

PLANNING

Cairngorms National Park

Local Development Plan 2021

Supplementary Guidance: Policy 11 – Developer Obligations



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How to use this guidance

This supplementary guidance forms part of the Cairngorms National Park Local Development Plan (LDP) 2021 and applies to all planning applications within the Cairngorms National Park.

This guidance should be used to assess planning applications and identify the contributions that may be required to mitigate the impacts of the development on local facilities and infrastructure.

Introduction and context

Policy 11 of the Local Development Plan provides the framework for developer contributions that may be secured by legal obligations.

New development needs infrastructure and services for the people who will use the development. For example, infrastructure may include roads and footpaths, and facilities may include schools and health centres. Depending on the scale and location of new development, the necessary infrastructure

and facilities may already exist in the surrounding area and have with sufficient capacity. However, where they do not exist or are already near capacity, then developer contributions are likely to be required.

Policy 11 – Developer Obligations

Where development creates a need to increase or improve public services, facilities or infrastructure, or to mitigate adverse effects, the developer will be required to make a fair and reasonable contribution, in cash or in kind, towards the additional costs or requirements. Any contributions required must be necessary to mitigate the direct or cumulative impacts of a development proposal and will be proportionate to the scale and nature of the development proposed. Contributions may be secured through a planning condition, an alternative legal agreement, or a planning obligation made under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Contributions may be required towards:

- a) education;
- b) healthcare;
- c) community facilities;
- d) transport provision and infrastructure including active travel; and/or
- e) mitigation of impacts on natural heritage.

Contributions required for the above will vary depending on the type and scale of the development and its location. There are differences in the need for contributions, contribution thresholds and the delivery of contributions between settlements and local authority areas. Therefore contributions sought from developments will reflect local circumstances and costs for that area.

The types of contributions that are anticipated in each settlement are set out in the Community Information section of the Plan. The Action Programme will also be used to publish regular updates of the contributions anticipated for each settlement reflecting local circumstances and costs.

Contributions are usually secured through planning conditions or legal agreements referred to as obligations. This guidance covers contributions secured by either means. The purpose of a developer contribution is to ensure that, where necessary, infrastructure and services can be expanded to meet the additional needs put on them by the new development.

Where this occurs, the planning authority for the area that the development is located within may seek a contribution from the developer towards mitigating the impacts of the development. Contributions can be in kind, for example building a new health centre as part of a new housing development, or a monetary payment, for example financial contributions towards the cost of expanding a school in the same catchment as the new development. Where legal agreements are required to secure contributions, they will be prepared by the Park Authority in consultation with the relevant local authority.

Planning circular 3/2012 (as updated) (<https://www.gov.scot/publications/circular-3-2012-planning-obligations-good-neighbour-agreements/>) sets out how planning obligations are expected to be applied by Scottish Government. The circular refers to obligations as those secured by section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended), as well as those secured by other forms of legal agreement or by conditions attached to planning permission. The circular identifies that planning obligations must be:

- necessary to make the proposed development acceptable in planning terms
- serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area

- fairly and reasonably relate in scale and kind to the proposed development
- be reasonable in all other respects

Cairngorms National Park Authority set the level of contributions for affordable housing while the planning authority in which a development is located sets the contributions required for education, healthcare (figure 1), community and leisure facilities, and transport and related infrastructure. This guidance provides further information on how this and where to find detailed information.



Figure 1 – NHS Grampian Ballater health centre

Developments that may require contributions

Different scales and types of development will have varying effects on infrastructure and facilities. Table I sets out when different types of contribution may be required for different scales and types of development.

Where issues such as the potential to exceed capacity have been identified as part of the development planning process, they have been included in the Local Development Plan. Known requirements are set out in the settlement statements for each settlement within the Local Development Plan, which should be read alongside this supplementary guidance. The Local Development Plan is available via <https://cairngorms.co.uk/planning-development/ldp-2021/>

Table I – types of contribution for different scales and types of development

	Small scale housing (less than 4 units)	Medium scale housing (4 – 49 units)	Major development (50+ units or 2 hectares)	Commercial (tourism, business and mixed use)
Affordable housing	see Policies 1.5 and 1.6 in the Local Development Plan, and the Housing Supplementary Guidance (<i>link to be added once published</i>)			
Education	✓	✓	✓	✗
Healthcare	✗	✓	✓	✗
Community facilities	✓	✓	✓	✗
Transport provision and infrastructure	✓	✓	✓	✓

Level of contributions

Cairngorms National Park Authority have specified the level of contributions for affordable housing (figure 2), as well as when education, healthcare, community and leisure facilities, transport and related infrastructure contributions will be required in the Local Development Plan. Guidance on how contributions are calculated by the five local authorities within the Park, including their latest school roll forecasts, can be found via the links in Appendix 1.

Affordable housing contributions

Contributions towards affordable housing will be required for all residential developments. The proportion of contributions expected are set out in the settlement statements for each settlement within the Local Development Plan, which should be read alongside this supplementary guidance. How affordable housing contributions are calculated varies between the Planning Authorities within

the Park. The most up to date Planning Authority guidance relevant to the location of the proposed development should be referred to.



Figure 2 – affordable housing under construction at Inverdrue, near Aviemore

Education contributions

One bed properties, sheltered housing, residential institutions, business and economic development proposals are exempt from education contributions.

However, all other residential developments will be required to make a contribution towards education where the

school within the catchment that the development is located is:

- currently over capacity and a contribution is required towards a new school or extension to an existing school to increase capacity; or
- nearing capacity and the proposed development is likely to exceed the threshold set by the local education authority.

The type of education infrastructure that the contributions would be put towards will vary depending on the level that the school capacity is likely to be exceeded. Examples of what contributions towards both primary and secondary education may be required to provide include (but are not limited to):

- temporary teaching accommodation where the school roll is expected to temporarily exceed capacity
- additional classrooms and / or a major extension

- a new build school (which may or may not include land costs)

The Park Authority is not an education authority so the required contributions are determined by the respective local education authorities. School roll forecasts are published annually by each local authority, based on different factors including projected development delivery and population change.

In some circumstances, school roll forecasts may be re-run to take into account the likely impact of a proposed development. The most up to date forecasts will be used to calculate the level of contribution required.

Guidance on how contributions are calculated by the five local authorities within the Park, and their latest school roll forecasts should be referred to.

Healthcare contributions

Some development proposals including commercial and small scale housing will be exempt from healthcare contributions.

However, all other developments will be required to make a contribution towards healthcare. Contributions towards primary healthcare (including GP surgeries, dental facilities and community pharmacies) may be required where the capacity of existing facilities has been met or exceeded. Examples of what contributions may be required to provide include (but are not limited to):

- new permanent accommodation
- a permanent extension
- internal re-organisation of an existing building to provide additional capacity
- serviced land on which a healthcare facility can be built

There are three health authorities covering the National Park: NHS Highland covering Highland, NHS Grampian covering Aberdeenshire and Moray and NHS Tayside covering Angus and Perth & Kinross. Contributions towards healthcare will be determined in consultation with the relevant health board.

Community and leisure facilities contributions

Community and leisure facilities can include facilities provided by or on behalf of Local Authorities such as libraries and sports centres. They may also include other community facilities, such as (but not limited to) community halls, allotments, play parks (figure 3) and other outdoor facilities such as football pitches.



Figure 3 – play park, Monaltrie Park, Ballater

Business and economic development proposals are exempt from community and leisure facility contributions.

However, all other developments may be required to make a contribution towards community and leisure facilities where an issue with capacity or a negative impact on amenity of existing residents would occur as a result of the proposed development. They may be taken in kind through land provision, or as financial contributions to support the provision of community and leisure facilities in the surrounding area. Contributions towards community and leisure facilities will be determined in consultation with the relevant Local Authority or other appropriate body.

Transport and related infrastructure contributions

Most developments will include roads and paths as part of their layout. However contributions may be required where new development would put pressure on existing transport and related infrastructure in the surrounding area, or to connect to it.

For example, financial contributions may be required to support a bus service, or

to contribute to active travel projects that would connect with and be used by in those living or working in the proposed development. Alternatively, in kind contributions may be required, for example by providing a new multi-user path within the development that connects with an existing network of paths in the surrounding area, enabling people to access the wider area on foot or by bike (figure 4).



Figure 4 – Aviemore orbital multi-user path

All types of development may be required to make a contribution towards transport and related infrastructure where an issue with capacity or connectivity as a result of the proposed development would arise.

Contributions towards transport and related infrastructure will be determined in consultation with the relevant Local Authority or other appropriate body.

Mitigation of impacts on Natural Heritage

In exceptional circumstances, contributions may be required towards mitigation measures to address impacts on a natural heritage feature. Mitigation is defined as ‘the undertaking of measures to prevent or reduce to an acceptable level, the impact of a development’.

In the first instance, all impacts on natural heritage assets will be assessed against Policy 4: Natural Heritage and appropriate compensation will be identified and conditioned as part of any permission. Compensation is the replacement areas of habitat of equal or higher quality that offsets the habitat or asset that will be adversely affected by the development.

For the majority of developments, mitigation and compensation measures will be delivered by the applicant/developer

directly and will not require a contribution.

In exceptional circumstances where the mitigation and compensation measures cannot be delivered directly as part of the proposal or the proposal will cause a cumulative impact on a designated site for example, a legal agreement and/or contribution may be required to secure the required mitigation and/or compensation measures.

Viability

The need to make contributions can have financial implications for developers and may result in a proposal becoming unviable. As set out in Policy 11, a pragmatic approach will be taken, for example by phasing payments to ensure that economic constraints or significant upfront costs do not render a development proposal uneconomic.

Where a developer considers that the level of obligations being sought would render their otherwise commercially viable proposal to be unviable, policy 11

(and policy 1.5 for affordable housing) requires them to provide a Viability Assessment to the authority determining the application. The assessment must be verified by a District Valuer to enable the relevant authority to review the level of contributions required.

Appendix I – how contributions are calculated

Guidance on how contributions are calculated by the five local authorities within the Park, including their latest school roll forecasts can be found via.

- Aberdeenshire Council:
<https://www.aberdeenshire.gov.uk/planning/plans-and-policies/aberdeenshire-local-development-plan-2017/> and
<https://www.aberdeenshire.gov.uk/schools/school-info/admissions/school-roll-forecasts/>
- Angus Council:
https://www.angus.gov.uk/planning_and_building/environment_and_development_planning/development_plan and
http://opendata.angus.gov.uk/sr_Latn/dataset/school-roll-forecasts-2019-2023
- Highland Council:
https://www.highland.gov.uk/directory_record/712087/developer_contributions and

<https://www.highland.gov.uk/schoolrollforecasts>

- Moray Council:
http://www.moray.gov.uk/moray_standard/page_100511.html (school roll forecasts embedded within the guidance)
- Perth and Kinross Council:
<https://www.pkc.gov.uk/ldp2developercontributions> (school roll forecasts embedded within the guidance)

The above links may change over time as the Planning Authorities revise their guidance and forecasts. The most up to date published version of the Planning Authority guidance relevant to the location of the proposed development should be used.

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This document is available in large print on request. Please contact the Cairngorms National Park Authority on 01479 873535. It is also available to view at www.cairngorms.co.uk

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