

3b Strategic Transport Fund Update

- Purpose of Report

The purpose of this report is to update Board members on matters relating to the STF guidance and on payments received and agreements made in relation to the Strategic Transport Fund to date.

- Background

The Strategic Development Planning Authority adopted the supplementary planning guidance 'Delivering Identified Projects through a Strategic Transport Fund' in December 2011. This was non-statutory guidance in support of the Aberdeen City and Shire Structure Plan 2009 and was adopted with the intention that it would be reviewed and adopted as statutory guidance as part of the new Strategic Development Plan.

The Aberdeen City and Shire Strategic Development Plan was approved by Scottish Ministers in March 2014. On 25 June 2015 the SDPA adopted statutory Supplementary Guidance: Strategic Transport Fund, in connection with the Aberdeen City and Shire Strategic Development Plan (2014). This followed consultation on the revised guidance and a direction from Scottish Ministers to insert a sentence into the guidance, but otherwise proceed to adoption. Both Councils noted the adoption of the supplementary guidance and ratified its use with the refreshed guidance coming into force on Friday 28 August 2015 and replacing the non-statutory guidance that had been in force for the last three and a half years.

- Legal Challenge

As previously reported, a legal challenge was lodged at the Court of Session by the Elsie Development Company against the newly adopted statutory Supplementary Guidance. The hearing took place on 9 and 10 March 2016 before the Inner House of the Court of Session and involved three judges. It is anticipated that a judgement will be published at any time from late April onwards (ie 6+ weeks after the hearing concluded).

In the meantime the guidance remains in force and unless the adoption of the guidance is suspended or quashed, contributions to the Strategic Transport Fund will continue to be sought in the normal way.

- Update on agreements and payments into the fund

Since the last Board meeting in February 2016 Section 75 agreements have been signed for 2 sites in Aberdeen City.

To date, contributions in excess of £23,238,974 have been agreed in relation to the STF. This amount excludes agreements that have yet to determine precise levels of contributions – largely consents granted in principle where there was insufficient detail to enable a detailed calculation to be made. Final figures for these applications will not be determined until detailed or 'Matters Specified in Condition' applications are determined.

Of the total agreed, Nestrans currently hold £1,716,470 in the fund, having been paid by developers – either upfront or having reached the trigger points in the relevant s75 agreements.

As stated in the guidance, monies paid into the STF are held for a period of 20 years.

- Recommendation

The Board is recommended to:

- a) Note the anticipated timescale for a judgement to be published following the hearing for the legal challenge raised at the Court of Session to the SDPA's adoption of the Supplementary Guidance: Strategic Transport Fund; and
- b) Note the payments made into the fund to date.

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