

## **CNP LOCAL PLAN INQUIRY – POLICY 21**

### **Objection by P J Swan – Objector Ref 462**

My original objection to Policy 21 was lodged in response to the second modification in my letter to the CNPA dated 17<sup>th</sup> December 2008 (copy attached). The wording of my objection was as follows:-

“Fourth, I refer to page 43, policy 21, 2<sup>nd</sup> paragraph. I object to the change of wording from:-

“Where public funding is available to help fund affordable housing, the overall affordable contribution of the development will be expected to be 40%, with any shortfall between the public subsidised element and 40% target to be made up by the developer”

to:-

“Where public funding is available to help provide affordable housing, between 25% and 40% of all units will be expected to be affordable

This change appears to represent a significant relaxation in the terms offered to the developer, and an unacceptable increase in the burden on UK tax payers. Further, it jeopardises the realisation of the reasonable aspirations of local people for access to affordable housing. The reason given for this change (current market conditions) does not appear to justify the CNPA’s increasingly lavish generosity towards the developer with tax payers’ money. This is especially worrying, as there appears to be only one developer in contention for the associated work. The combination of non-competitive arrangements for developer selection, together with sudden and significant changes in the financial incentives for the sole developer, must surely be a cause for public concern for proper appropriation of public funds. It may also raise concerns in relation to compliance with EU legislation. I request that this change be reversed, or that a comprehensive statement of the sums involved be included in an amendment to the second modifications, to be re-issued for a further period of consultation, thereby enabling the public to assure itself of the financial integrity and equitability of the proposals.”

The CNPA response in its statement of case (hearing) is:-

Policy 21 applies to all housing development irrespective of site or potential developer. It is assumed that the objector refers to Ballater H1, where the developer has an option on the land through the landowner. This is a matter between the landowner and the developer, not the CNPA. The CNPA carries out its duties under

the National Parks (Scotland) Act 2000 and the relevant provisions of the Town and Country Planning (Scotland) Act (1997) and Planning etc (Scotland) Act 2006.”

My objection still stands, in fact, I wish to expand on it, drawing from paragraph of our joint “Case Against Ballater H1”, wherein we have said:

We respectfully point out that, under paragraph 56 of PAN 74 “Even where circumstances change, the detailed components of the policy should not be adjusted, including the affordable housing or financial contribution, until the proposed changes have been subject to full consultation and subsequent approval by the Council.” Our concern here is that, the above change to the affordable percentages was introduced in the second modifications to the DLP, which have not yet been subjected to full consultation, instead of which the CNPA intends, we are told, to have these issues resolved as part of the inquiry.”

My objection is further reinforced by the fact that, even without full consultation on and CNPA Board approval of the second modifications, the CNPA is already moving to make yet further changes to this policy, through the introduction of “officer proposed post-inquiry modifications”. Under these modifications, the CNPA is proposing to remove previous references to public subsidy. I find this is unsatisfactory, because, simply by removing previous references to public subsidies, the question of “the financial integrity and equitability of the proposals” as mentioned in my original objection, is not resolved.

Policy 21 paragraph 3, including 1<sup>st</sup> and 2<sup>nd</sup> modifications, states:

“Where less than one third of the total cost of the development is available through public funding, the developer will be required to provide 25% affordable housing on a site.”

In this situation, it appears that the mechanism laid down for the award of public subsidy in exchange for the delivery of obligations by another party, suggests that the cost to the tax payer can exceed significantly the value of the return (in the form of the affordable houses provided). This apparent possibility must be subject to question. The CNPA appear to have attempted to remove this source of concern by extensive rewording of Policy 21, including the part referred to above, through the introduction of “officer proposed post-inquiry modifications”. However, these “officer proposed post inquiry modifications” have not been approved by the CNPA board and therefore they have no standing as CNPA policy statements. My objection to the indicated part of Policy 21 is therefore justified. My concern is twofold:

- I believe that a policy that allows the possibility of expenditure in public subsidies that could be significantly in excess of the value of the return from the provider of affordable housing is unacceptable.

- I am concerned that the net unit cost of supply of affordable housing on the basis of such a policy would be significantly in excess of what could be achieved by alternative strategies, such as those outlined in document 40a of our joint submission "Case Against Ballater H1".

I have attempted to obtain clarity of understanding and justification for the wording of this part of Policy 21, as demonstrated in the attached texts of email exchanges with Ms. Fiona Munro of the CNPA. However, these communications have not achieved the desired outcome.

**Supporting Documentation (texts of email exchanges):-**

**A) Initial question by PJ Swan - 7<sup>th</sup> April 2009 and in first response by F Munro (CNPA) - 8<sup>th</sup> April 2009 (blue text)**

from Fiona Munro <FionaMunro@cairngorms.co.uk>

to Phil Swan <pjswan@gmail.com>

date 8 April 2009 11:52

subject RE: CNP LOCAL PLAN POLICY 21 - CONTRIBUTIONS TO AFFORDABLE HOUSING

Phil

I will use your email to run through the points you make

From: Phil Swan [mailto:pjswan@gmail.com]

Sent: 07 April 2009 16:02

To: Fiona Munro

Subject: Fwd: CNP LOCAL PLAN POLICY 21 - CONTRIBUTIONS TO AFFORDABLE HOUSING

Fiona,

I hope this attempt is more successful

Phil Swan

----- Forwarded message -----

From: Phil Swan <pjswan@gmail.com>

Date: 2009/4/7

Subject: CNP LOCAL PLAN POLICY 21 - CONTRIBUTIONS TO AFFORDABLE HOUSING

To: fiona.munro@cairngorms.co.uk

Fiona,

We spoke at some length on Monday morning on the above subject.

First, I would like to say thank you for your time and immense patience in trying to help me to understand how the complexities of public subsidies work for affordable housing in the Local Plan.

Unfortunately, my specific question remains unresolved and I hope that you will be able to remedy this.

I refer to the wording of the Deposit Local Plan (DLP), Policy 21, 3rd paragraph, which states:

"Where less than one third of the total cost of the development is available through public funding, the developer will be required to provide 25% affordable housing on a site".

I accept that the reality of the situation in any given case is highly complex and that the details may not lend themselves to ready comprehension by members of the public. I also accept that, in these turbulent times, changing circumstances may render previously reasonable polkicy statements open to challenge.

However, I would make the following observations regarding the "setting" of the DLP policies, with regard to the subject of housing and contributions to affordable housing:

- The statement made in Policy 21, as quoted above, is simple, unequivocal and not presented here in any way "out of context".
- The Policy in question, as is the case with all the other relevant text in the DLP, refers predominantly, if not exclusively, to the developer as the sole supplier of affordable housing - I see no references to housing associations' involvement, for example. [In Policy 21 paragraph 2 - where public funding is available to help provide affordable housing between 25% and 40% means housing associations \(as they are virtually the only ones able to access public funding for affordable housing\).](#)

[The Cairngorms National Park Authority website now has under Local Plan Inquiry a document which has further suggested modifications. Where the third paragraph you refer to regarding 'where less than one third.....25% affordable housing on a site.' has now been amended. It may be useful if you have a look at the changes.](#)

<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=193>

This means that the questions you ask below are, I believe, not relevant anymore. The document below contains information on how we intend to run an economic model with the relevant facts of each site to look at the economic viability of a project where the planning authority may accept a contribution of less than 25% where it is clear that along with other site constraints would adversely affect the economic viability of the site.

<http://www.cairngorms.co.uk/parkauthority/publications/results.php?publicationID=154>

I hope this assists.

Regards

Fiona

In view of these 2 points, I feel it is reasonable to infer that the following scenario may arise:

1. The "total cost of the development" would include the cost, to the developer, of land purchase, installation of drains, roads, utilities and services, street lighting, landscaping, in addition to house building.
2. The total cost attributable to the provision of 25% affordable housing would not exceed 25% of the total cost of the development - indeed, in view of the fact that the demand for affordable housing is dominated by 1 and 2 bedroom units (to the extent of 90%, according to Aberdeenshire Council data), it would be reasonable to assume that this cost would be less than 25%.
3. A level of public subsidy of less than one third could in fact be as high as 33% of the total cost of the development.
4. In the absence of many other involved parties in the house building activities, it is the developer who would provide the affordable housing and be the recipient of 33% subsidy in exchange for an outlay of less than 25%, thereby securing a margin of 8% of the total cost of the development on the provision of affordable housing alone, in addition to his "normal" margin for the construction and sale of open market housing.

If you consider my description of the above scenario is not possible, then please can you explain how this is so.

I look forward to hearing from you.

Regards, Phil Swan

**B) Question repeated by PJ Swan – 17<sup>th</sup> April 2009**

from Phil Swan <pjswan@gmail.com>

to Fiona Munro <FionaMunro@cairngorms.co.uk>

date 17 April 2009 14:38

subject Re: CNP LOCAL PLAN POLICY 21 - CONTRIBUTIONS TO AFFORDABLE HOUSING

mailed-by gmail.com

Fiona,

You may recall our lengthy telephone conversation, followed by an exchange of emails on the subject of the CNP Local Plan Policy 21 - Contributions to Affordable Housing.

On your advice, I opened the first of the 2 web site addresses you indicated (given in your email). It contained a modified version of parts of the Local Plan, including Policy 21, under the title of "officer proposed post inquiry modifications". These are suggested modifications to the Local Plan that have not been approved by the CNPA board, and as I understand from a telephone conversation with Sara Krawczynska, these modifications are merely for discussion purposes in the public inquiry.

Quite clearly, these "officer proposed post inquiry modifications" therefore have no standing whatsoever as CNPA Policy statements. Moreover, the wording of these modifications did nothing to ease my concerns, because the impression they conveyed was one of an attempt to cover up something that was difficult to explain. By directing me to the web site in question, you have not answered my question.

So, my original question remains unanswered, although there is one element that, for the time being, I am prepared to put to one side, in the hope that this might simplify the question, or make it easier to answer. Specifically, I am willing to concede, for now, that the question of the relative degrees of financial involvement in public subsidies of the developer and the housing association (or RSL) are of secondary importance.

To recap, my question relates specifically to the precise wording of Policy 21, including second modifications, third paragraph, which states: "Where less than one third of the total cost of the development is available through public funding, the developer will be required to provide 25% affordable housing on a site".

My interpretation of these words is quite clear. That is that it is possible for a scenario to exist where public funding is provided to cover 33% of the aggregate cost of land purchase, drains, utilities, road construction and all other infrastructure, as

well as all housing on a site, in exchange for which, the developer provides 25% of the houses as affordable units.

My question is very simple: is my interpretation accurate - yes or no?

I look forward to receiving your speedy response.

Regards, Phil Swan

**C) Second response from F Munro – 21<sup>st</sup> April 2009**

from Fiona Munro <FionaMunro@cairnngorms.co.uk>

to Phil Swan <pjswan@gmail.com>

date 21 April 2009 12:05

subject RE: CNP LOCAL PLAN POLICY 21 - CONTRIBUTIONS TO AFFORDABLE HOUSING

hide details 21 Apr (2 days ago) Reply

Phil

The 2nd modifications to the Policy state “where less than one third of the total cost of the development is available through public funding, the development will be required to provide 25% affordable development on a site. “

This means that where less than 1/3 total costs are to be provided through public funding/grants, 25% affordable housing will be provided on site.

The officer proposed modifications propose a further change to this, in light of objections received to the wording of the 1st and 2nd modifications, and the relevance of the % public funding is to be removed, with “a target of between 25% and 40% depending on the types of affordable housing required and the economic viability of the development”.

This will be the CNPA position for discussion going into the oral sessions at the Local Plan Inquiry, and any changes to the policy, as a light of the discussions, reporters considerations and their subsequent report and recommendations will be advertised as post inquiry modifications in line with legalisation on the matter.

Regards

Fiona