

Date:			
Issue:	Policy 20 – Developer Contributions		
Objector(s):	Mrs S Spencer	Objection ref(s):	017e
	Mr and Mrs Duncan		037e
	Network Rail		368a
	Dunachton Estate		418g
	The Crown Estate		419g
	Alvie and Dalraddy Estate		439n
	Reidhaven Estate		456e

Reporter	Mrs Jill Moody
Procedure	Written Representation

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 SPPI (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 Seven objections raising five issues have been lodged to this policy and wish to have their objections considered by written representation:
- Contributions should be used to support communities through provision of basic facilities, training and skills development, and based on requirements raised by local communities. **(017e, 037e)**

- The policy is an additional cost to developers and any contribution must be set at a level that is fair and reasonable, so as not to deter development, and balanced against Policy 21 Affordable Housing **(418g, 419g, 425j, 439n)**
- The supporting text should make reference to and be in accordance with Circular 12/1996 and make clear how the contributions are calculated. **(425j, 456e)**
- Baseline information should be collected on which to base calculations, and this information should be monitored. **(456e)**
- The table should include reference to ‘transport’ rather than simply ‘road network’. **(368a)**

4.0 Summary of Cairngorms National Park Authority response

- Community facilities – the policy will be implemented in line with Circular 12/1996 (CD5.5) and the additional supplementary planning guidance (CD7.4) which will compliment the policy. Where appropriate this will include information on community needs (Para 5.20) **(017e, 037e)**
- Cost to developers – the policy will be implemented in accordance with Circular 12/1996 (CD5.5) and will use the tests of reasonableness set out therein. **(418g, 419g, 425j, 439n)**
- Circular 12/1996 (CD5.5) – a clear reference to the circular has been added and the supplementary guidance (CD7.4) will set out how the calculations are to be made. The issues raised in regard to clarity are therefore considered addressed. **(425j, 456e)**
- 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. **(456e)**
- Table I – the table has been amended to refer to ‘transport’ rather than ‘road network’, a modification intended to address this issue. **(368a)**

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 **017e** considers development should provide at least basic community infrastructure as well as the themes highlighted in Table I.
- 6.2 **Response:** The policy is guided by and will be implemented in line with Circular 12/1996 **(CPX)** which clearly sets out tests for reasonableness in terms of what can be secured through planning agreement. Para 5.20 of the policy highlights the role of community needs assessments and the community planning process to ensure, where appropriate, community aspirations are included in the process. The policy is not therefore considered deficient or in need of any change.
- 6.3 **037e** supports the policy but seek better input into the process from the public. The argument and therefore response is therefore as above.
- 6.4 **368a** requires a change to Table I to make reference to ‘transport network’ rather than ‘road network’ to allow for where appropriate, other forms of transport.
- 6.5 **Response:** This change was included in the 2nd modifications and the issue is therefore considered to have been addressed.

- 6.6 **418g** and **419g** object to the policy as an added cost to developers making developments unviable, particularly when considered together with the requirement for affordable housing. The wording of the policy should therefore be modified to clarify what is meant by 'fair and reasonable' and clarify the relationship with the affordable housing policy, with the two streams of contribution being considered together.
- 6.7 **Response:** The policy will be implemented in accordance with Circular 12/1996 (CD5.5) and its tests of reasonableness. In addition the supplementary guidance relating to the policy (CD7.4) provide additional clarity on how calculations will be made. In regard to the impact of affordable housing, the two policies are not intended to be read as one but as separate issues, with the impact of the development, what ever that is, being assessed against Policy 20, and the requirement for any affordable housing requirement when considering a housing development under Policy 21. The policy is not therefore considered deficient and no change is therefore considered necessary.
- 6.8 **425j** object to the policy requiring a more explicit link with Circular 12/1996 (CD5.5).
- 6.9 **Response:** Through the modifications to the supporting text a direct reference to the Circular has been included. No further change is therefore proposed.
- 6.10 Table I and the calculations on these themes should be based on existing capacity and offer clarity in calculation. Supplementary planning guidance (CD7.4) will be adopted to clarify the methods for making calculations. This information will inform the implementation of the policy, and is therefore considered to provide sufficient to ensure the policy as written is appropriate.
- 6.11 There should also be provision for exceptions to the policy where the proposal will be put in jeopardy because of the requirements of the policy. 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.
- 6.12 The policy is not therefore considered to be deficient and is appropriate as written.
- 6.13 **439n** objects to the policy in total as it is considered a tax on developers. It will deter developers and reduce the amount of development, particularly housing, and thus affordable housing. The policy should therefore be deleted. T
- 6.14 **Response:** The principle of developer contributions is well established, and is in line with Circular 12/1996 (CD5.5), and its inclusion within the Plan is therefore considered appropriate. Local Plans through this are encouraged to clarify when planning agreements, such as this will be used. The policy will be implemented in line with the tests of reasonableness set out in the Circular and is not therefore considered deficient or excessive in the requirements it places on developers. No change is therefore put forward.
- 6.15 **456e** make the same objections to 425j above. The response and support for the policy as written is therefore as given.

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