

Planning Obligation Strategy Consultation Responses

Respondent	Comment	Recommended Response	Officer Recommended Change
Mr D Hawkins	Three dwellings is an unnecessarily low threshold	Following Viability assessment work undertaken by Andrew Golland and Associates as part of the LDP process it is considered that the threshold of 3 units is entirely appropriate within the National Park context.	No change
Mr D Hawkins	Needs to make clear if the three dwellings threshold includes "new" dwellings made by splitting a large house, say, into multiple parts	Agreed that the issue of net gain requires clarification within the text	Amend para 3.7 to state net gain in 3 dwellings
Mr D Hawkins	The sample form doesn't necessarily make the amount of contribution clear; there shouldn't be (as is often the case in BBNPA replies) referral to other documents for key information (in this case the final financial contribution) - the amount should be stated in UK Pounds, not as a formula which has to be deciphered	A formulaic approach has been adopted so as to ensure the particulars of individual development can be taken into consideration in determining necessary contributions. The NPA are aware that for some applicants this may require further clarification. A webpage has been developed to provide further guidance to applicants regarding affordable housing contributions and how to calculate them	No change
Mr D Hawkins	Appendix II - an onerous amount of information needs to be submitted by the applicant, especially for outline planning applications	The NPA has a duty to ensure that all material considerations have been duly addressed in the determination of a planning application. The level of information necessary is commensurate with the scale of the development and the onsite issues. It is not the NPAs intention to require applicants to provide undue documentation.	No Change
Mr D Hawkins	Appendix II - Why should the applicant provide details of the required S106 contributions? This should be a chance for BBNPA to start joined-up thinking with the relevant	The onus is on the developer to determine the extent of contributions necessary as part of scheme design. This process should take place	No Change

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	local authorities	prior to application stage, as the extent of contributions etc will have an impact on the design and viability of the scheme. At application stage the NPA works closely with our colleagues in the relative UA to determine the appropriateness of the submitted scheme.	
Mr D Hawkins	Page 31 flow diagram - if there is a dispute over contributions, the outcome is refusal! This says it all!	As stated in the document, contributions are necessary to make an unacceptable development acceptable. If disputes over contributions cannot be resolved, the NPA will determine that the scheme has an unacceptable impact and should be refused.	No Change
Glamorgan and Gwent Archaeological Trust	Thank you for consulting us on this draft strategy. We note that within the document it is stated that archaeology, as included in cultural heritage, is one of the subjects listed to ensure that no adverse effect or harm would occur to such sites or registered landscapes, which we wholeheartedly support. We would add that any archaeological works necessary within the development process should be undertaken to the Standards and Guidance of the Institute for Archaeologists, and that your Heritage Officer should be fully involved	We welcome GGAT's comments and support for the strategy. However, the detail requested is best placed within the detail of a planning condition or S106 agreement. Our standard condition, contains the requirement to comply with IFA standards.	No Change
PCC – Outdoor Recreation Officer	<p>Instances where category 2 contributions may be sought include:</p> <p>The provision and maintenance of open space and recreational areas in developments including enhancement of 'public realm' areas including waterside sites.</p> <p>Can I suggest that Playgrounds with fixed play equipment be included after recreational areas, we do find that some developers will initially say that they are going to install play equipment as part of a development but upon completion will leave an area as an open space rather than a designated play space?</p>	To ensure clarity is provided to developers as to the type of benefit that may be sought, it recommended the Planning Obligation Strategy be amended accordingly with PCC suggestion.	Amend para 3.10 to include reference to playgrounds with fixed play equipment thus: "The provision and maintenance of open space and recreational areas including playgrounds with fixed play equipment in developments and/or the enhancement of 'public realm' areas including

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			waterside sites”
PCC – Outdoor Recreation Officer	Contact details are incorrect	Amend accordingly.	Amend Appendix 3 to state Stephan Butcher Outdoor Recreation Officer stephanb@powys.gov.uk Tel 01874 612288
PCC- Affordable Housing Officer	Having studied the draft PG Strategy I am happy to comment that it appears totally in line with the LDP and gives high importance to Affordable Housing contributions whilst also recognising the role of the Unitary Authorities in the actual provision of all community benefits. I presume that implicit in this is the full and timely involvement of LA departments in the negotiation of these requirements including AH provision and their ultimate delivery	We welcome PCC Affordable Housing Officers comments and support for the strategy.	No change
PCC Highways	We have considered the content of the draft strategy and would advise that, as the Highway Authority, we support the principle of seeking financial obligations from developers which will help mitigate the impacts of developments on our communities	We welcome PCC Highways Officers comments and support for the strategy.	No change
PCC Highways	Why has the threshold for Category 2 Contributions been set at 3 or more dwellings or 500m2 or more of commercial floor space?	Following Viability assessment work undertaken by Andrew Golland and Associates as part of the LDP process it is considered that the threshold of 3 units is entirely appropriate within the National Park context. (ref)	No change
PCC Highways	It is not clear how contributions that are obtained by the Planning Authority will be transferred to the relevant County Council and whether time limits will be imposed for Councils to spend the monies obtained.	This issue is to be defined through the S106 agreement relevant to the application. Usual procedure in such circumstances is for the NPA and the UA to be joint signatories with the	No change

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		applicant. As this is an 'internal' procedural matter it was considered to be unnecessary detail for the SPG.	
PCC Highways	Have you consulted with Welsh Assembly Government with regard to the transport related issues that may arise on trunk roads as a result of potential developments?	The Welsh Government are statutory consultees on all planning consultations. As such they have been notified of this consultation accordingly.	No change
PCC Highways	Development proposals will continue to be assessed in accordance with the criteria in Technical Advice Note 18 and as such many developments will still need to submit Transport Statements/Assessments which could potentially identify infrastructure works which may be in excess of the additional obligations.	It is hoped that the HA would be in a position to be able to inform developers at pre-application stage of the likely level of contributions and assessment work necessary for highway impacts to be assessed. If during the course of deliberations additional obligations are found to be necessary these will be material consideration to the determination of the application. It is suggested that this issue is raised with developers as part of the pre-application discussions.	No change
PCC Highways	We feel that the identification of specific officers in the contact details could lead to potential delays when officers are away on leave, change jobs or leave the Authority. The current contact list for Powys is already out of date with Lucy Bevan and Richard Hobbs no longer in employment with the Council. We are therefore proposing that a central contact should be listed on the contact details who will co-ordinate with the various departments that may need to have input but will need to clarify whom that nominated person will be..	The Authority agree that there are potential issues with contact details being given for named officers, and endeavour, where possible, to seek generic or departmental email/telephone contacts.where possible. As PCC are unable to provide a central co-ordinator at present, it is suggested that the contact detail for highways be changed to the help desk email.	Amend Appendix 3 Powys Service Area Contact Details thus "Transportation 0845 607 6060 tlshelpdesk@powys.gov.uk
Theatres Trust	We note at para.3.10 a list of categories where contributions may be sought including community facilities. Three examples are given which we believe is inadequate as it does not provide clarity when assessing planning applications as to whether a particular	Agree that the term community facility would benefit from further elaboration. It is suggested that the definition provided by the Theaters Trust be added as a footnote to the fourth bullet point of the list at 3.10	Footnote added to bullet point four of 3.10 <i>community facilities provide for the health and wellbeing, social,</i>

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	<p>community facility is relevant or not.</p> <p>The term 'community facilities' is widely used in planning policy documents, often with no explanation. We suggest that a description is used so that guidelines are clear and consistent, and recommend this succinct all-inclusive description which would obviate the need to provide examples: <i>community facilities provide for the health and wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of the community.</i></p>		<p><i>educational, spiritual, recreational, leisure and cultural needs of the community.</i></p>
<p>Mr T Organ, CO2 Designs</p>	<p>Substantially I agree with the Obligation Strategy except in respect of obligations applied to the sub-divisions of existing houses.</p> <p>Recent research by Oxford University has established that there is substantial under-use of existing properties due to demographic reasons. In recent years householders nationally have extended houses in order to accommodate families with children, who then subsequently leave home for work or university opportunities. Also, in an ageing population where one member of married couples has died, the partner is left the living alone.</p> <p>It must be accepted that the most severe housing shortage falls on the young looking for affordable properties. By adding an obligation of £30,000 on those who wish to divide large properties the exercise becomes uneconomic, and I know of current examples of this happening.</p> <p>Sub-division can and does make a real contribution to the desperately needed stock. A study of the facts would suggest that grants should be made to prospective</p>	<p>It is not the intention of this strategy to make development unviable, rather to set out the process by which applicants will need to determine the impacts of their proposal on the National Park, our statutory designation (including pursuance of our duty). If during this process it is determined that the level of contributions necessary would make a proposal unviable, there is a procedure in place to address this issue.</p> <p>We also note and agree that the most immediate housing need within the National Park is for affordable housing for young people. It is the intention of this strategy to address this need by seeking contributions to aid the delivery of more affordable housing across the Authority area, including the development and funding of 'empty homes' redevelopment scheme</p>	<p>No Change</p>

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	<p>developers to encourage sub-division not the other way around.</p> <p>The imposition of the obligation charges, given the Oxford University study, must be a serious mistake.</p>		
Mr T Organ, CO2 Designs	<p>Secondly the sub-division of farmhouses and other homes in rural areas should be encouraged where ageing farmers and rural workers wish to accommodate parents and offspring. Mid-Wales and the Brecon Beacons have very low levels of income - I believe that incomes in the area are the second lowest in the whole of the UK. So low in fact that the purchase of an alternative house for ageing parents or the young is beyond financial reach whilst at the same time the supply of affordable houses or flats is inadequate compared with demand. If we are to ensure the wellbeing of low-income members of the community, we should encourage sub-division and extension of existing properties. In the case of farming families, this will also ensure continuity and retain young persons in the area and in local communities</p> <p>I have also previously made the point that the isolation of farmers in mid-Wales has contributed to a deterioration in physical and mental health in the farming community even leading to a higher than usual suicide rate.</p> <p>I urgently request that you reconsider your proposed and existing policies so that it will be possible to economically and practically make more efficient use of our existing stock of buildings and assist the wellbeing of local families</p>	<p>As above, the policy position is intended to facilitate the development of appropriate affordable housing schemes.</p> <p>Planning obligations will only be requested where these are reasonable and viable.</p> <p>TAN 6 makes provision for development to facilitate succession planning on established farms. Such development is considered a form of affordable housing and as such would not be subject to contributions (where appropriate occupancy conditions are applied).</p>	No change
Roger Williams MP Kirsty Williams	Where a condition is attached to a dwelling to ensure that it is affordable in the local community and remains affordable in perpetuity then consultation should take	The NPA is aware of difficulties with securing mortgages for properties with S106 attached. The NPA working with our legal team, are	No change

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AM	<p>place on a regular basis with mortgage providers to ensure that the 106 condition attached to the dwelling is worded in such a way as to make it possible for mortgages to be granted on that property .</p>	<p>developing Mortgagee in possession clauses which satisfy the lenders without compromising the application of the policy position. This issue is probably best addressed in the Affordable Housing SPG</p>	
National Farmers Union Cymru	<p>NFU Cymru welcomes the opportunity to respond to the Brecon Beacons National Park Consultation on the Planning Obligation Strategy.</p> <p>The importance of the farming industry as the backbone of rural Wales cannot be over-stated, the Welsh Government identifies that the vitality and potential of rural areas is closely linked to the presence of a competitive and dynamic farming sector which also plays an important role in generating additional economic activities. Within the Brecon Beacons National Park the landscape has been created and is maintained by farming with agricultural land making up by far the largest proportion of land area. The Authority states, as a duty, the need to foster the social and economic well-being of local communities and one of its objectives is to promote and support sustainable agriculture.</p> <p>NFU Cymru supports a planning system that delivers national, local and community objectives by supporting appropriate development. Central to this vision is a planning system that demonstrates a thorough understanding and appreciation of the role of agriculture, not only from the perspective of farmers as food producers and principle land managers but also having due regard to the critical economic relationship between the appearance of the countryside and the need for profitable businesses to sustain it.</p>	<p>The National Park Authority recognises the importance of Agriculture to the Landscape, environment and economy of the area. The National Park Management Plan sets out a series of seven strategic objectives for Farming within the National Park, the detail of which seek to achieve the same aims as NFU set out in their representation.</p> <p>The status of the National Park and it's functions is not the subject of this consultation.</p>	No change

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	<p>NFU Cymru has long called for an appropriate balance to be struck between the weight attached to protection of the landscape and community and business development in Wales' three National Parks. In the recent Welsh Government Consultation Document 'Positive Planning – Proposals to reform the planning system in Wales', NFU Cymru highlighted the inconsistency in the planning system and variation in levels of service provided across Wales both within the National Parks and Local Planning Authorities.</p> <p>In our view, the variation in performance/lack of consistent approach results in there being no clear consensus, at present, over whether National Park Authorities should continue to have responsibility for planning in their respective areas. We understand this matter is under consideration by Welsh Government Ministers and you will, of course, be aware of calls from a number of stakeholders calling for the National Parks to be stripped of their planning powers altogether.</p> <p>We are, therefore, surprised by the timing and concerned by the content of the current consultation on the Planning Obligation Strategy, together with consultation on the Draft Affordable Housing Supplementary Guidance which we will respond to separately.</p>		
National Farmers Union Cymru	<p>Planning obligations, as established by planning law and legal test, should only be imposed where they are; necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Each planning application, by law, should be looked at on its own merits. NFU Cymru would, assert, therefore that the National Park Authority do not need this guidance to</p>	<p>As set out in the strategy, the document is intended to provide developers with procedural guidance as to the process by which contributions will be sought. As set out at section 2.3 of the Strategy, a contribution would only be sought, if it is necessary in planning terms, directly related to the proposed development and fairly and reasonably related in scale and kind to the</p>	No Change.

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	<p>properly carry out its local planning authority function. The proposals also impose an additional unnecessary burden on National Park residents and particularly our members who are being directly disadvantaged solely because they are located within this specific national park.</p>	<p>development. The NPA is therefore satisfied both of the legality and the necessity of the document.</p>	
<p>National Farmers Union Cymru</p>	<p>Sustainability and biodiversity issues are highlighted in addition to affordable housing as matters requiring a planning obligation on applications of three dwellings or more or 500m² of commercial space. NFU Cymru would highlight that there is no justification in the document for this and would suggest it is normal practice to provide a sustainability statement in the Design and Access Statement to accompany all planning applications, as identified in TAN 12. Likewise all applications should consider biodiversity issues as a matter of course, it is mandatory, for example, for barn conversion applications to be accompanied by a bat and owl survey. Larger developments have to be accompanied by an assessment of biodiversity issues which may be affected and mitigation measures put in place. These have to be undertaken by suitably qualified ecologists. Biodiversity and sustainability issues can in the vast majority of planning applications be covered by planning condition (which a Planning Authority should always do in preference to a planning obligation to meet legal tests). There are model planning conditions available in Wales to advise Local Planning Authorities and Planning Inspectors for affordable housing and sustainability for housing development on the Planning Inspectorate website.</p> <p>Many issues with respect of sustainability and biodiversity are also covered by different legislation so should not be duplicated by planning legislation, which is poor practice</p>	<p>The strategy sets out the priorities for the National Park, which, in accordance with our designation, the NPA will utilise planning obligations to ensure no adverse impact from development. In defining the process for applicants (see process map at appendix 12) it is clearly stated that consideration of Category 1 Contributions are only necessary where they do not form an integral component to the scheme. It is acknowledged that the main body text may benefit from additional clarification in relation to this matter.</p>	<p>Recommend changes to section 3.5 as follows “Planning obligations specific to National Park will be sought, where necessary, as follows”</p>

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	legally and an additional administrative burden.		
National Farmers Union Cymru	In effect, this will mean that CILs will operate and be administered by the Unitary Authorities in addition to Planning Obligations which will be determined by the National Park Authority. NFU Cymru would assert that, in many ways, these are duplicate charges that are unfair and we strongly oppose their introduction which will mean that the costs of development become extremely onerous and are likely to prohibit development proposals in the National Park. We would also highlight that those developments of three or more residential units or for 500m ² or more of commercial floor space will be required to make Category 2 contributions. If our interpretation is correct, this constitutes a third tier of payments for these types of development	As stated within the document, the NPA is yet to determine the viability of CIL within the Authority area. Moreover, the NPA has no jurisdiction to collect CIL on behalf of our constituent authorities.	No change.
National Farmers Union Cymru	It is our view that the proposed costs associated with any open market development in the Park which results in the net creation of a new dwelling are wholly disproportionate. The over-taxation of such proposals will prevent such proposals being brought forward and will undoubtedly have the net effect of stifling local communities of the developments which are necessary to progress in a sustainable manner.	Viability assessment undertaken by Andrew Golland and associates through the LDP process has found that the level of contribution is appropriate and can be sustained without impact on the viability of future development within the Authority. However as stated in section 3.20 of the Strategy if it can be reasonably demonstrated in writing by the applicant that there are significant factors which means that the scheme is unviable with all required contributions	No change
National Farmers Union Cymru	The Welsh Government's Inspector who examined the draft BBNPA LDP raised initial concerns about the inadequate numbers of dwellings coming forward to meet anticipated need in the Park. Large proportions of any new dwellings will be sited on agricultural land currently owned by farmers. NFU Cymru anticipates that the majority will not progress these sites due to the overburden of fiscal penalties which are proposed. This	The LDP has been examined and found to be sound. The Inspectorate were satisfied that the levels of housing provision set out in the plan are both adequate and deliverable, taking into consideration the requirements of policy 53 of the LDP	No change

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	will result in the Park falling far short of its new-build target and a consequent significant shortfall in income from planning fees.		
National Farmers Union Cymru	We believe that whilst the wider national economy is seeing a resurgence in the building industry, the Park's development economy will remain stagnated if these short-sighted measures are adopted.	The NPA is satisfied that there will be no impact on the viability of development as a result of policy 53 and its implementation through this strategy.	No change
National Farmers Union Cymru	We note the Disputes Procedure proposed by the Authority whereby the applicant can seek to demonstrate that there are significant factors which mean that the scheme is unviable with all the contributions required. However, we further note that all costs will be fully charged to the developer, again adding further costs to the planning process which will further undermine development within the Park, particularly since a scheme that is demonstrated to be unviable when screened through the Park's Three Dragons programme, will be refused.	Is it standard practice for viability assessment to be at the developers cost. This is a last case resort where the applicant challenges the NPAs own Viability Assessment (which would be undertaken as part of the application process).	No change
National Farmers Union Cymru	NFU Cymru objects to the proposals put forward with respect to the Planning Obligation which we believe are contrary to Welsh Government aspirations of a 'culture change' and change in attitude away from regulating development towards encouraging and supporting appropriate development using a 'Development Management' approach. We believe the proposed guidance is an out of date approach to planning policy which is likely to reinforce inequalities within the National Park boundaries.	The strategy implements policy 53 of the LDP. It is a procedural document. The policy position has been found to be sound. Contrary to the assertion of NFU the WG are satisfied with the policy position of the LDP and welcome its adoption as statutory planning policy.	No change
National Farmers Union	It is with regret that we feel that the proposals are also at odds with the duties and objectives of the National Park	As stated within the Strategy, Agricultural development is not subject to standard	No change.

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Cymru	Authority to foster the social and economic well-being of local communities and promote and support sustainable agriculture. If the Brecon Beacons National Park Authority are intent on bringing in this strategy then at the very minimum, any form of agricultural development, including agricultural workers accommodation should be exempt.	contributions (para 3.10). It is not the intention of policy 53 or its implementation to require contributions from development which is entirely agricultural in nature	

From Ros Garratt,

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On behalf of: Hay Affordable Housing Group

Dear Hay Town Council,

There is currently a consultation period open for comment on the BBNP LDP that was recently adopted by that organisation. The Consultation Document can be viewed using the following: <http://www.beacons-mpa.gov.uk/the-authority/planning/strategy-and-policy/planning-obligations-strategy>

The consultation period runs from 10th April – 5th June 2014.

Please will HTC make representations on behalf of our community to the BBNP asking that the Planning Obligations for Affordable Housing are adhered to, and realised fully through the construction of Affordable Homes on new sites accepted for the BBNP LDP?

It is clearly stated within the Consultation Document that any application must have a Planning Obligations Statement in which clear indication is made as to how the developer will fulfil obligations for categories I&2 Contributions to the community within which they are applying for planning. We feel that this document needs strengthening to ensure that Hay-on-Wye gets the Affordable Homes that it needs.

For example the Planning Obligations Checklist (contained in the appendices to the Consultation Document) not only invites applicants to lay out how they will fulfil obligations but also allows them to explain why they can not fulfil planning obligations as required by the BBNP.

In the interests of obtaining developments that fulfil the needs of Hay-on-Wye as a community we would like to see the BBNP asking how the developer will consult directly with our community to ensure that the correct quota Affordable Homes is provided to a design brief that satisfies local need.

Category I Planning Obligations currently includes the following paragraph:

a) Affordable Housing

To ensure that developers meet the provision for affordable housing and that the affordable element is retained in perpetuity as set out in LDP Policy 28 and 29 and supplemented by the Affordable Housing SPG (consultation draft October 2010)

The Planning Obligations Checklist concludes with the following:

OR If you are unwilling or unable to meet the requirements of the Planning Obligation Strategy as part of the application then the statement should detail the reasons why the obligations cannot be met and documentary evidence of the detailed discussions which have taken place with the respective Unitary Authority which have informed this position.

Sadly this will encourage developers to avoid building the affordable housing that Hay needs when they pursue business interests in our community

With the Town Plans that are being developed by various organisations in the community, the recent consultation and appraisal of sites that has taken place regarding affordable homes, as well as local interest in the issue, it is felt that Hay-on -Wye represented by HTC is in a position to make informed recommendations to the BBNP regarding the Consultation Document and its contents.

Yours sincerely,

Rosalind Garratt