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Alison O’Kane
Acting Principal Planning Officer
East Ayrshire Council

By email to:
Alison.o’kane@east-ayrshire.gov.uk

Our Ref: A48260199
30th April 2024

Dear Alison,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
NOTICE OF INTENTION TO ADOPT: SUPPLEMENTARY GUIDANCE**

I refer to your correspondence of 4 April 2024, notifying Scottish Ministers of East Ayrshire Council’s intention to adopt Financial Guarantees Supplementary Guidance.

Scottish Ministers do not propose to issue a direction in relation to this document.

It has been noted that at paragraph 2.7 of the supplementary guidance, the Council’s preference is that both planning conditions and obligations be used to secure financial guarantees through the planning process. I would therefore highlight Circular 3/2012 (Revised November 2020): Planning Obligations and Good Neighbour Agreements. This provides information on Ministers’ expectations for planning obligations, and that planning authorities should promote obligations in strict compliance with the six tests set out in the Circular of: being necessary, serving a planning purpose, relating to the proposed development, being reasonable in scale and kind, and being reasonable in all other aspects. Paragraphs 15 and 24 of the Circular provide further information on the necessity and reasonableness tests. It is therefore expected that in applying the supplementary guidance, a reasonable and proportionate approach is taken to future applications.

Prior to adopting the document as supplementary guidance, your Authority should satisfy itself that it has met the requirements set out in the Town and Country Planning (Development Planning) (Scotland) Regulations 2008. In particular, we would bring to your attention the need to comply with section 27(2) of the above regulations, which state that supplementary guidance adopted and issued under section 22(1) of the 1997 Act¹ (in connection with a particular local development plan), may only deal with the provision of further information or detail in respect of the policies or proposals set out in the plan, and

¹ Section 22 is continued in effect to enable the adoption of certain supplementary guidance until 31 March 2025 by regulation 4 of the Planning (Scotland) Act 2019 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2023 (SSI 2023/10).



then only provided that those are matters which are expressly identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance.

Yours sincerely

Jasmine Hood
Planning, Architecture and Regeneration Division