

Date:			
Issue:	Policy 20 – Developer Contributions		
Objector(s):	Muir Homes	Objection ref(s):	038k
	Scottish and Southern Energy Plc		447h
	Glenmore Properties Ltd		453g
	Mr P Swan		462e

Reporter	Mrs Jill Moody
Procedure	Informal Hearing

1.0 Overview

- 1.1 This statement sets out the Cairngorms National Park Authority response to the objections raised to the Deposit Local Plan as modified in respect of Policy 20: Developer Contributions, and supplements the response made to those objections by the Cairngorms National Park Authority in its reports to Committee (CD7.3,4 and 5). It suggests no further change be made to the policy.

2.0 Provision of the Local Plan

- 2.1 Policy 20 within the Deposit Local Plan as modified gives policy guidance to allow a consistent framework for development proposals and for the assessment of applications with may require a developer contribution as a direct result of their development. During the current transitional arrangements set out in the Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008, the policy is intended to provide an appropriate level of guidance to meet the requirements of SPP1 (CD2.2 para 37-38) and Scottish Planning Policy (CD2.1 para 15-18) and ensure that the assessment of any requirement for a development contribution is determined in a consistent manner.
- 2.2 The Policy has been modified in the 1st modifications to the Deposit Local Plan with word changes within the policy to clarify that the requirement will normally be sought from the developer, and that the requirement also relates to the decommissioning of plant, structures and associated infrastructure to cover the cost of remedial, restoration or reinstatement works.
- 2.3 The supporting text has also been amended to clarify the basis for the contribution, the importance of community needs assessments to highlight community need, and the need for discussions with service providers to ensure an appropriate level of provision. Paragraph 5.21 has also been added to ensure a pragmatic approach to the payment regime of the contribution in any phased developments.

3.0 Summary of Objection(s)

- 3.1 Four objections raising four issues have been lodged to this policy and wish to have their objections considered by informal hearing:
- In the supporting text, the table includes biodiversity. There is no explanation however why a development would require to contribute to the creation of other biodiversity where this may be plentiful in the area already. **(038k)**
 - Implementation – contributions must be reasonable, not deter development, and balanced against Policy 21: Affordable Housing. It should only relate to significant developments and for clarity reference to Circular 12/1996 should be added. **(447h, 453g)**

- Baseline information should be established on which to apply the policy **(453g)**
- Developments should not have an adverse impact on schooling facilities **(462e)**

4.0 Summary of Cairngorms National Park Authority response

- Themes - the reference to biodiversity in the table of themes is intended to highlight the aims of the Park and in particular the 1st aim. The way in which this policy affects a development will depend on the impact of the development on a site. **(038k)**
- Implementation - the policy will be implemented in accordance with Circular 12/1996 (CD5.5) and reference to this has been included. Additional clarity will be provided through the production of supplementary guidance on the subject. **(447h, 453g)**
- Baseline information – Para 5.20 has been included to highlight the role of community needs assessments in the process. Site specific assessments will however also be necessary. **(453g)**
- Education is included within the table of themes around which the policy is based. **(462e)**

5.0 CNPA Commendation to Reporter

- 5.1 It is commended to the Reporter that all objections are rejected. No issues are raised that could lead the Cairngorms National Park Authority to consider that the policy was deficient. The wording of the policy should therefore be retained.
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6.0 Assessment / Scope of Evidence

- 6.1 **038k** objects to the introduction of biodiversity into the table of themes through the modifications.
- 6.2 **Response:** The theme of biodiversity has been included to highlight the significance of biodiversity, and also the impact of the aims of the Park (CD1.3) on the decision making process. The 1st aim clearly sets the tone. ‘To conserve and enhance the natural and cultural heritage of the area’ establishes a need for this conservation and enhancement to be taken into consideration in the decision making process. The implementation of the policy however will depend on the nature of the development, and the impact it will have on the site, and will be undertaken in compliance with Circular 12/1996 (CD5.5). Supplementary planning guidance will compliment the policy (CD7.4) and will further clarify how the policy will be implemented. Paragraph 5.20 has also been included to clarify that a pragmatic approach will be taken to ensure that any payment or works that may be required are done in such a way as to take into account the particular economic constraints or funding regimes affecting development proposals. The policy is not therefore considered to go beyond the confines of the Circular, and supports the 1st aim of the Park.
- 6.3 **447h** objects to the wording of the policy as it states that any project that requires the mitigation of adverse effects will only be approved where the developer makes a fair and reasonable contribution towards other costs or requirements. The policy should not be used to extricate funds in this way since there may be no direct relationship between the effect and contribution which the policy would require. Further the policy should only relate to significant adverse effects.
- 6.4 **Response:** The wording of the policy has been modified through 1st modifications to clarify that the circumstances when it will be used, as in ‘normally required’, rather than ‘be approved

where'. The policy will be implemented in accordance with Circular 12/1996 (CD5.5) and the wording of the policy reflects the circular's recognition of the fact that development plans cannot anticipate every situation where the need for any kind of planning agreement will arise, thus the need for a degree of flexibility. The policy as worded is not therefore considered deficient and no further changes are proposed.

- 6.5 **453g** objects to the policy requiring a more explicit link with Circular 12/1996.
- 6.6 **Response:** Through the modifications to the supporting text a direct reference to the Circular has been included. No further change is therefore proposed.
- 6.7 Objection also considers Table I and the calculations on these themes should be based on existing capacity and offer clarity in calculation.
- 6.8 **Response:** Supplementary planning guidance (CD7.4) will be adopted to clarify the methods for making calculations. This information will inform the implementation of the policy.
- 6.9 Objection also considers there should be provision for exceptions to the policy where the proposal will be put in jeopardy because of the requirements of the policy.
- 6.10 **Response:** Paragraph 5.21 has been added to ensure that a degree of pragmatism can be used in the implementation of the policy, and the phasing of any contributions or payments to take account of economic constraints or funding regimes affecting the development proposal.
- 6.11 The policy is not therefore considered to be deficient and is appropriate as written.
- 6.12 **462e** objects to the themes of Table I, since no where in the plan is there any specific reference to the impact of new housing developments on primary school facilities. There should therefore be a reassurance that no adverse impact on primary schools will occur as a result of the plan.
- 6.13 **Response:** Table I includes direct reference to both primary and secondary schools. The impact of development on education facilities is therefore clearly highlighted as a theme of the policy. Supplementary planning guidance will also clarify how the policy will be implemented, in line with the requirements of Circular 12/1996 (CD5.5).

7.0 Strategic Issues

- 7.1 Circular 12.1996 (CD5.5) establishes that planning agreements such as those relating to developer contributions must meet a number of tests to ensure appropriate use:
- a) Planning purpose – the agreement must serve a planning purpose, generally encompassing any purpose related to the use and development of the land;
 - b) relationship to propose development – the agreement must be related to the development being proposed;
 - c) scale and kind – the agreement should be related in scale and kind to the proposed development;
 - d) reasonableness – the agreement should be subject to the test of reasonableness – is it needed to enable the development to go ahead; will any financial payments contribute to the cost of providing necessary facilities required as a consequence of or in connection with the development in the near future; is the requirement in the agreement so directly related to the regulation of the proposed development that it should not be permitted without it; will the

agreement offset the loss or impact on, any amenity or resource which is present on the site prior to development?

8.0 List of documents (including Core Documents)

- CD1.3 The National Parks (Scotland) Act 2000
- CD2.1 Scottish Planning Policy 2008 Parts 1 and 2
- CD2.2 SPPI The Planning System
- CD5.5 Circular 12/1996 Town and Country Planning (Scotland) Act 1972 Planning Agreements
- CD7.3 CNPA Committee Report Consultation May 2008
- CD7.4 CNPA Committee Report Consultation October 2008
- CD7.5 CNPA Committee Report Consultation February 2009

9.0 Cairngorms National Park Authority Witnesses for Informal Hearing

- Karen Major – Local Plan/Policy Officer