
**CAIRNGORMS NATIONAL PARK
AUTHORITY
LOCAL PLAN INQUIRY**

**WRITTEN SUBMISSIONS
STATEMENT
POLICY 20
DEVELOPER CONTRIBUTIONS**

APRIL 2009

On behalf of Glenmore Properties Ltd
Objector ref 453g



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PLANNING

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1. INTRODUCTION

This Written Submissions Statement has been prepared by Halliday Fraser Munro on behalf of our Client – Glenmore Properties Ltd. Halliday Fraser Munro Planning are a professional planning consultancy covering the north east of Scotland. All of our Consultants are Members of the Royal Town Planning Institute with the majority of those having been employed within a Local Authority Planning team. We have significant experience of policy formulation, the interactions of these policies with local authority development control functions and their effect on development scenarios.

Our aim, during this process, is to create policies and land allocations that are realistic and work for everyone. We will, therefore, identify both relevant issues and potential solutions within this Statement. The following Statement will summarise our objection, the Cairngorms National Park Authority's (CNPA) position including any Modifications or Agreement on particular issues, and then set out what we believe to be the key issues. We will conclude by recommending a course of action that would enable the objection to be resolved.

2. OBJECTION SUMMARY

Policy Reference & Title: Policy 20: Developer Contributions

Objector Reference: 453g

Objection Summary:

Our Client's objection raised concerns about three aspects of Policy20:

- There should be a reference to Circular 12/1996 Planning Agreements in the policy to avoid any confusion over what the policy is trying to achieve;
- Planning Gain contributions should be based on existing capacities and needs and offer clarity. A regularly monitored baseline of information should be established for this purpose;

- The policy should allow for exceptions to contributions from proposals that would contribute to the economic well being of the CNP where these would put the project at risk.

3. THE CAIRNGORMS NATIONAL PARK AUTHORITY'S POSITION

3.1 DEPOSIT LOCAL PLAN (Document CD6.11)

In July 2007, the Cairngorms National Park Authority published its Deposit Local Plan (**Document CD6.11**). Policy 19 Developer Contributions within the plan provided guidance on planning gain contributions expected from certain developments. The policy stated that:

'Where development would give rise to a need to increase or improve public services, facilities or infrastructure, or mitigate adverse effects, it will be approved where the developer makes a fair and reasonable contribution in cash or kind towards the additional costs or requirements. Such contributions will be consistent with the scale and nature of the development proposed and may be secured through a Section 75 Agreement where necessary.'

The supporting text refers to Circular 12/1996 (**Document CD5.5**) and its guidance that planning authorities should only seek contributions from developers if, in land use planning terms, it would be wrong to grant planning permission without them.

Table 1 contained a list of developer contribution themes, including Secondary Schooling, Library provision and Healthcare facilities.

3.2 RESPONSE TO OBJECTION - PROPOSED MODIFICATIONS

In response to our objections (**Document GP 3**), the Cairngorms National Park Authority stated:

- Policy wording endeavours not to repeat other legislation or guidance, the reference to circular 12/1996 in the supporting text is considered sufficient;
- Developer contributions will be based on community needs surveys - this will be further explained in the supporting text;

- The wording of the policy allows for exceptions to the rule.

The following Modification was proposed:

‘Reinforce wording on circular and guidance in para 5.17.’

3.3 DEPOSIT LOCAL PLAN – FIRST MODIFICATIONS (Document CD6.12)

In June 2008, the Cairngorms National Park Authority produced the Deposit Local Plan – First Modifications (**Document CD6.12**). The policy on Developer Contributions became Policy 20 following the introduction of a new Policy 19 on Reducing Carbon Emissions in Development. The revised Developer Contributions Policy stated:

‘Development which gives rise to a need to increase or improve public services, facilities or infrastructure, or mitigate adverse effects, will normally require the developer to make a fair and reasonable contribution in cash or kind towards the additional costs or requirements. Such contributions will be consistent with the scale and nature of the development proposed and may be secured through a Section 75 Agreement where necessary.’

‘Development which necessitates decommissioning of plant, structures or associated infrastructure will be required to provide an appropriate bond to cover the costs of remedial, restoration or reinstatement works.’

The amended policy wording relaxed the requirement for developer contributions, advising that such contributions would ‘normally’ be required. The policy also referred to decommissioning requirements. The supporting text contained limited further references to Circular 12/1996. Further clarification was also provided on contributions being negotiated on their own merits and assessments being based on community needs assessments to ensure the appropriate level of provision is sought.

The supporting text only, and not the Policy continued to only refer to Circular 12/1996. A set of baseline information that would form the basis for a developer contribution had not been provided, and reference to exceptions where a contribution would render a worthy scheme unviable had not been added. The objection was therefore maintained.

3.4 FURTHER MODIFICATIONS

No further modifications to Policy 20 were proposed in the Deposit Local Plan – Second Modifications (**Document CD6.13**).

No further modifications to Policy 20 are proposed in the Officer Proposed Post Inquiry Modifications (**Document CD7.28**).

As the first Modifications did not fully address our objection, and the Policy has not been altered further, our objection still stands.

3.5 CNPA STATEMENT OF CASE

The CNPA Statement of Case on Policy 20 (**Document GP 4**) provides further clarification on the Authority's position. This states that in response to our Client's objection:

- The policy will be implemented in accordance with Circular 12/1996 and reference to this has been included in the supporting text;
- Supplementary planning guidance will be adopted to clarify the methods for making applications;
- Para 5.21 refers to the pragmatic approach to be taken in implementing the policy that will recognise particular economic constraints.

No further changes to the Policy are commended to the Reporter.

4. PLANNING ISSUES AND PROPOSED SOLUTIONS

The modifications to Policy 20 suggested by the CNPA do not fully address the issues raised in our client's objection. The following issues remain unresolved:

- The Policy wording should explicitly refer to Circular 12/1996;
- A regularly monitored baseline of information should be established to provide clarity on expected contributions;
- The pragmatic approach taken to contributions only refers to their payment and not the initial assessment of the required contribution.

To retain provide certainty and fairness when assessing proposals for developer contributions, the Policy should refer to Circular 12/1996. To ensure that developer contributions are related to the development and demonstrated needs, adequate and regularly monitored information is required. The Policy or at least the supporting text should refer to a pragmatic approach being taken to requiring developer contributions, allowing possible exceptions where this could threaten the viability of projects that would benefit the CNP.

PROPOSED SOLUTION

- Amend the wording of Policy 20 to include reference to the provisions of Circular 12/1996;
- Establish a regularly monitored baseline of information to inform developer contribution assessments;
- Amend the wording of Policy 20 to include exceptions to providing developer contributions where such a contribution could threaten the economic viability of a project that would benefit the CNP.