

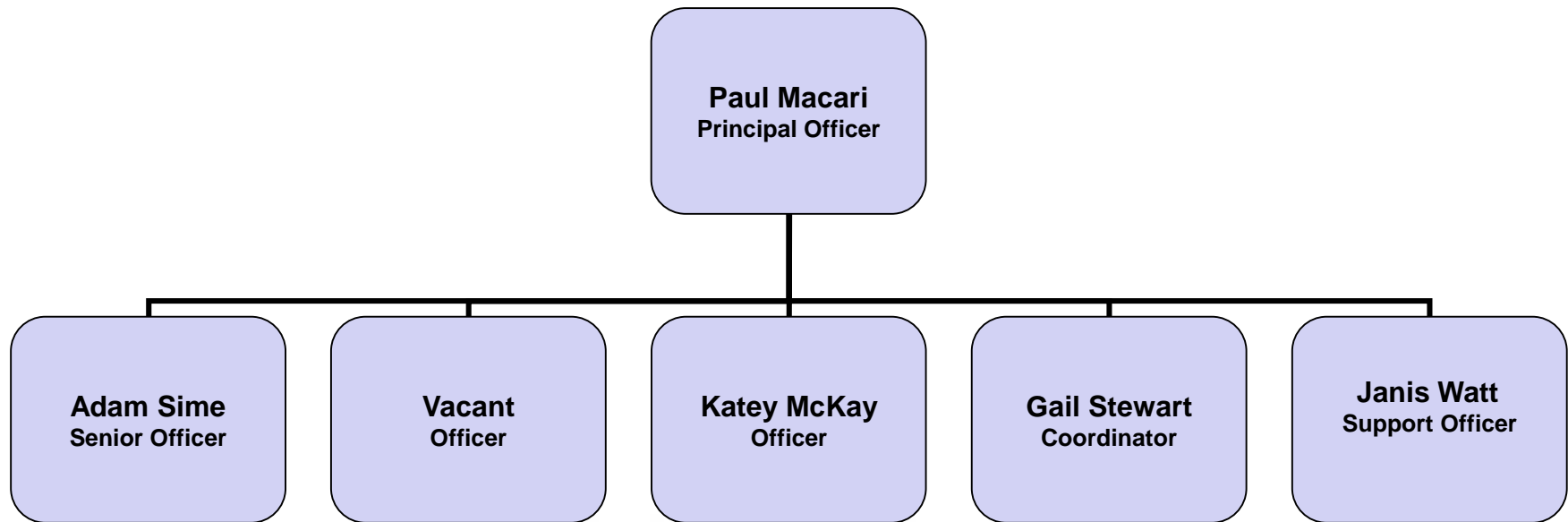
Developer Obligations

An Introduction To Our Practices & Procedures



Adam Sime, Senior Developer Obligations Officer

The Developer Obligations Team



Developer Obligations

DEVELOPER CONTRIBUTIONS

Primary Education
Secondary Education
Strategic Transportation
Community Facilities/Halls
Sports Facilities
Playing Fields
Waste
Town Centre Improvements
Healthcare
Transportation

POLICY REQUIREMENTS

Affordable Housing

Obligations met through
contributions or in kind

Assessment Process

- *Site History*
- *Policy and Supplementary Guidance*
- *Cross Service Consultation*
- *Evidence Based Database*
- *School Roll Forecasts*

Assessment undertaken in line with methodologies as set out in Supplementary Guidance

Importantly Developers are not expected to make up for an existing shortfall in Council provision but only to address the impact of their development.

Report produced and sent to the applicant/agent. Planning provided with summary of agreed obligations.

Obligations from all types of Development will be either :-

Financial
or
Infrastructure &
Amenity improvements in kind

Importantly, they must reflect the impact of the Development on
the existing infrastructure & amenity-
as per Government Guidance- Circular 3/2012

Agreement



- Agreement
- Confirmation to Planning
- Payment
- Instruction of Legal Agreement

CIRCULAR 3/2012

Must meet ALL 5 Policy Tests

- **Necessary** to make the proposed development acceptable in planning terms.
- **Serve a planning purpose** and where it is possible to identify infrastructure provision requirements in advance, should relate to development plans.
- **Relate to the proposed development** either as a direct consequence of the development or arising from the cumulative impact of development in the area.
- Fairly and reasonably relate in **scale and kind** to the proposed development.
- Be **reasonable** in all other respects.

A reminder that Developer Obligations are
not

A blank cheque

Banque de	76-65-02
Swick	Date <u>Whenever</u>
Pay <u>The Council,</u>	
<u>Anything</u>	
	£ Loads
	A.
	Developer
00435 76.6502:0054109	<u>Mr Developer</u>

A reminder that Developer Obligations are not:
A wish list of desirable projects
unrelated to the development

Swimming Pool

Theme Park

Monorail

A reminder that Developer Obligations are NOT

A Development Tax or

Fixed Rate Per Plot



£x



£x

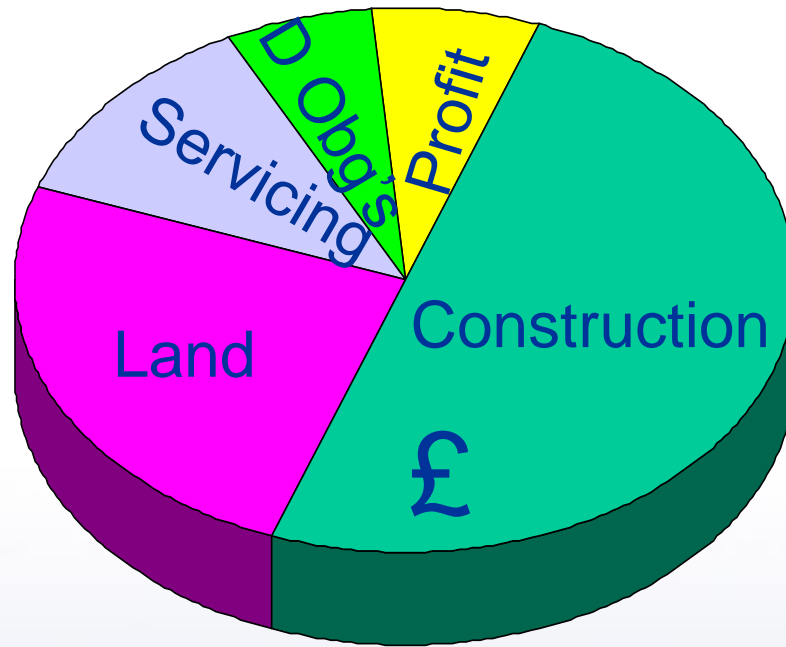


£x



£x

In the real world
The cake is only so big



The basic question remains: - is there enough value in the land to accommodate all of the local, sub regional & regional Infrastructure and Affordable Housing that is required to make the development work?

Developers must account for obligations prior to site purchase – poor land = poor land value. Obligations must be factored into the land purchase price.



Toxic

A 'clean' site, no remedial works required – good site = good land value. Contributions cannot be offset against this higher land value.



The Sustainable Mixed Communities vision allows for a mix of house types and not just large villas with an element of affordable housing tagged on – The Development Industry requires to manage risk to allow for a flexible market in periods of uncertainty.



How are Contributions Sought?

Upfront Payment

Planning Obligation
(Section 75 Agreement)



Where does the money go?

Into separate ledger lines of accounts, eg:

<u>Account</u>	<u>Site</u>	<u>Developer</u>	<u>Balance</u>
123789	Wintertown	Stark Ltd	£50,000
123790	Kingstown	Lannister & Co	£80,000

The funds are added to as contributions come in and are disbursed according to the criteria under which they were collected.

The time limit for expending the funds is 5 years from the date of the final payment.

Following through....

Developments are monitored to ensure that payments are collected and dispersed as per the Legal Agreement. Normally collected quarterly in arrears for what has been built out in that period.

In cases where full payment is made in advance and **no** Legal Agreement is required, the **same** rules apply as to time scales and dispersal. 5 years from the date of FINAL payment.

Contributions HEALTH WARNING!!

“Contributions not yet received cannot be regarded as
‘in the bank’

- Projects may be delayed
- Project refused but granted on Appeal
- Project may be curtailed
- Developer may cease to trade
- Site may be sold and a fresh application made

Most importantly, the Developer can apply to modify or
discharge clauses in an agreement

Modification or Discharge of a Planning Obligation

The Town and Country Planning (Modification and Discharge of Planning Obligations (Scotland) Regulations 2010 came into force on 1 February 2011. These regulations apply to applications made under Section 75A of the Act and to appeals made under Section 75B of the Act.

The regulations amend the term legal agreements to planning obligations.

Use of Funds

MUST relate back to the terms under which the obligations were assessed and agreed

Capital Costs

Additional Capacity

Example

Community Halls: Assessed and costed on the basis of new build floorspace therefore must be spent on this. Cannot be spent on revenue or maintenance or to address an existing shortfall.

What can funds be spent on?

Can only be used to address capacity issues:

- Provision of an extension to a community hall/sports pavilion
- Reconfiguration of existing space to create additional capacity, i.e. refurbishment of a store room to create useable space, or installation of a mezzanine floor
- Works related to increase usage, i.e. heating systems (to extend opening times during colder months), floodlighting of playing fields (increased playability during dark hours)
- Drainage works associated with playing fields to increase playable hours

Examples of projects for which contributions have been accrued for Peterhead



What can't funds be spent on?

Cannot be used for:

To pay for stand alone equipment, i.e. seating or sports equipment, computers

To pay for revenue costs, i.e. heating and lighting or to fund running costs

To fund staffing arrangements

To account for an existing shortfall, i.e. replacement windows or a replacement roof already in disrepair

CLEARLY ALREADY IN A STATE OF DISREPAIR SO COULD NOT SEEK CONTRIBUTIONS TO ADDRESS THIS EXISTING SHORTFALL



ANY QUESTIONS?

