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**RESPONSE TO MORAY COUNCIL DRAFT ELGIN TRANSPORT
STRATEGY**

16 February 2016

ABOUT HOMES FOR SCOTLAND

Homes for Scotland is **the** voice of the home building industry.

With a membership of some 200 organisations together providing 95% of new homes built for sale in Scotland each year as well as a significant proportion of affordable housing, we are committed to improving the quality of living in Scotland by providing this and future generations with warm, sustainable homes in places people *want* to live.

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PROCESS

Homes for Scotland represents members on a wide range of issues affecting their ability to deliver much needed homes.

Our views are endorsed by committees and advisory groups utilising the skills and expertise of key representatives drawn from member companies.

Response to Moray Council Draft Elgin Transport Strategy

1. Introduction

- 1.1 Homes for Scotland welcomes the opportunity to provide input into the draft Moray Council Elgin Transport Strategy and in particular the associated developer obligations to be introduced to deliver the Strategy. We welcome the preparation of a strategy for Elgin which considers transport impacts on a cumulative basis. Transport infrastructure delivery is critical to the delivery of homes, and we encourage an approach that both proactively plans for interventions, but also plans the delivery of these interventions.
- 1.2 However, we have a number of concerns with the draft Strategy, as outlined in the remainder of this representation, and we consider that the draft Strategy and its associated developer contributions should not be approved until further information can be provided to set out the Council's evidence base in terms of costing the required infrastructure, and in particular the mechanism for seeking developer obligations for the interventions.

2. Costing the Draft Strategy

- 2.1 Homes for Scotland is concerned that the draft Strategy has not been fully costed. While there is an overall estimate of £30 million to deliver all interventions, there is no evidence provided with the strategy to demonstrate detailed costings. We do not believe that a high-level estimate of cost is adequate for the assessment of developer obligations to deliver the strategy.
- 2.2 The report to Committee on 7th December 2016 states that a business case will be required to “demonstrate the robustness of the plan and costings in relation to developer contributions”. We consider this business case to be critical for the delivery of the draft strategy, and as such, we do not believe that the strategy should be approved until this business case is in place, and there is a robust assessment of the developer obligations sought towards the cost of the interventions set out within the strategy.

3. Developer Obligations - Policy

- 3.1 We do not consider that there is a robust evidence base provided with the draft Strategy to clearly demonstrate that the developer obligations sought are compliant with Circular 3/2012 Planning Obligations and Good Neighbour Agreements. Paragraph 14 of this Circular sets out the five policy tests which must be met when planning obligations are sought, and the following paragraphs of the Circular go on to detail the requirements of each test.

- 3.2 Paragraph 17 of the Circular states that “there should be a clear link between the development and any mitigation offered as part of the developer’s contribution.” Further, in paragraph 20 the Circular states that “planning obligations must be related in scale and kind to the proposed development”. The developer obligations requirements should set out the direct impact that allocated sites within the Local Development Plan will have on transport infrastructure interventions required through the Elgin Transport Strategy and set out the direct action required to mitigate any impacts, including cumulative impacts, of the development, and explain the costs of this direct action. It should be clearly set out within Supplementary Guidance and/or within the Strategy exactly what each development will be required to contribute towards, and the proportional split of that. This is not clear from the draft provided and the ‘quadrant’ plans were not provided with the draft Strategy to provide clarity. In addition, these ‘quadrant’ plans do not identify details of the proportionality of contributions. If several developments should proportionately share the cost of that direct action, this should be clearly set out within the guidance.
- 3.3 If contributions are to be sought on a ‘quadrant basis’ but all developments are to pay towards interventions within the ‘town centre’ section, it is conceivable that a development will be required to pay for an intervention which is not directly related to that development. Even if payments are proportionate in some way, there is no evidence provided to show how this proportionality will work, and therefore it may not meet the tests of the Circular in terms of necessity, scale and kind and a direct link to the development.
- 3.3 Of particular concern would be seeking payments through a Section 75 agreement on a retrospective basis. We do not consider that retrospective payments are what S75 agreements are designed for. They are about mitigating the impact of a development. In the case of retrospective payments for infrastructure interventions already in place, the required Transport Assessment will assess the impact of the proposed development on the network as is, not before the intervention was put in place, and as such may show no or little impact of the new development. We understand the difficulty in devising a system by which payments will be sought for the necessary infrastructure interventions, and we support the preparation of a proactive strategy, however it is essential that these developer obligation measures are compliant with national planning guidance.

4. Developer Obligations – Evidence Base

- 4.1 Homes for Scotland agrees that the developer should not be required to cover the full cost of transport infrastructure set out within the draft strategy as the necessary interventions will not wholly be required as a result of new development. We are therefore pleased to see that Moray Council accepts responsibility for a share of the costs. We do, however query the 50% split

between the Council and developers. There is no evidence provided with the consultation documents to demonstrate how this split has been calculated. We request that a robust evidence base is provided by the Council and consulted upon before the approval of the draft strategy and associated developer obligations.

- 4.2 We are concerned that the quadrant plan which is to be used to apportion developer obligations for transport infrastructure interventions set out within the draft strategy was not publicly available as part of the consultation. We have seen this plan, but only through requesting to see it. We are concerned that all parties who will be responsible for the delivery of this strategy and payment towards the delivery of the interventions will not have had access to this plan.
- 4.3 There is a 'spreadsheet tool' referred to as part of the draft strategy which will determine the proportionality of developer obligations to be sought. We are concerned that this tool is not publicly available. We request that the tool is made public to be transparent in the evidence base for the proportional costs sought through developer obligations and to give clarity to all parties on how costs are apportioned.
- 4.4 We therefore request that the strategy is consulted upon fully with all necessary information and evidence provided to support the Council's case.

5. Viability

- 5.1 Viability is crucial to the delivery of new homes in Moray. Homes for Scotland supported the Moray Council's active response in 2016 to concerns over development viability in the form of a District Valuer (DV) study of land values and development costs in Moray to ascertain a level of contribution that could be sought whilst ensuring that development remains viable. We did raise concerns that the figure of £6,000 set out in the DV report could lead to misconceptions over viability. This figure of £6,000 per unit should be seen as a risk threshold for viability of the site, over which the development may not be viable.
- 5.2 Homes for Scotland is concerned about the level of developer contributions expected in Moray across the board, which will far exceed the £6,000 per unit risk threshold identified in the DV report. If, as the consultation document suggests, there are 2,700 homes to be delivered, and a transport infrastructure intervention cost of £30 million and the developer is expected to pay for 50% of this cost, then the approximate cost per unit would be approximately £5,500 for the infrastructure interventions outlined within this strategy. Developer obligations must be taken as a full package, but when education contributions, affordable housing requirements, accessible housing requirements and other contributions are added to this, there are potentially

significant implications on the delivery of housing in the Elgin area with developer obligations which are set too high, rendering a development unviable.

6. Developer Obligations – Seeking Payments

- 6.1 We do not consider that developer obligations should be sought in line with this strategy until such time as it is approved fully, however Members have informed us that developer obligations are currently being sought for interventions outlined within this draft strategy which is still open for consultation. We assume that through the process of consultation on the draft strategy, the Council is open to amending the document and consequently the developer obligations associated with the delivery of the strategy, as a result of representations submitted. As such, there may be changes to the level of contributions sought. It is therefore unreasonable to seek payments on any infrastructure requirements within this draft strategy until it has been formally approved.
- 6.2 We ask for clarity on how the developer obligations set out within this strategy will be implemented. If the Council's Supplementary Guidance on Developer Obligations be redrafted to take into account all obligations in a holistic manner, and be consulted upon? We suggest this is the most appropriate way of ensuring that the overall picture of the extent of developer obligations sought within the Elgin area will be clear. There are no timescales suggested within this draft strategy for this. We do not consider that developer obligations should be sought from this draft strategy until a clear, proportionate and reasonable process for all developer obligations, including transport infrastructure, is drafted and consulted upon, and until further evidence is provided by Moray Council on the costing of the proposed infrastructure interventions set out within this draft strategy.

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