

## **Developer obligations SG**

### **Introduction**

It is important that new development does not have an adverse impact on the local community by increasing pressure on local services, facilities or infrastructure. This Supplementary Guidance sets out the policy requirements of **Policy 11: Developer obligations**.

The planning authority may seek a contribution from developers towards mitigating the impacts of their development on local services and infrastructure. This can take the form of a fair and reasonable contribution, in cash or in kind, towards additional costs or requirements.

Circular 3/2012: Planning Obligations and Good Neighbour Agreements sets out the guidelines for using and seeking developer obligations. It states that obligations should only be used where the impact of a development 'cannot be resolved satisfactorily through the use of planning conditions or another form of legal agreement [and] a planning obligation could be used provided it would clearly overcome or mitigate those identified barriers to the grant of planning permission' (para. 17, page 7).

There are differences in the types, methods of calculation and delivery of contributions in the five council areas. The contributions sought from development in different areas will therefore reflect local circumstances.

The Cairngorms National Park Authority set out the required contributions for affordable housing and guidance for Natural Heritage.

Applicants should refer to the relevant local authority (and health board where applicable) for current contribution rates for:

- **Education**
- **Healthcare**
- **Community facilities**
- **Transport provision and infrastructure including Active Travel**
- **Natural Heritage compensation\***

Any contributions required must be necessary to mitigate the direct or cumulative impacts of a development proposal and be proportionate to the scale and nature of the development.

As set out in the Scottish Government Circular 3/2012, contributions must meet the following tests:

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

**How to use this guidance**

This Supplementary Guidance forms part of the Cairngorms National Park Local Development Plan 2020 and applies to all planning applications within the Cairngorms National Park.

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

Contributions towards affordable housing will be required for all residential developments. These requirements are set out in the Housing Supplementary Guidance which should be read alongside this Supplementary Guidance.

Contributions towards natural heritage mitigation and/or compensation may be necessary where it cannot be provided onsite. The contribution, which should be secured through a legal agreement, should ensure to provide this elsewhere where considered appropriate.

**Where does this guidance apply?**

	<b>Small Scale housing</b>	<b>Medium scale housing</b>	<b>Major development</b>	<b>Commercial</b>
<b>Affordable housing</b>	<b>See Affordable Housing/Housing Supplementary Guidance</b>			
<b>Natural Heritage</b>	<i>Natural heritage compensation/ mitigation may be required where appropriate mitigation cannot be provided onsite. This will be assessed on a case by case basis.</i>			
<b>Education</b>	✓	✓	✓	
<b>Healthcare</b>		✓	✓	
<b>Community facilities</b>	✓	✓	✓	
<b>Transport provision and infrastructure</b>	✓	✓	✓	✓

For housing developments less than 4 – Will we apply a reduction in respect of health, education etc? (Moray have)

## **Securing developer obligations**

Developer obligations may be secured through direct payment at the application stage, or through a legal agreement made under section 75 of the Town and Country Planning (Scotland) Act (as amended).

Circular 3/2012 sets out that Planning obligations

Planning obligations and legal agreements will be prepared by CNPA in consultation with the relevant local authority. Depending

## **Viability**

Circular 3/2012 acknowledges that obligations can have financial implications for developers and may result in a proposal being unviable. As set out in Policy 11, a pragmatic approach will be taken in respect ensuring that payments can be staged or phased to ensure that economic constraints or significant upfront costs will 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, they must provide a Viability Assessment to the Authority.

## Education

Residential developments will be required to make a contribution towards education where the school roll is expected to reach or exceed capacity.

CNPA is not the education authority for the National Park and therefore, the required contributions are determined by the respective local education authorities.

Contributions towards the provision of education infrastructure and facilities will be required where a school 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.

School roll forecasts are published annually by each local authority which are 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 following links provide the most up to date school roll forecasts for each local authority:

- Aberdeenshire Council: <https://www.aberdeenshire.gov.uk/schools/parents-carers/school-info/school-roll-forecasts/>
- Highland Council: <https://www.highland.gov.uk/schoolrollforecasts>
- Moray Council:
- Perth and Kinross Council:

These figures are updated annually and the most up to date forecasts will be used to determine the level of contribution required.

Contributions will be required when the school's capacity meets or exceeds the stated threshold as set out within each respective Authority's Guidance below:

- [Aberdeenshire's Developer Obligations Supplementary Guidance](#) sets out that contributions '*will be sought from all residential development where the primary and/ or secondary school roll cumulatively along with other identified development is projected to exceed 100% of the published school capacity in the 5 years following the submission of a planning application for housing*' (2017).
- [Highland Council's Supplementary Guidance](#) states that '*To allow for year to year fluctuations, contributions are required where the school capacity threshold is anticipated to be at or above 90% capacity for five of the 15 years forecast. These five or more years do not require to be consecutive...*' (2018).
- [Moray Council's Supplementary Guidance](#) states that '*Contributions are sought where a primary school is operating, or is forecast to be operating following completion of the proposed development and extant planning permission(s) at 90% and above its functional capacity*' (2018).

- [Perth and Kinross Council's Supplementary Guidance](#) states 'A capacity constraint is defined as where a primary school is currently operating at over 80% and is likely to be operating following completion of the proposed development, extant planning permissions and Local Development Plan allocations, at or above 100% of total capacity' (2016).

The above supplementary guidance may be updated during the course of the Local Development Plan, and where this is the case, the most up to date guidance in respect of education contributions for the relevant site should be used.

The type of education infrastructure required will vary depending on the level to which the school capacity may be exceeded. Therefore contributions towards both Primary and Secondary education may be required to provide:

- temporary teaching accommodation where the school roll is expected to temporarily exceed capacity; or
- additional classrooms and / or a major extension; or
- a new build school (which may or may not include land costs)

Where required, education needs are set out in the community information section of the Local Development Plan on a settlement basis. This highlights the type of education infrastructure that a contribution will be required towards.

In addition, the type and size of the proposed residential units will affect the level of contribution required. There are some exemptions (set out below), and within each Authority, the rates for flats and houses vary and rates may be further adjusted depending on the number of bedrooms within a proposed flat or house.

The figures for each local authority are set out in Annex I however these will be subject to annual variation.

The most up to date rates required for each settlement will be contained in the Local Development Plan 2020's Action Programme and this will be updated on an annual basis to reflect any changes.

*Procedure: Can we advise that developers/people contact us in the first instance to advise on the likely requirement/cost for developer obligations?*

Where there is sufficient capacity within a school and the proposed development will not exceed the functional capacity and threshold set out by the individual authority, a contribution will not be necessary.

#### *Exemptions*

- One bed properties
- Sheltered housing
- Residential institutions
- Business & economic development proposals

## **Healthcare**

As set out in Policy 11, 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.

Contributions may be sought towards:

- New permanent accommodation;
- A permanent extension; or
- An internal re-organisation to provide additional capacity.

Scottish Health Planning Notes set out national standards and specifications for healthcare facilities. They set out that the baseline for the recommended number of patients per General Practitioner is 1500.

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.

The need for contributions towards primary healthcare are contained in each settlement in the community information section of the LDP with further detail contained in the Action Programme which will be updated on an annual basis to reflect any changes. Contributions will not be required for all settlements in the National Park.

The level of contributions towards health care will be agreed in consultation with the relevant local authority and health board.

### *Exemptions*

- Business & economic development proposals

## **Community and community leisure facilities**

Contributions towards community and community leisure facilities will be required where there is a shortfall in provision.

Circular 3/2012 sets out that

### *Exemptions*

- Business & economic development

## **Transport provision and infrastructure including Active Travel**

## APPENDIX I

### Education contributions

Aberdeenshire (As of 2016)

Contributions towards education will be calculated based on the following formula:

Average number of pupils over capacity x the rate per pupil

1 bed = 0.6 – No contribution required
2 bed = 0.8
3 bed = 1 standard sized unit
4 bed = 1.2
5 bed = 1.4
6 bed = 1.6

Primary Education	Rate per pupil (£)
New build (232-462 capacity)	21,375
New build (463+ capacity)	18,525
Permanent extension	18,525
Reconfiguration	7,833

Secondary Education	Rate per pupil (£)
New build (801-1200 capacity)	26,147
New build (1200+ capacity)	23,770
Permanent extension	23,770
Reconfiguration	10,444

There are no proposed new schools in the Aberdeenshire part of the National Park and therefore no contributions towards land or **new schools** will be required.

Highland Council

Contributions towards education as of November 2018

Primary Education	House	Flat*
1 Classroom extension	2,571	1,457
2 Classroom extension	2,041	1,157
Major extension / New school – Build costs	7,359	4,171
Major extension / New school – Land costs	Area specific	

Secondary Education	House	Flat*
1 Classroom extension	1,328	715
2 Classroom extension	1,054	567
Major extension / New school – Build costs	3,482	1,875
Major extension / New school – Land costs	Area specific	

\*Flat rate based on 2 bedroom flat. Three or more bedrooms are subject to house rate.

Moray Council

*There are no capacity issues within the Moray part of the National Park (Tomintoul Primary and Speyside High) and therefore contributions will not be required towards education in this area.*

*Perth and Kinross*

*There are no capacity issues within the Perth and Kinross part of the National Park (Blair Atholl Primary and Pitlochry High/ Breadalbane Academy) and therefore contributions will not be required towards education in this area.*

### **Healthcare**

*NHS Grampian (covering Aberdeenshire and Moray)*

<i>Infrastructure required</i>	<i>Contribution per standard sized unit</i>
<i>Permanent accommodation</i>	<i>1,340</i>
<i>Internal reconfiguration</i>	<i>788</i>

*NHS Highland*

*No contributions are required in the Highland Area.*

*NHS Tayside*

### **Community Facilities**