

**REPORT TO: POLICY AND RESOURCES COMMITTEE 3 AUGUST 2010**

**SUBJECT: DEVELOPER CONTRIBUTION PAYMENTS: BUCKIE TESCO**

**BY: DIRECTOR OF ENVIRONMENTAL SERVICES**

**1. REASON FOR REPORT**

- 1.1 This report asks Members to confirm the use of the Developer Contribution funds received in respect of the Buckie Tesco development, and to grant delegated authority to the Director to carry out expenditure.
- 1.2 This report is submitted to Committee in terms of Section A(22) of the Council's Administrative Scheme relating to the management and investment of funds.

**2. RECOMMENDATION**

**2.1 It is recommended that the Committee:**

- (i) confirms the use of the Developer Contributions receipt;**
- (ii) grants delegated powers to the Director of Environmental Services to authorise this expenditure, in accordance with Section 3.4 of this report.**

**3. BACKGROUND**

- 3.1 The granting of planning consent for a Tesco supermarket in Buckie was subject to a Section 75 Agreement, which required the provision of funds to mitigate potential impacts that might result. These matters were part of the considerations of the Planning and Regulatory Services when it considered the application, on 29 September 2009 (Item 3f refers).
- 3.2 The Section 75 Agreement has been signed; the Planning Consent has been issued; the agreed funds have now been received by the Council.
- 3.3 Scottish Government circular 1/2010 on Planning Agreements provides guidance on the use of Section 75 Agreements. Amongst this is the requirement that "there should be a link between the development and any mitigation offered as part of the developer's contribution". There is no scope to spend financial contributions on aspects other than those contained in the Agreement.
- 3.4 Although the terms of the Section 75 Agreement are fairly specific in what categories they apply to, and the amount of funding apportioned to each, the Policy and Resources Committee is required to formally authorise expenditure.
- 3.5 The categories are as follows:
- (i) Off site works/bus subsidy (£186,861)

This is to cover costs of transport improvements (including the provision of traffic lights) to the roads network in Buckie which are affected by the store, and a contribution towards a new circular town bus service linking the hospital, doctors surgery, new store, town centre.

(ii) Community Woodland (£20,000)

It is a proposal of the Local Plan to establish a Community Woodland around the edge of Buckie, to integrate the new land releases, and provide an additional community facility. Contributions towards this will be taken from new development proposals, to progressively implement the woodland.

(iii) Gateway Feature/Environmental Works (£25,000)

This element is to provide an environmental enhancement at the entrance to Buckie, and create a “gateway” into the town. This will complement other longer term woodland and structure planting proposals.

(iv) Town Centre Contribution (£175,000)

This is a source of funds to be used for town centre management and marketing initiatives, to assist in mitigating any impact the new store might have on the vitality of the town centre. It is proposed to discuss how these funds should be used with the Town Partnership group; local Business Association; and the Regeneration Committee of the Area Forum. Proposals which might have on-going maintenance implications will not be permitted unless arrangements are put in hand which relieve the Council from any responsibility.

3.6 Under the terms of the Section 75 Agreement, the funds must be spent within 10 years (ie by February 2020) with any unspent monies returned to the developer. Provision has been made with Finance for the monitoring of expenditure and the ‘carry forward’ of monies over financial years.

3.7 It is proposed that authority to incur expenditure is delegated to the Director of Environmental Services.

#### **4. SUMMARY OF IMPLICATIONS**

(a) Single Outcome Agreement/ Service Improvement Plan

These actions would be consistent with Outcome 10 of the Single Outcome Agreement – “we live in well designed sustainable places where we are able to access the amenities and services we need”. It will complement the Service Improvement Plan for preparing a Rural Towns Strategy.

(b) Policy and Legal

The Section 75 Agreement is a binding legal agreement which is associated with the planning consent, and is recorded in the Register

of Sasines. There is effectively no option to deviate from the specified categories of expenditure identified in the Agreement.

(c) Financial implications

Although these funds are not “Council funds” in the traditional sense, they are, for accounting purposes, regarded as capital receipts. Individual budget headings have been established for each element.

Provision has been made to carry over monies to future financial years.

The funds can be used as match funding to draw down external grant, should any of the expenditure be eligible for such.

(d) Risk Implications

There is no risk to the Council, and any unspent monies after 10 years must be returned to the developer.

(e) Staffing Implications

There are no staffing implications. Projects taken forward will be administered by existing staff, as part of the ongoing workload, working where appropriate, with local community groups.

(f) Property

None.

(g) Equalities

There are no equality issues in this case.

(h) Consultations

The Chief Financial Officer (Mark Palmer); Principal Solicitor Commercial and Conveyancing (Aileen Scott) have been consulted and their comments incorporated into the report.

Local community groups will be consulted on proposals for Town Centre Initiatives and Town Gateway feature.

Councillors A McKay; G McDonald and J Mackay have been consulted and will make their views known at the meeting

**5. CONCLUSION**

- 5.1 Developer contribution monies have now been received in respect of the Buckie Tesco Development.**
- 5.2 These funds must be spent in accordance with the terms of the Section 75 Agreement; which specify 4 categories of expenditure.**
- 5.3 Policy and Resources Committee is required to confirm this expenditure.**
- 5.4 Rather than report back on every item of expenditure under these categories, it is proposed to grant delegated powers to the Director of Environmental Services to authorise use of the funds.**

Author of Report: Mark Cross, Principal Planning Officer  
Background Papers:  
Ref: MC/JC