

Development Contributions

Introduction

This note provides brief guidance on Development Contributions which Scottish Borders Council (SBC) may require Planning Applicants to agree to settle in respect of their development proposals.

More detailed information can be found in [Guidance Notes](#) on the Council website, hard copy supplied upon request, and applicants are encouraged to access and familiarise themselves with them accordingly.

Before submitting any Application for Planning Permission you should check whether it complies with all relevant planning policies and guidance. A development proposal that does not satisfy Planning Policy and guidance will not be supported just because a Development Contribution is agreed to be settled.

The need for Development Contributions

Development Contributions help the Council to provide proper, and necessary, infrastructure, services and facilities. They can allow developments to proceed that might otherwise have to be refused Planning Permission were there insufficient existing infrastructure, service and facility capacity to support the development proposal.

Where there is no identified infrastructure, service or facility expansion requirement, Development Contributions will not be sought.

Examples of infrastructures, services and facilities for which contributions may be required include, but are not restricted to, Affordable Housing, Waverley Line Project, school extension or new provision, transport projects, access provision, play facility enhancement and open space.

SBC Development Contribution policy reflects Scottish Government (SG) policy. The main document setting out SG policy on this matter is [Planning Circular 3-2012](#) - Planning Obligations and Good Neighbour Agreements.

More details on SBC Development Contribution policy, including current Waverley Line and School contribution rates, are published in [Supplementary Planning Guidance](#)

Complying with Development Contribution Policy

Where a Planning Application is identified to generate a requirement for Development Contributions a Legal Agreement shall need to be concluded between the Applicant, Landowner if different, the Council and any other party with an interest. The Legal Agreement will set out what contributions shall be paid and when. It will also specify for what purpose the Council can spend the contributions and within what timeframes. The consequences of not conforming with the associated obligations for parties to the Legal Agreement will also be detailed.

Planning Permission will not be released by the Authority until the Legal Agreement process is completed. Where a necessary Legal Agreement is not concluded within 3 months of the commencement of negotiations, the Planning Authority will review its decision.

The Council offers applicants two Legal Agreement options to settle Development Contributions - Section 69 (s69) and Section 75 (s75) Legal Agreements. Links to more information on the differences between, and implications of, these Legal Agreement types are detailed below. **All potential Planning Applicants are strongly encouraged to read and consider these Guidance Notes accordingly.**

Essentially, s69s are quicker and cheaper to conclude than s75s and do not attract SBC Legal Fees or Recording Dues. However, the Applicant is required to make **full** settlement of identified contributions **prior** to the release of Planning Permission and the commencement of the proposed development.

S75s allow contribution settlement to be **deferred** to a mutually agreeable point in the future e.g. upon completion, occupation, habitation or sale of houses. The contributions can therefore be settled once cash-flow is realised from the proposed project or borrowing capacity achieved. However, these are more complex legal documents than s69s, need to be registered as a burden against title, and consequently attract SBC Legal Fees (£315 - £525) and Recording Dues (£60). They also take longer to complete than s69s therefore potentially impacting on the time taken to release Planning Permission, this authorising the development to start.

As a result, SBC encourages the drafting of Legal Agreements prior to the Application's determination and Applicants are asked to enter into an associated Processing Agreement. Although not legally binding, these will set out the dates by which key actions necessary to conclude the Legal Agreement process will be undertaken by the respective parties to it. Where appropriate, these target dates can, by mutual agreement, be amended.

SBC only seeks settlement of Legal Fees where the associated Planning Application is approved.

Information Resources

Scottish Borders Council's Website provides a wide range of information to assist your decision making should you consider applying for Planning Permission for a development proposal.

Internet

Information on the Website is available free of charge.

http://www.scotborders.gov.uk/info/161/planning-and_building_standards

More detailed information on SBC Development Contribution policy, Legal Agreements and Affordable Housing policy can be obtained from the SBC Website.

http://www.scotborders.gov.uk/directory/14/supplementary_planning_guidance/category/28

Planning Briefs provide information on SBC's guidelines and requirements, including Developer Contributions, of a particular key site or collection of sites.

http://www.scotborders.gov.uk/directory/15/planning_briefs/category/30

If you do not have access to a computer at home, internet accessible computers are available to use free of charge in all SBC libraries. Booking of this service is advisable. Contact Library Headquarters for more information. Tel: 01750 726400.

Hard copies of the Structure Plan, Local Plan and Supplementary Planning Guidance notes may be obtained from:

Planning and Regulatory Services
Council Headquarters
Newtown St Boswells
Melrose
TD6 0SA

Tel: 0300 100 1800

Email: localplan@scotborders.gov.uk

There will normally be a charge for these documents.

Hard copies of these documents are available for inspection at SBC libraries as well as Council HQ – contact Library Headquarters for more information.