

FALKIRK COUNCIL

**Subject: DRAFT SUPPLEMENTARY PLANNING GUIDANCE NOTE:
DELIVERY OF DENNY EASTERN ACCESS ROAD**
Meeting: EXECUTIVE
Date: 18 JUNE 2013
Author: DIRECTOR OF DEVELOPMENT SERVICES

1.0 INTRODUCTION

- 1.1 Members will recall that a report on the Draft Revised Supplementary Planning Guidance (SPG) Note: Delivery of Denny Eastern Access Road was presented to the Economic Strategy and Development Committee on 26th February 2013.
- 1.2 The draft SPG (Appendix 3, included in volume of appendices) was prepared to take forward the terms of the proposal for DEAR in the Falkirk Council Local Plan (FCLP) (see para 1.3 below) and seeks to establish a framework for the delivery of DEAR. The proposed SPG aims to provide clear guidance to prospective developers of various sites in the Denny and surrounding area of their role in the delivery of DEAR.
- 1.3 Members are reminded that the provision of FCLP are:

TR.DEN01	Denny Eastern Access Road
Opportunity:	Bypass Road
Agency:	Falkirk Council/Private
Comments:	New bypass road required to address capacity problems at Denny Cross which will be further exacerbated by new development. Phase 1 from Broad Street to the new Denny High School has been completed, funded by Falkirk Council. Remainder of route will require to be developer funded. The Council will publish supplementary planning guidance to clarify for all parties how the proposed road will be delivered. Impacts on Herbertshire Playing Fields, and on protected species in the area will have to be appropriately mitigated.

- 1.4 The Local Plan requires that the route of DEAR from Denny High School to Glasgow Road should be developer funded. The draft SPG uses the methodology of the well-established cumulative impact approach to new development where any significant infrastructure improvements are required as a result of development.
- 1.5 The principle for seeking contributions from development sites is based on relative degree of traffic impact. The apportioning of cost amongst development sites reflect the extent to which traffic from each development would impact on Denny Cross and/or use the new road. Using this methodology a percentage share of the total cost for each site has been calculated. This is shown below in the table reproduced from p7 in the draft SPG.

Percentage contributions towards cost of DEAR

site	Total housing units	Trip generation	Percentage assignment	Hourly flows	Percentage contribution to total cost
H.DEN04 (former) Denny High School	200	166	30%	50	10.35%
H.DEN11 Broad Street	c.100	80	42%	34	6.97%
H.DEN09 Nethermains Rd/ Castlerankine Rd	25	20	30%	6	1.23%
H.DEN08 Duke Street West	15	12	30%	4	0.82%
H.DEN12 Mydub Farm	307	261	100%	261	53.48%
H.B&B07 Longcroft/ Dennyloanhead *	550	77	10%	8	1.64%
H.B&B16 Banknock North SIRR*	504	71	10%	7	1.43%
H.B&B09,10,11,17 Banknock South SIRR*	270	38	10%	4	0.82%
ED.DEN02 Winchester Ave 3 **		5	42%	2	0.41%
ED.DEN01 Denny Town Centre ***		183	58%	106	21.72%
Windfall allowance		36	16%	6	1.23%
Total hourly flow				488	100%

Notes:

* based on proportion of school children travelling to Denny High School by car

** converted to equivalent impact from housing

*** additional new trips likely to be generated

NB. Outstanding total cost of DEAR is assumed to be £6,391,000 @ 2012 prices (£6,941,000 - £550,000). All contributions will be index linked from the date when Planning Committee is minded to grant planning permission. Indicative costs for each site can be derived using the percentage shares.

- 1.6 Following consideration it was agreed that officers undertake consultation and report back to this committee in due course. This report sets out the results of the consultation and recommends, subject to a number of amendments, that the SPG be approved. The changes proposed as a result of the consultation process are set out in Appendix 1 to this report (included in volume of appendices), and Appendix 2 (included in volume of appendices) summarises the comments made by each respondent.

2.0 CONSULTATION PROCESS

- 2.1 The Consultative Draft Revised SPG was sent to some 40 organisations involved in the development of housing sites in the west area; landowners, developers and their agents. In addition the three local community councils and seven local elected members were invited to make comment on the draft SPG. A copy of the draft SPG was also posted on the Council's website which accompanied an invitation to individuals and any other interested party to comment.

- 2.2 Consultation took place over a 6 week period between 8th March and 19th April 2013.
- 2.3 Responses were received from the following 8 organisations and individuals:
Bett Homes
Mactaggart and Mickel Homes Ltd
Denny and District Community Council
Banknock, Haggs and Longcroft Community Council
Bonnybridge Community Council
Councillor McNally
Councillor McCabe
Non Aligned Independent Group
- 2.4 Detailed summaries of all the comments and the Council's draft responses are shown in Appendix 2 to this report. All respondents were supportive of the publication of the draft SPG as an indication of the Council's willingness to progress DEAR. However all respondents were critical of the general approach adopted by the Council to the funding of the proposed road and developers in particular had detailed issues with the methodology which calculated their share of the total costs. The issues raised are summarised below and are dealt with in turn.
- The proposed developer contribution funding method is flawed and the Council should take the lead in funding and building the road
 - DEAR should be built as soon as possible and should be built as one project, rather than piecemeal
 - Developers strongly query the methodology of the cost apportioning and would like to see their contributions altered; they warn of the potential to fail Government Planning Circular 3/12 tests for planning obligations
 - The costs to be borne by developers is too high and this will affect the viability of their developments

Developer contribution funding method and timing of construction

- 2.5 As has been highlighted earlier the funding method for the road is specified in the Falkirk Council Local Plan, approved and adopted by Council in 2010. The Council is therefore obliged to frame its SPG in those terms. However the proposed SPG, in section 5, also discusses the other options for funding the road which the Council has considered, in recognition of the current housing market fragility. Front funding the project through prudential borrowing is not currently favoured, but, if funding were to be found at a later date which allowed construction to be carried out and completed prior to contributions being secured, the proposed SPG indicates the Council would seek to recover contributions retrospectively.
- 2.6 The issue of whether to adopt an alternative funding method for DEAR is outwith the scope of the current draft SPG. In the absence of any current alternative funding options the approach, as set out in the draft SPG, of using developer contributions is therefore confirmed.
- 2.7 The issue of building the road as one project as soon as possible follows on directly from that of the funding method. Only if there was a decision to front fund the project by the Council could the timing of the road's construction be accelerated. In the absence of such a decision it remains the case, as stated at paragraph 5.6 of the draft SPG, that the road will likely be built in phases.

Methodology of apportioning costs

- 2.8 Both Bett Homes and MacTaggart and Mickel Homes take issue with the methodology used by the Council to share out the overall costs of the DEAR project among development sites. From different perspectives they aim to reduce the costs attributable to their development. They also query whether planning obligations drawn up on the basis of the draft SPG would meet some of the government planning obligations tests, those of 'scale and kind' and 'reasonableness'.
- 2.9 Bett Homes do not agree with the rationale for the road, as expressed in paragraph 2.3, which assigns two functions to the road. Bett believe that the function of providing access to the Mydub site is incorrect. Consequently they do not agree with the setting of 100% assignment of traffic from their site, as shown in the table at paragraph 1.5, being used to calculate their share of the cost.
- 2.10 The twin purpose of DEAR, to relieve traffic congestion at Denny Cross **and** to provide access to Mydub has been stated consistently in the consecutive iterations of the Falkirk Council Local Plan since 2003. The road is a key component to facilitate the Structure Plan envisaged growth of Denny in a south-easterly direction. Bett were very clear at the time of the Local Plan Inquiry that the Mydub site would act as the 'enabling development' for DEAR, as the site would use this local distributor road for access. Therefore it is valid for the Council to assign the figure of 100% to the amount of traffic from the Mydub site onto DEAR.
- 2.11 MacTaggart and Mickel's main concern is that they regard a section of the DEAR, stretching from Glasgow Road to the first access roundabout, as solely the responsibility of Bett to provide, as this section is principally an access to the Mydub site. They therefore wish this stretch to be removed from the length to be funded by all developments as currently set out in the draft SPG.
- 2.12 While it is true that part of the DEAR acts as the principal access to the Mydub site it also functions as the bypass to Denny Cross, which all sites benefit from. Without the road functioning as a whole then there is no relief to Denny Cross. It is therefore valid for MacTaggart and Mickel to contribute to that stretch of the road as well as Bett and any other developers.
- 2.13 MacTaggart and Mickel also express concern that the road length as shown in the draft SPG is not the most direct route, and had been drawn up to accommodate the Mydub development. They contend that paying for the extra length of road should be Bett's sole responsibility.
- 2.14 It is true that the road length was changed after the Local Plan Inquiry but this change was approved by the Council in 2010. The issue of the route and length of road was resolved at that stage and is not a matter for discussion now with the draft SPG.
- 2.15 On the issue of planning obligations meeting the Circular test these are a matter for the process of negotiation on each planning application and are not for consideration directly with the SPG. However the process of setting out transparently the matters which would be the subject of a planning obligation, which the Council has carried out through the development plan and the draft SPG, does comply with the plan led approach recommended in Circular 3/12.

Development Viability

- 2.16 A number of respondents have commented on the scale of the road's total cost and have queried whether the costs can be borne by individual developments. The issue of development viability is a material consideration for individual planning applications. Under the current developer contribution model any reduction in costs for one developer will result in an increased cost for another.
- 2.17 It should be borne in mind that the total costs shown in the draft SPG include a prudent 'optimism bias' allowance i.e. worst case scenario. The actual share of costs will only be attributed at the time of a planning application and the completion of any associated planning obligation drawn up under S75 of the Town and Country Planning (Scotland) Act 1997 and Circular 3/2012. The actual costs could be lower than can be calculated from the table above.
- 2.18 Developers have the option of submitting a development viability statement at the planning application stage, and this will be considered carefully before the grant of consent.

3.0 Proposed changes to draft revised SPG

- 3.1 Respondents also made comments on the need to clarify aspects of the draft SPG and it is proposed to make a number of amendments to reflect clarifications. These proposed changes are set out in Appendix 1.
- 3.2 Subject to the insertion of the propose changes, the SPG is recommended for approval.

4.0 RECOMMENDATION

- 4.1 **That Executive agrees to the proposed changes and approves the Supplementary Planning Guidance Note: Delivery of Denny Eastern Access Road (DEAR).**

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Director of Development Services
10 June 2013

Contact officer: Colin Hemfrey, Development Plan Co-ordinator, ext 4720

LIST OF BACKGROUND PAPERS

1. Draft Supplementary Planning Guidance: Delivery of Denny Eastern Access Road (DEAR)
2. Falkirk Council Local Plan
3. Circular 3/12 Planning Obligations and Good Neighbour Agreements

Any person wishing to inspect the background papers listed above should contact Colin Hemfrey on 01324 504720