

Report

Report to:	Planning Committee
Date of Meeting:	11 October 2022
Report by:	Executive Director (Community and Enterprise Resources)

Subject	South Lanarkshire Local Development Plan 2 Supporting Planning Guidance: ♦ Community Infrastructure Assessment
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1. Purpose of Report

1.1 The purpose of the report is to:-

- ♦ inform the Committee of the consultation carried out on the draft Supporting Planning Guidance (SPG) on Community Infrastructure Assessment related to the South Lanarkshire Local Development Plan 2 (SLLDP2)
- ♦ seek Committee approval for the proposed SPG, as set out in the Appendix, and thereafter for it to be adopted as the Council's agreed planning position

2. Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) that the Supporting Planning Guidance for Community Infrastructure Assessment, as set out in the appendix to the report, be approved; and
- (2) that the Head of Planning and Regulatory Services be authorised to undertake the appropriate procedures and to make drafting and technical changes to the Supporting Planning Guidance prior to its publication for consultation.

3. Background

- 3.1 The Planning Committee on 1 December 2020 agreed to carry out the necessary steps to adopt the proposed South Lanarkshire Local Development Plan 2 (SLLDP2). The Plan was submitted to Scottish Ministers in February 2021 for them to advise of the Council's intention to adopt the Plan and notice was received in March that adoption could proceed. The SLLDP2 was subsequently adopted in April 2021.
- 3.2 Members may also recall that when the proposed SLLDP2 was approved it was highlighted that, in order to respond to the need for development plans to be concise and focused, further detailed information, advice and guidance would be contained in Supporting Planning Guidance. Circular 6/2013 – Development Planning states that planning authorities may issue non-statutory planning guidance without having to comply with the procedures involved in the production of statutory Supplementary Guidance (SG). Non-statutory planning guidance may be used to provide detail on a range of subject areas. This form of guidance does not form part of the Development Plan but adoption of it by the Council gives it a formal status, meaning that it will be a material consideration in decision making on planning applications.
- 3.3 The purpose of the Supporting Planning Guidance is to support the policy approach already contained within the adopted SLLDP2 by providing more detailed guidance and advice. The SPG expands on the policy direction set out in SLLDP2 and translates

this into detailed guidance. The purpose of each SPG is solely to reinforce and support the terms of the policies already contained in the adopted SLLDP2. The SPG does not alter either the aims or purposes of the policies.

- 3.4 On 15 February 2022, the Planning Committee approved draft SPG on seeking developer contributions from developers in new developments and, thereafter, to carry out consultation on the document. The draft document was informed by a review of the extant Supplementary Guidance on this subject and research carried out on the approach used by other planning authorities. This is described in more detail in section 5 below.

4. Legislative and Policy Context

- 4.1 Community Infrastructure Assessment is the process whereby the Council can seek financial contributions from developers where development proposals require capital or other works to enable the development to proceed by mitigating the impact on essential infrastructure. This may involve:-

- ◆ The direct provision of works or facilities by developers
- ◆ A financial contribution to fund off site provision
- ◆ A combination of these

Developer contributions are not like other funds which are available for local communities to bid for. They have to be sought in line with government policy and must directly relate to the impact the development would have on an area. It is also not appropriate for developers to be asked to pay to address existing shortfalls in the provision of Council facilities or services nor address defects such as structural repairs to existing buildings which are not linked to the development. Policy 7 – Community Infrastructure Assessment in SLLDP2 sets the high level policy context on this issue. It limits the areas in which contributions may be sought to the following:-

- ◆ Affordable Housing
- ◆ Roads and Transportation
- ◆ Education provision
- ◆ Recreation
- ◆ Council-owned community facilities

- 4.2 The legislative basis for seeking developer contributions is found at section 75 of the Town and Country Planning (Scotland) Act 1997. This allows the Council to enter into a planning obligation to restrict or regulate the development or use of land including a requirement to make payments where appropriate. The obligation is registered in the Land Register of Scotland which means it is enforceable by the planning authority against the owner of the land and successors in title.

- 4.3 More detailed guidance is set out in Circular 3/2012 - Planning Obligations and Good Neighbour Agreements. The Circular sets out 5 tests that planning obligations are required to meet to be lawful. They should:-

- ◆ be necessary to make the proposed development acceptable in planning terms
- ◆ serve a planning purpose
- ◆ relate to the proposed development either as a direct consequence of the development including the cumulative impact of development in the area
- ◆ fairly and reasonably relate in scale and kind to the proposed development
- ◆ be reasonable in all other respects

- 4.4 It goes on further that consideration should be given to the economic viability of proposals when deciding the form and scale of contributions as an obligation may have a financial impact for developers and make proposals uneconomic. Cash flow can also be affected in cases where substantial sums of money have to be paid either before the development gets under way or at an early stage in construction. This can be addressed by agreeing phased payments. The Council asks for the developer to undertake a financial viability assessment for the development taking account of the level of contributions being asked for. This allows a reasonable and proportionate approach to the level of contributions expected and the timing of the works being carried out/making of payments. The aim is to strike a balance between setting contributions levels so that they address any direct impact of the development and ensuring the proposal remains viable. Once submitted, the viability assessment is reviewed by an independent assessor. This will include reference to build costs and other abnormal costs (for example the remediation of contaminated land).

5. Supplementary Planning Guidance – Community Infrastructure Assessment

- 5.1 The draft document approved by Committee in February 2022 included the following changes to the previous guidance on this matter.

5.2 Reducing threshold for seeking contributions

Contributions are currently sought from housing developments comprising 20 units or more. A review of this figure has been undertaken in recognition that smaller developments can have an impact on existing infrastructure and service provision. This included looking at the approach of other Planning Authorities which found that South Lanarkshire Council is the only one with a figure of 20 units set across all categories. In contrast, several predominantly rural authorities seek contributions from single house developments while the most common threshold is set at 4 units or more. Only two Planning Authorities set a minimum figure of 10 units.

Overall, it was considered that reducing the figure to 5 units is appropriate as this would reflect more accurately the effect new development has on services, in particular, the cumulative impact of a number of small developments. In contrast, a threshold of less than 5 units would result in a considerable administrative burden while resulting in low value contributions that would not bring significant community benefit. Setting the figure at 5 units was therefore the recommended approach in the draft guidance. The proposed changes would result in an increase in the number of cases requiring developer contributions (approximately 15 per annum on average based on applications over the last 3 years) which is considered to be manageable and proportionate. Since the draft version was approved, approval has been given by the Community and Enterprise Resources Committee to create a post for an officer to be specifically aimed at dealing with contributions. A secondary issue is the impact of lowering the threshold on Small and Medium Enterprises. Small housebuilders are local businesses and, from an economic development viewpoint, there is a desire to help small businesses retain and safeguard jobs as we emerge from the impact of the pandemic. In addition, it was proposed that contributions will not be sought from Registered Social Landlords (for example Housing Associations) from their affordable housing schemes.

The one exception to the above relates to contributions for affordable housing from private housebuilders. The high-level Policy 12 – Affordable Housing in SLLDP2 states that affordable housing provision will only be sought for developments of 20 or more units. This sets the context on this issue and under current legislation the figure could only be changed if the entire Local Development Plan were reviewed. It is, therefore, intended that the 20 unit threshold will remain in this respect. Nevertheless,

this matter will be reviewed when work starts on the preparation of the next Local Development Plan.

5.3 Education contributions

In assessing the need for additional educational accommodation, an annual assessment is carried out by Education Resources for both denominational and non-denominational establishments. This considers the capacity at each of the secondary schools and the associated feeder primary schools. The housing land supply figures for each educational catchment area (referred to as learning communities in South Lanarkshire) are fed into the capacity assessment. This gives an indication of any shortfall in school places for each primary and secondary school within the Council area as a result of the new development and the level of contribution required per dwelling constructed in that learning community together with the level of any required contribution to nursery provision. Several changes were promoted by Education Resources to better reflect the school population.

5.4 Active travel

At present contributions towards the impact of development on the road network apply to items such as roundabouts and traffic signals. However, the revised SPG proposes extending this to cover measures to promote active travel. Applications requiring a Transport Assessment or Transport Statement are now required to be accompanied by an active travel plan to show the proposal promotes opportunities for travel by sustainable travel modes. Direct reference should be made to the Council's own Active Travel Study for the relevant settlement to help identify measures to incorporate active travel schemes to serve new development. A number of additions and improvements to the existing cycling network are included in each. In addition, the South Lanarkshire Cycling Strategy identifies proposed strategic routes across the area.

Emerging national planning policy sees the creation and maintenance of 20 Minute Neighbourhoods as a means of achieving compact and connected neighbourhoods to ensure people meet the majority of their daily needs within a reasonable walk, wheel or cycle of their home. New housing developments will be required to encourage people to live more locally and contribute to the creation of sustainable travel options and safe living environments. As a result, developers will be required to consider how these aspirations can be met. Layouts for new developments will be required to show how safe active travel connections to the neighbouring area can be achieved. In addition, applicants will need to demonstrate how their schemes will contribute to sustainable travel by either creating new or enhancing existing active travel networks (taking into account the Council's existing priorities) or providing associated facilities to facilitate active travel such as the implementation of 20mph speed limits and gateways to settlements or neighbourhood areas and the provision of cycle shelters or bicycle charging points.

5.5 Libraries/community facilities

The proposed SPG includes a new detailed methodology for identifying the need for, and a methodology for calculating, contributions to address the impact of new development on existing community assets such as libraries and community facilities. The general approach when assessing the impact of a proposal on community facilities will be to continue to improve and expand existing facilities to meet the new demand generated by new developments before considering the creation of new facilities or assets, but with consideration being given to the need to ensure that facilities are accessible to the community.

The need for a contribution for additional building capacity will be established by comparing the current capacity of the library and population it serves against the number of people likely to be generated by the new development. Where new development places demand on the facility above its physical capacity, a new building or an extension to an existing facility may be required. A similar calculation can be made in relation to library stock.

It should be noted that existing guidance on the provision of play and recreation facilities in a new development and the need to make a contribution to provide new, or upgrade existing, local facilities (as set out in the Residential Design Guide) remains unchanged at present. However, it is intended this will be the subject of review when the Residential Design Guide is refreshed, and work starts on the now statutory Open Space Strategy. The value of the financial contribution towards the provision of, or the upgrading of, existing facilities in lieu of on-site provision will range from £1,500 upwards per dwelling for the time being.

6. Current Position

- 6.1 Following the carrying out of a 6 week public consultation on the draft guidance, a total of 6 letters of representation were received, none of which were submitted by the major housebuilders. Responses from SEPA, Scottish Water, Historic Environment Scotland and Blantyre Community Council offered no objections/support for the approach set out in the document.

Representations from Burnside Community Council requested that they be notified of any major changes that might affect local infrastructure. In response, community councils currently receive a copy of the weekly list of planning applications and can ask to be formally consulted on applications in their area. In addition, they are a statutory consultee for applications that would have a significant impact on the amenity of their area.

Quothquan and Thankerton Community Council raised a number of legitimate issues in relation to the provision of services in the rural area in general that are beyond the scope of the planning system. In relation to the use of developer contributions to remedy existing provision, the ability of the Council to seek payments is very much governed by legislation and Scottish Government planning policy. Contributions can only be sought where a proposed development would have an impact on the capacity of existing facilities including schools, halls and libraries. They cannot be asked for in order to address existing deficiencies in capacity or deal with structural defects for example. Methodologies for assessing capacity issues have been developed. The reduction of the threshold for seeking contributions from developers from 20 units to 5 should result in small schemes mainly prevalent in the rural area being asked to make contributions.

- 6.2 A number of minor updates have been made to the proposed document to provide clarification or include definitions of certain matters. The minor changes carried out to the document has enabled the document to be improved in terms of its readability and clarity. Overall, however, the general principles of the guidance remain unchanged from the original draft (and as described in section 5 above). It is therefore recommended that the Supporting Planning Guidance, attached as an appendix to the report, be approved and, thereafter, be published on the Council's website. If approved, the SPG will be a material consideration for any planning applications.

7. Employee Implications

- 7.1 The preparation of the Supporting Planning Guidance has been carried out using existing staff resources within Planning and Regulatory Services.

8 Financial Implications

- 8.1 The financial resources required to deliver the Local Development Plan including any associated SPGs is based upon current budget levels available to Planning and Regulatory Services. Changes in these resources may impact on the programmes presented.

9. Climate Change, Sustainability and Environmental Implications

- 9.1. A Strategic Environmental Assessment (SEA) of Local Development Plan 2, including the Plan's spatial strategy, policies and potential development sites, was carried out as required by the Environment Assessment (Scotland) Act 2005. The comprehensive and robust SEA helped to ensure that SLLDP2 fulfils its purpose of providing a clear framework to direct development in an environmentally sustainable way, ensuring any wider environmental issues were considered as far as reasonably possible. The SEA helped to improve the linkage between the local environment, sustainable lifestyles and the potential for promoting sustainable economic development across communities.
- 9.2 A SEA Screening Report for the SPG was prepared and submitted to the statutory Consultation Authorities (Historic Environment Scotland, NatureScot and Scottish Environment Protection Agency) for their consideration. All three agencies have advised that further SEA work is not required as the SPG is unlikely to have significant environmental effects other than those already identified, assessed and reported within the SEA of SLLDP2.

10. Other Implications

- 10.1 The SLLDP2 was adopted in April 2021. However, it is necessary to provide detailed guidance to support the adopted planning policies. There would be a reputational risk if this was not undertaken. The SPG proposed is aimed at providing clarity and transparency on seeking developer contributions. in South Lanarkshire.

11. Equality Impact Assessment and Consultation Arrangements

- 11.1 An Equalities Impact Assessment (combining Child Rights and Wellbeing Impact Assessment) is not required.

David Booth

Executive Director (Community and Enterprise Resources)

20 September 2022

Link(s) to Council Values/Priorities/Outcomes

Values

- ◆ Focused on people and their needs
- ◆ Accountable, effective, efficient and transparent
- ◆ Ambitious, self-aware and improving
- ◆ Fair, open and sustainable

Priorities

- ◆ We will work towards a sustainable future in sustainable places

Outcomes

- ◆ Good quality, suitable and sustainable places to live
- ◆ Caring, connected, sustainable communities

Previous References

- ◆ Report to Planning Committee 15 February 2022

List of Background Papers

- ◆ Planning (Scotland) Act 2019
- ◆ Circular 6/2013 – Development Planning
- ◆ Circular 3/2012 - Planning Obligations and Good Neighbour Agreements
- ◆ South Lanarkshire Local Development Plan 2 adopted April 2021

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

Tony Finn, Montrose House, 154 Montrose Crescent, Hamilton, ML3 6LB
Ext: 5170 (Tel: 01698 455170)
E-mail: tony.finn@southlanarkshire.gov.uk