GLASGOW CITY COUNCIL INTERNAL AUDIT SECTION

COMMITTEE SUMMARY

Item 2(o)

28th September 2022

Title of the Audit: Neighbourhoods, Regeneration & Sustainability and Financial Services – Developer Contributions

1. Introduction

1.1 As part of the agreed Internal Audit plan, we have carried out an Internal Audit review of Developer Contributions. Neighbourhoods, Regeneration and Sustainability (NRS), have the responsibility both operationally and for the management, monitoring and allocation of contributions received from a developer. Whilst, Financial Services (FS) has the responsibility for the financial administration of these funds.

1.2 Planning authorities such as the Council must consider each planning application against the development plan for the area. The Town and Country Planning (Scotland) Act 1997 and the Planning etc. (Scotland) Act 2006 contain provisions which allows the planning authority to include planning obligations when approving planning permission, which can be used to overcome obstacles in granting planning permission. The developer may be asked to pay "developer contributions" with the intention to reduce negative impacts on land, the environment and infrastructure and promote the Council's planning policies in terms of amenity space and infrastructure provision. Scottish Government Circular 3/2012, titled "Planning Obligations and Good Neighbour Agreements", sets out policy tests which should be applied when considering if developer contributions would be appropriate to enable development. This was revised by the Scottish Government in 2020.

1.3 In February 2017, the then Executive Committee agreed to adopt the Council's development plan which took effect from March 2017. Within this plan, policy "CDP12 Delivering Development" outlines the policy tests to be applied when considering if developer contributions may be required. The creation of the Council's City Development Plan 2 (CDP2) is currently underway, however is dependent on the revised Development Planning Regulations being produced by the Scottish Government. It is not envisaged that there will be significant changes to the policy approach in the CDP2.

1.4 There are two types of legal agreements which can be used for developer contributions:

- Section 69 (S69) agreements were traditionally used and require payment upfront before planning consent can be agreed and issued.
- Section 75 (S75) agreements allow payment in instalments and form a contract between the Council and the developer. They are recorded as a burden on the land/property and are more common in larger developments.

Within Glasgow, developer contributions are currently in place in three main areas.

Open Space ENV2/IPG12
Fastlink
Community Growth Areas (CGA)

1.5 The purpose of the audit was to gain assurance that the team is complying with the appropriate regulations for developer

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contributions. The scope of the audit included:

- The roles and responsibilities in relation to assessing relevant planning applications and potential developer contributions.
- Staff training and documented policies and procedures.
- Reviewing a sample of planning applications.
- The monitoring of compliance by developers with any obligations attached to their planning permission.
- Appeals by developers.
- The collection and usage of developer contributions.
- Record keeping arrangements.
- National and local strategies relating to developer contributions.

2. Audit Opinion

2.1 Based on the work carried out a reasonable level of assurance can be placed upon the control environment. The audit has identified scope for improvement in existing arrangements and three recommendations which management should address.

3. Main Findings

3.1 We are pleased to report that key controls are in place and generally operating effectively. For ENV2/IPG12 open space and public realm contributions, an officer has been allocated responsibility for the process, including assessing applications against the policy requirements, maintaining a database of cases, retaining legal agreements, following up on payments and allocating these against the case. A similar process is also in place for S75 requirements as a result of the larger CGAs across the city. This includes an assigned responsible officer who monitors trigger points (for example after every 20 units completed), and who liaises with the FS officers responsible for ensuring that any interest and indexation is added where appropriate. There are also adequate arrangements within FS to ensure that when contribution payments are received these are tracked and allocated to the respective budget code.

3.2 Policies, procedures and regulatory guidance covering developer contributions are in place and accessible to key officers. In addition, they outline the criteria to be considered when determining if a developer contribution is required. We established that the management of developer contributions is a complex area, involving various officers and departments across the Council, and were satisfied that these officers were fully aware of their roles and responsibilities in respect of the process.

3.3 The Project Assessment Group (PAG) meet regularly to discuss proposals for spending ENV2/IPG12 contributions, and these are approved by either the City Administration Committee or through delegated authority in line with the Scheme of Delegated Functions.

3.4 In all cases in our sample, where a S69 agreement was in

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place, payments were received prior to planning permission being granted. In addition, for all cases where S75 payments were agreed, the details of these were clearly outlined in the legal agreement which were signed by both Legal Services and the developer.

3.5 However, our audit testing found that there are some areas where improvements could be made. Although we identified that there are adequate monitoring arrangements in place for both ENV2/IPG12 and CGA S75 contributions, we found that similar arrangements are not in place for Fastlink contributions. There is no assigned officer within NRS who monitors when payments relating to Fastlink are due to be received from a developer.

3.6 In addition, we established that work is ongoing into the development of the new CDP2, with the requirement for officers to consider other council objectives and policies. However, although discussions had commenced between NRS and Education Services (ES), these have not progressed, and no outcome has yet been achieved. Through sample testing, we also observed that the current record keeping arrangements for live planning applications and obligations is not of an adequate standard, with supporting documentation not being held centrally.

3.7 An action plan is provided at section four outlining our observations, risks and recommendations. We have made three recommendations for improvement. The priority of this is:

Priority	Definition	Total
High	Key controls absent, not being operated as designed or could be improved. Urgent attention required.	0
Medium	Less critically important controls absent, not being operated as designed or could be improved.	3
Low	Lower level controls absent, not being operated as designed or could be improved.	0
Service Improvement	Opportunities for business improvement and/or efficiencies have been identified.	0

3.8 The audit has been undertaken in accordance with the Public Sector Internal Audit Standards.

3.9 We would like to thank officers involved in this audit for their cooperation and assistance.

3.10 It is recommended that the Head of Audit and Inspection submits a further report to Committee on the implementation of the actions contained in the attached Action Plan.

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No.	Observation and Risk	Recommendation	Priority	Management Response
Key Control: Arrangements are in place to ensure that developer contributions are monitored and pursued in accordance with the legal agreements formed during the planning permission process, and action is taken to address non-compliance.				
1	Monitoring arrangements are in place within NRS for both ENV2 contributions and for CGA S75 payments. This is to ensure that developers pay the required contribution in accordance with the legal agreement. However, we observed that the same arrangements are not in place for Fastlink contributions. An FS officer is responsible for managing the ledger code relating to Fastlink, however there is no assigned officer within NRS who monitors when payments are due. Failure to proactively monitor the dates when payments are due, increases the risk that the Council does not receive funds owed by developers.	Similar to that of ENV2 and CGA's, NRS Senior Management should develop and implement a monitoring process for Fastlink contributions, to ensure that payments are received when due and in accordance with the legal agreement formed during the planning permission stage.	**Medium**	**Response:** Will be addressed by the new database system **Officer Responsible for Implementation:** Head of Planning **Timescale for Implementation:** June 2022

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No.	Observation and Risk	Recommendation	Priority	Management Response
Key Control: The Service is aware of and has arrangements in place to apply relevant national strategies and to align with other Council objectives.				
2	We established that the current CDP is in place and being adhered to by staff. Work is also underway in relation to the development of a new CDP2, which is required to reflect revised Development Planning Regulations when they are released. We were advised that the development of CDP2 is still at the relatively early stages. We were also advised that in addition to the above, there is a requirement for the Planning department to consider Council objectives and policies as part of the new CDP2. As result, communication between NRS and ES commenced in 2021 to discuss how developer contributions can link with this service and their obligation to provide education to children. However, progress has not yet been made in regard to this. Failure to consider other council objectives increases the risk that the new CDP2 plan will not align to future strategies or legislation.	NRS Senior Management should re-commence discussions with ES and develop a process to ensure that other council objectives are considered as part of development of the new CDP2.	**Medium**	**Response:** Accepted **Officer Responsible for Implementation:** City Development Plan Manager **Timescale for Implementation:** October 2022

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No.	Observation and Risk	Recommendation	Priority	Management Response
Key Control: The Service ensures adequate record keeping arrangements are in place to provide a full and transparent audit trail of the process				
3	Through sample testing of 10 planning applications, a developer contribution was considered, however we observed issues with the current record keeping arrangements. For two cases, details of payments received, were recorded on the financial ledger, however had not been recorded on the respective database. In all instances, supporting documentation to include with legal agreements were supplied, however we observed that the documents were not held centrally. Evidence was supplied to show that from the start of April 2022 a new Planning Obligation Monitoring Database is in operation for all new planning obligations. This was as a result of recommendations made from a previous audit conducted in 2017/18. Whilst the new system-based solution improves the record management arrangements for new obligations, this does not cover current planning applications or developer contributions commitments.	NRS Senior Management should identify and develop a timeline for transferring all current planning obligation data and supporting documentation to the new system-based solution to ensure that records are easily accessible to all officers involved in the process.	**Medium**	**Response:** Accepted **Officer Responsible for Implementation:** Head of Planning and Service Development Officer **Timescale for Implementation:** September 2022

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No.	Observation and Risk	Recommendation	Priority	Management Response
	Failure to have adequate record management arrangements, increases the risk that a full and transparent audit trail of the process is not in place.			