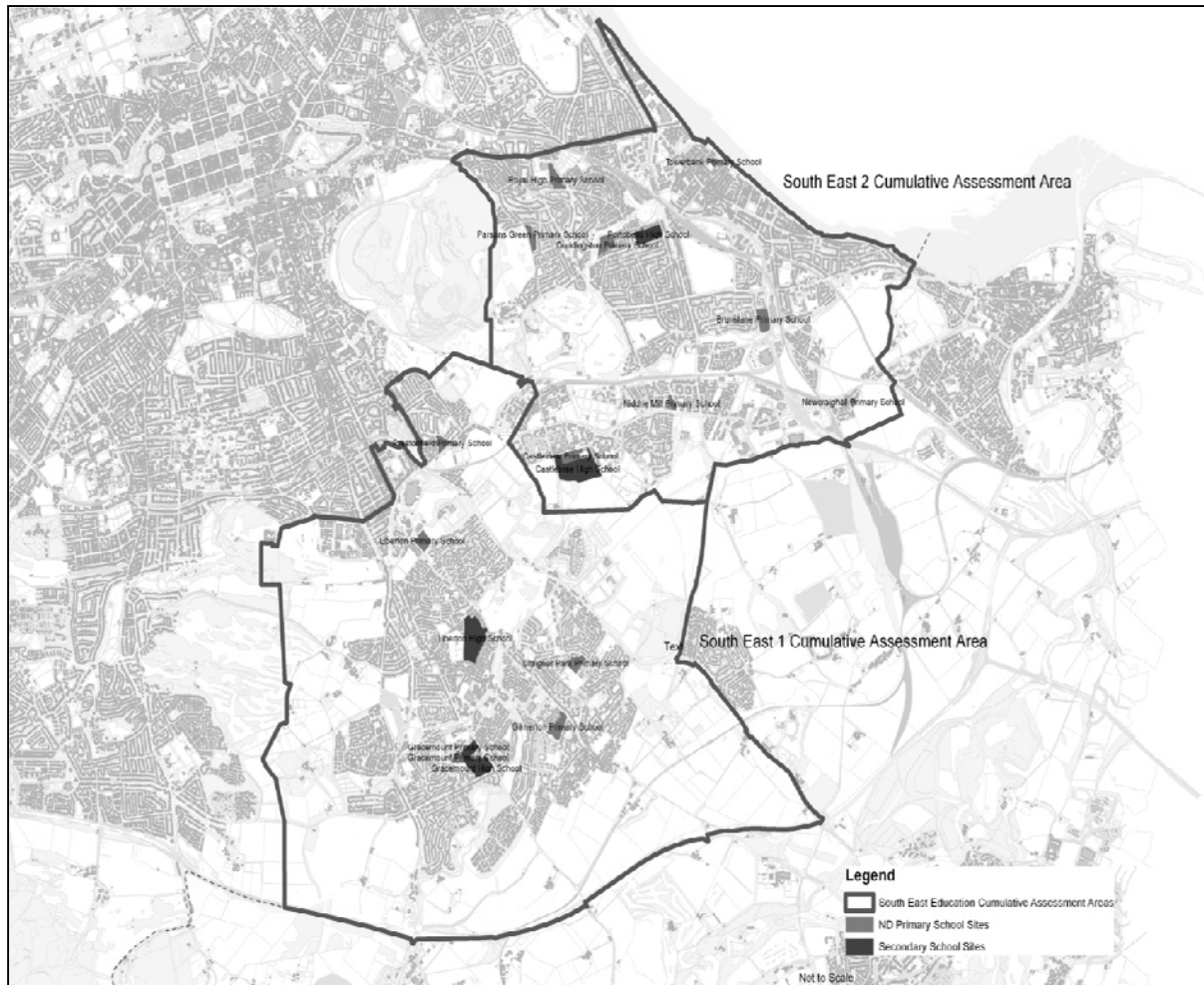
<b>Primary School Requirements</b>	<b>Indicative Cost</b>
ND New 14 class Maybury Primary School	£8,700,000
ND 2 class extension to Gylemuir Primary school	£540,000
RC 1 class extension to Fox Covert Primary school	£270,000
<b>Secondary School Requirements</b>	<b>Indicative Cost</b>
Extension to Forrester High School from 900 to 1,300 pupils	£10,000,000
<b>Total</b>	<b>£19,510,000</b>

**Cost per hectare (ha) of developable area**

Total cost of education infrastructure actions	£19,510,000
Total Developable Area	92 ha
<b>Cost/ ha</b>	<b>£212,065</b>

**Cost per house table to be added**

## South East Education Contribution Zones



### South East Education Contribution Zone 1

#### Developable Areas

Broomhills	17
Burdiehouse	10
Gilmerton Dykes road	2
Gilmerton Station road	14
The Drum	5
Moredunvale	2
<b>Total</b>	<b>50</b>

#### Action Programme Requirements

Primary School Requirements	Indicative Cost
ND New 7 class Broomhills Primary	£5,640,000
ND New 7 class Gilmerton Station Road Primary	£5,640,000
Secondary School Requirements	Indicative Cost
Option 1	

ND Extension to Liberton High School from 850 to 950 pupils	£2,500,000
ND Extension to Gracemount High School from 650 to 750 pupils	£2,500,000
Option 2	
ND Extension to Gracemount High School from 650 to 850 pupils	£5,000,000
<b>Total</b>	<b>£15,000,000</b>

### Cost per hectare (ha) of developable area

Total Cost of education infrastructure actions	£16,280,000
Total Developable Area	50
<b>Cost/ ha</b>	<b>£325,600</b>

\* Excludes land costs and or any site specific or abnormal costs, which will be established through the LDP Action Programme and factored into relevant legal agreements.

### South East Education Contribution Zone 2

The education actions relating to the two housing developments at Newcraighall are included in the current Action Programme. Planning permission has been approved, subject to legal agreements, which would include contributions towards education infrastructure. There are currently no other cumulative actions for this Contribution Zone.

## Annex 2b - Strategic Transport Contribution Zones

The road infrastructure capacity requirements to meet growth from the planned development sites within the LDP are set out in the current Action Programme. These actions have been established by the LDP Transport Appraisal (March 2013). Additional actions may come from other studies such as WETA or NETAP.

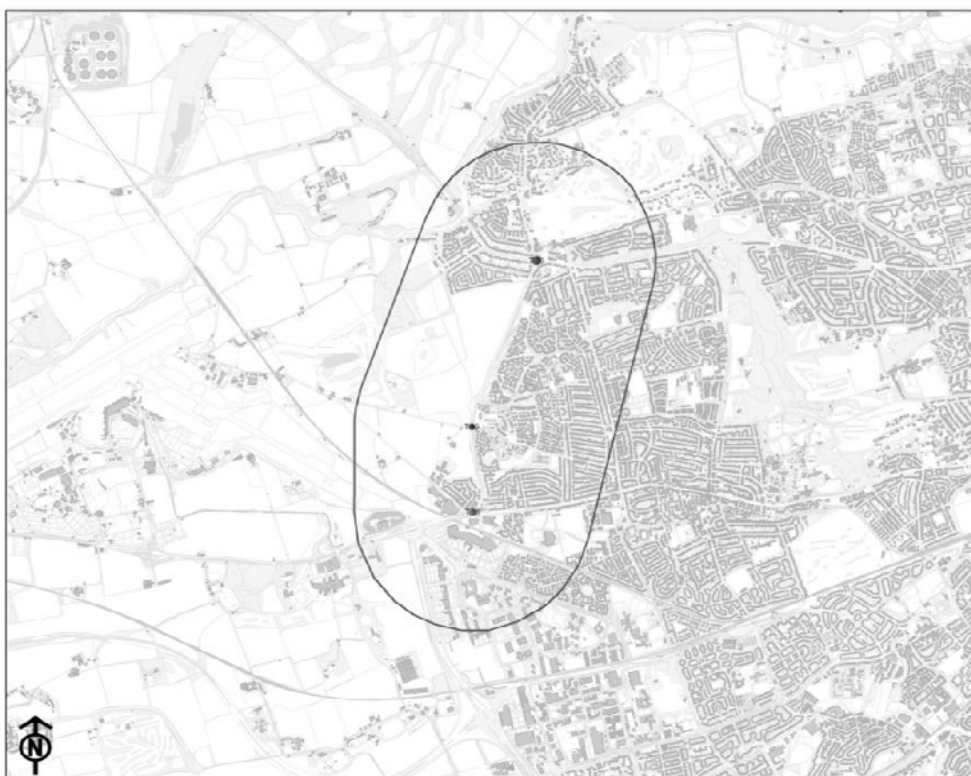
### ***Transport Infrastructure Contributions***

The transport infrastructure requirements to Contributions towards these actions will be calculated using:

Cumulative cost of Transport Contribution Zone Actions / unit of development

### ***Contribution Zones***

#### **Maybury / Barnton Strategic Transport Contribution Zone**



#### **Units to be delivered within contribution zone**

Maybury	1000
Cammo	500
International Business Gateway	300

Edinburgh Park / South	450
<b>Total</b>	<b>2250</b>

**Cost per unit of development**

Total Cost of Actions(as set out in the Action Programme)	£2,000,000
Minimum unit total	2250
<b>Cost/ unit</b>	<b>£888.89</b>

\*Work to establish cost of junction improvements is underway. The figures included within the tables are an estimate.

**Burdiehouse / Gilmerton Crossroads Strategic Transport Contribution Zones**



**Burdiehouse**

**Units to be delivered within contribution zone**

Broomhills	425
Burdiehouse	250
<b>Total</b>	<b>675</b>

Cost per unit of development

Total cost of actions	£500,000
Minimum unit total	675
<b>Cost / unit</b>	<b>£444,44</b>

### Gilmerton Crossroads

Gilmerton Dykes road	50
Gilmerton Station road	350
The Drum	125
<b>Total</b>	<b>525</b>

Cost per unit of development

Total cost of actions	£500,000
Minimum unit total	525
<b>Cost / unit</b>	<b>£952.38</b>

### NOTES

- The infrastructure requirements have been calculated using the mean traffic impact possible from each development (see Transport Appraisal for method)
- The costs have been calculated using the minimum number of units proposed. If the unit numbers go up, the traffic impact can still be accommodated in the infrastructure action; however the price per unit will go down.



## **Annex 2c - Tram**

This guidance applies to all new developments requiring planning permission within 750 metres of the proposed tram lines as shown in the plan below, and throughout the city to major developments.

In relation to Phase 1A of the project the Council has taken the decision to construct the tram. As part of the funding strategy money has been borrowed against future contributions from developers. Given the amount of public money to be spent and the fact that many developers have already contributed towards the project this approach is considered appropriate. The Council in constructing the tram network is providing a necessary piece of transport infrastructure to allow future development to proceed.

### **Scheme Principles**

A. All developments should make an appropriate contribution towards the construction costs of the tram system and associated public realm to ensure the necessary transport infrastructure is in place in time to take account of the impacts of these new developments in the City. Contributions will be sought, where they are required, in an appropriate, transparent and equitable manner.

B. Such contributions shall be used for construction of the tram system, the infrastructure and street furniture associated with tram, road and pavement surfacing within the tram corridor, and improvements to existing or new public spaces or circulation routes adjacent to tram stops where these will help to integrate tram into the established city activity networks or facilitate movement between a new development and tram stops.

C. The level of contribution required depends on the following factors:

- i. type of development,
- ii. walking distance from tram route,
- iii. size of development.

D. The level of contribution will be calculated as follows:

- i. Firstly from Table 1 below establish scale-factor (1-15) by type of and size (GEA) of development proposed.
- ii. Secondly, choose appropriate zone within which the development lies. Determination of the zone will be based on the shortest walking distance between any part of the site and the nearest edge of the agreed tram corridor. If the development lies within different zones, the zone closest to the tram will be used. Sites within 250 metres are Zone 1; sites lying between 250 metres and 500 metres are Zone 2; sites lying between 500metres and 750 metres are Zone 3. (The Plan below gives an indication of these Zones).

- iii. Thirdly, using the Zone appropriate to the particular development, move along Table 2 to the column numbered as the scale factor obtained from Table 1. The figure shown is the amount in £'000s to be contributed towards the tram project by that particular development.
- iv. Fourthly, the contribution, once agreed, will be index-linked from the date of agreement until date of payment on the basis of the BCIS All-in Tender Price Index.

E. Proposals for change of use will normally be expected to provide a contribution. Changes of use or subdivision falling below the thresholds shown in Table 1 will not normally be expected to provide a contribution.

F. Where development proposals are in excess of Tables 1 and 2, these tables will be applied on a pro rata basis to calculate the minimum level of contribution required.

G. Major developments outwith the defined zones will also be considered for their relationship to the proposed tram system and may be required to make a contribution, especially where a step change in transport infrastructure is required. In such cases, the Transport Assessment submitted with the application should address fully the potential role which could be played by tram in absorbing the transport impacts of the development.

H. The construction of the tram system infrastructure (Phase 1A) commenced in 2008. This guideline will continue to apply to developments taking place after the tram project becomes a fully committed project and after the tram becomes operational. The Council has borrowed £23M to fund the construction of the tram system and intends to repay this amount through developer contributions. This guideline will continue to apply in relation to development along the tram route until the amount of borrowing, including costs, highlighted above has been repaid. This provision relates to Phase1A of the construction of the tram route as shown in the plan below.

I. Policy Exemptions are as follows:

A Small developments falling below the thresholds shown in the Table will not be expected to provide a contribution unless they are clearly part of a phased development of a larger site. In such cases the Council will seek to agree a pro-rata sum with the applicant.

B In the event of a developer contributing land towards the development of the tram system, the amount of the contribution required under this mechanism may be reduced. Each application will be considered on its individual merits, taking into account factors such as the value of the land, its condition, and the location of existing and proposed services.

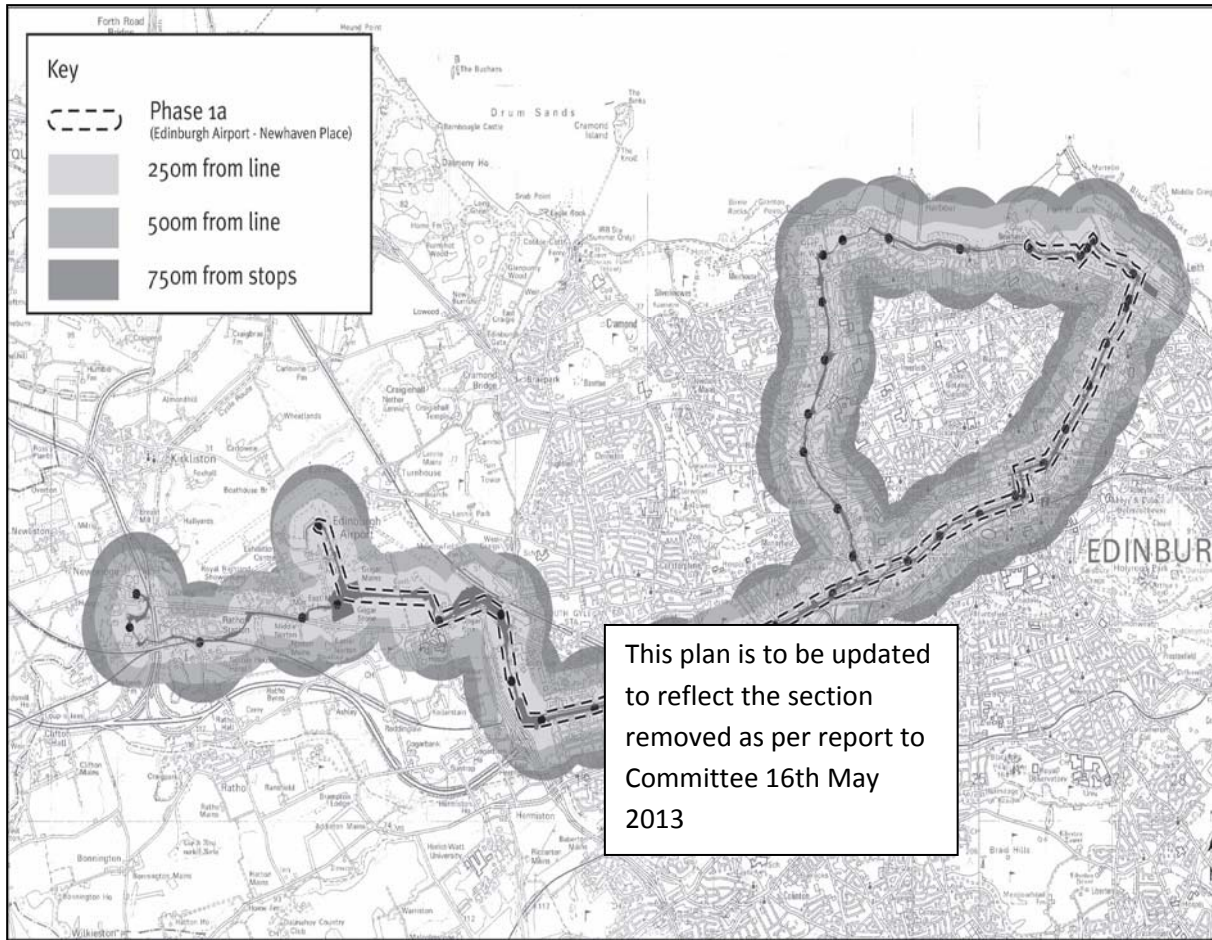


Table 8

Tram Developer Contribution - Calculations

TABLE 1 - IDENTIFICATION OF SCALE FACTOR																
PROPOSALS BY LAND USE (sqm or External Floor Area)																
scale factor	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
Retail (sqm)	250-499	500-999	1,000-1,499	1,500-2,499	2,500-3,499	3,500-4,499	4,500-5,499	5,500-6,499	6,500-7,499	7,500-8,499	8,500-9,499	9,500-10,499	10,500-11,499	11,500-12,499	12,500-13,499	13,500+
Offices (sqm)	250-499	500-999	1,000-1,499	1,500-2,499	2,500-3,499	3,500-4,499	4,500-5,499	5,500-6,499	6,500-7,499	7,500-8,499	8,500-9,499	9,500-10,499	10,500-11,499	11,500-12,499	12,500-13,499	13,500+
Residential (units)	5-19	20-34	35-69	70-104	105-139	140-174	175-209	210-244	245-279	280-314	315-349	350-384	385-419	420-459	460+	460+
Pubs and Restaurants (sq m)	100-199	200-499	500-799	800-1,099	1,100-1,399	1,400-1,699	1,700-1,999	2,000-2,299	2,300-2,599	2,600-2,899	2,900-3,199	3,200-3,499	3,500-3,799	3,800-4,099	4,100+	4,100+
Business Park (sq m)	250-499	500-999	1,000-1,499	1,500-2,499	2,500-3,499	3,500-4,499	4,500-5,499	5,500-6,499	6,500-7,499	7,500-8,499	8,500-9,499	9,500-10,499	10,500-11,499	11,500-12,499	12,500-13,499	13,500+
Industry (sq m)	500-999	1,000-1,999	2,000-2,999	3,000-3,999	4,000-4,999	5,000-5,999	6,000-6,999	7,000-7,999	8,000-8,999	9,000-9,999	10,000-10,999	11,000-11,999	12,000-12,999	13,000-13,999	14,000+	14,000+
Warehousing (sq m)	1,500-2,999	3,000-5,999	6,000-8,999	9,000-11,999	12,000-14,999	15,000-17,999	18,000-20,999	21,000-23,999	24,000-26,999	27,000-29,999	30,000-32,999	33,000-35,999	36,000-38,999	39,000-41,999	42,000+	42,000+
Hotels (bedrooms)	5-9	10-24	25-40	41-60	61-75	76-90	91-105	106-120	121-135	136-150	151-165	166-180	181-195	196-210	211+	211+
Hospitals/Residential Institutions (sq m)	1,000-1,499	1,500-2,499	2,500-3,499	3,500-4,499	4,500-5,499	5,500-6,499	6,500-7,499	7,500-8,499	8,500-9,499	9,500-10,499	10,500-11,499	11,500-12,499	12,500-13,499	13,500-14,499	14,500-15,499	15,500+
Non-residential Institutions (sq m)	1,000-1,499	1,500-2,499	2,500-3,499	3,500-4,499	4,500-5,499	5,500-6,499	6,500-7,499	7,500-8,499	8,500-9,499	9,500-10,499	10,500-11,499	11,500-12,499	12,500-13,499	13,500-14,499	14,500-15,499	15,500+
Medical/Health Services (sq m)	200-299	300-499	500-799	800-1,199	1,200-1,499	1,500-1,799	1,800-2,099	2,100-2,399	2,400-2,699	2,700-2,999	3,000-3,299	3,300-3,599	3,600-3,899	3,900-4,199	4,200+	4,200+
Multiplexes (sq m)	250-499	500-999	1,000-1,499	1,500-2,499	2,500-3,499	3,500-4,499	4,500-5,499	5,500-6,499	6,500-7,499	7,500-8,499	8,500-9,499	9,500-10,499	10,500-11,499	11,500-12,499	12,500-13,499	13,500+
Other Leisure Uses (sq m)	1,000-1,499	1,500-2,499	2,500-3,499	3,500-4,499	4,500-5,499	5,500-6,499	6,500-7,499	7,500-8,499	8,500-9,499	9,500-10,499	10,500-11,499	11,500-12,499	12,500-13,499	13,500-14,499	14,500-15,499	15,500+

Larger Developments will be negotiated separately (The application of these tables on a pro rata basis, will be used as a starting point.)

Tram table 2 to be added in printed version

Notes

The amount of contribution attributable to any development will depend on the exact size of the development (sqm/number of units, etc). This table provides the range of financial contribution in each scale factor, which relates to the range of development sizes in each scale factor shown in the map in Annex 1. This table is provided to

assist in calculating the level of contribution that will be sought. The exact amount will be confirmed during the planning application process.

## **Annex 2d - Strategic Public Realm Improvements**

The Edinburgh Public Realm Strategy was approved by the Planning Committee in December 2009. It set out objectives for the delivery of public realm within Edinburgh and identified a list of public realm project priorities.

Transport & Environment Committee on the 4 June agreed that the strategy should be reviewed. The rationale for the review is reflected in the following:

- completion of the tram project in the City Centre in 2014 provides a unique opportunity for the Council and its partners to consider further improvements, and improved connections, to places and spaces in the city centre;
- The council's review of Street Design Guidance to reflect the requirements of Designing Streets, Government Policy on street design;
- Proposed changes to developer contribution arrangements and the Action Programme approach, due to be reported as a draft for consultation to Planning Committee in October 2013.
- Competing demands on a limited Council resource for public realm projects

A new process is therefore being developed which will help set priorities for public realm investment. Projects will be assessed against a limited number of high level criteria to produce a priority list. By setting out the criteria and a simple scoring system, transparency will be ensured. This process also needs to complement the approach used to determine priorities for the footway and carriageway capital programme.

The methodology will be reported to Committee in due course. This Annex will be updated following the approval of the methodology.

## Annex 3a - Transport and Public Realm

### Assessing the Requirement

The Council will consider the condition and capacity of the road and pedestrian, cycle and public transport network and the existing access arrangements in relation to any proposal. Each application will be considered on its individual merits, taking into account these factors and any identified Action Programme Requirements. Where a Transport Assessment is necessary this will be used to inform decisions on the need for supporting infrastructure.

The following infrastructure requirements will be used as a checklist to be considered in connection with any development proposal. While it is not exhaustive, this provides a clear starting point for discussions between developers and the Council.

### General Transport Requirements

Whether or not there is a requirement for major improvements it is likely that the surrounding network will require upgrading to accommodate the development proposal.

The Council is currently developing an updated and comprehensive Street Design Guidance, a requirement of the Scottish Government Policy, Designing Streets, which requires local street design guidance to be developed to inform the policy agenda at a local level. The Street Design Guidance will set out a hierarchy of street types seeking to define the type of improvements and quality of improvements expected. A range of new approaches to street design and maintenance will be sought, including provision for improved sustainable urban drainage solutions.

Unless otherwise stated these requirements apply in principle to all development types. The types of improvements required are as follows:-

#### *1. Road Improvements (Carriageway and Footways)*

Where new access arrangements are required to service a new development, the Council will seek improvements to footways and carriageways adjacent to the new development. These should be designed as an integral part of the proposals for on-site external space.

#### *2. Traffic Signals*

New development often changes travel patterns and can place new demands on the road network. As a result the installation of new traffic signals or controlled pedestrian crossings, or significant upgrading/refurbishment of existing installation, is often required. Exceptionally, minor upgrading or reprogramming will suffice.

#### *3. Traffic Calming Measures*

The introduction of new development often generates the need for traffic calming measures, which may include new shared surfaces approaches and more traditional interventions such as speed bumps, pinch points and new signage.

#### *4. Cycle/Pedestrian Routes*

Developers are required to provide safe and accessible cycle/pedestrian routes and connections to existing cycle networks/public transport. These may be segregated or on road facilities.

*5. Bus Stops/Shelters/Real Time Information/Bus Boarders/Buildouts/Bus Priority*  
New and upgraded facilities are often required to deal with added demand on public transport created by new development and/or can be a means of offsetting the traffic implications of a development by improving the public transport offer.

#### *6. Car Sharing Scheme*

Car sharing schemes such as the City Car Club provide a more sustainable option to individual car ownership and is often required where full parking provision cannot be provided or it is undesirable to do so. The provision of City Car Club spaces or equivalent car sharing scheme along with a contribution towards vehicles is often required.

#### *7. Traffic Regulation Orders (TROs)/Stopping-up Orders*

Where the Council needs to promote Orders to facilitate development, developers are required to meet the Council's administration costs in addition to paying for the infrastructure to support the TRO. This could include bollards at a road closures or yellow lines and signage.

### **Transport Indicative Costs Tables**

*Indicative table of costs and applicability (prices at February 2009)*

The purpose of this table is to provide developers with an indication of the costs involved in meeting the transport infrastructure requirements set out above. The requirements and costs will vary from site to site, and developers are expected to provide and meet, in full, the cost of all external works identified in the Transport Assessment and/or through the planning process. A guarantee cannot be given as to the actual costs arising from the assessment of individual proposals. Early discussion with the Council is encouraged. The tables below set out the costs of specific items of infrastructure for information.

<b>Table 20 - TRANSPORT REQUIREMENTS</b>		
<b>Infrastructure Requirement</b>	<b>Applicability</b>	<b>Cost</b>
Road Improvements (Carriageway and Footways)	This requirement will apply in principle to all developments.	The developer will be required to carry out these works. The costs can vary significantly depending on the extent of works and the materials required.
Traffic Signals	This requirement will apply in principle to all developments.	The cost will vary depending on what is required. A single



		pedestrian crossings costs approximately £50,000 whereas signalling a four arm junction costs approximately £250,000. There may also be design costs to be met.
Traffic Calming Measures	Where any new development is likely to increase traffic movements on surrounding residential streets this will be a requirement.	The developer will normally be required to provide these improvements. A traffic calming feature costs approximately (road hump or cushion) costs approximately £2000 per feature and they are required at 80 metre intervals. An entrance treatment for a 20mph zone costs £5000.
Cycle Routes	This requirement will apply in principle to all developments.	In addition to providing cycle routes/facilities on roads within new developments developers will be required to fund external links to connect with the wider cycle network. The developer will normally be required to provide these improvements. The estimated cost for such works is in the region of £50,000 per kilometre to be provided.
City Car Club (or CAR SHARING SCHEME)	This requirement will apply in principle to all developments.	For 3-7 Units £7000 and one parking space on road (prospectively adopted). For 8-15 Units £12,500 and two parking spaces on road (prospectively adopted). For 16-50 Units £18,000 and three parking spaces on road (prospectively adopted). Over 50 units will be individually assessed.

		City Car Club contributions will entitle the first purchaser of every residential unit to one year's free membership. Office and other commercial development will be individually assessed.
Traffic Regulation Orders/Stopping-up Orders	All development potentially	Approximately £2,000 per Order required.

## **Annex 3b - Open Space**

### **Open Space – Contributions to Improvements**

Local policies set out requirements for provision of open space in new housing development (Policy Hou 3 in the ECLP and LDP) and other development (Policy Os 3 in ECLP, Policy Env 20 in LDP), and identify the limited circumstances in which loss of open space will be permitted (ECLP Policies Os 1 and 2, LDP Policies Env 18 and 19).

The Council's Open Space Strategy sets out analysis and actions which helps interpretation of those policies. Contributions towards the actions identified in the Strategy will be sought where the above requirements for new open space are not to be met fully within a development site or where development involves loss of open space and the relevant policies require off-site enhancement or provision of open space.

### **Open Space – Ongoing Maintenance**

Where development will establish new publicly accessible open space, there should be adequate arrangements for ongoing management and maintenance. These can be:

- Factoring on behalf of the private landowner(s)
- Adoption by the Council

In the case of adoption by the Council, this will result in an additional maintenance burden which the Council will need to pay for using its revenue budget. The Council will only adopt a significant open space if financial contributions towards these ongoing revenue costs are provided.

The cost of this will depend on the size and quality of the open space. Some open space features cost more to maintain per unit area than others. If a developer is interested in transferring an open space to the Council by adoption, early discussion of the landscaping proposals with the Council's Parks and Greenspace service is advised.