

Transforming Planning in Practice - Updated Planning Reform Implementation Programme

October 2021

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Introduction

The Planning (Scotland) Act 2019 sets the future structure of Scotland's planning system and forms an important part of our wider planning reforms. The 2019 Act includes a broad range of changes to be made across the planning system including:

- arrangements for the preparation of development plans;
- proactive masterplanning;
- development management procedures and considerations;
- improved experience and influence of communities;
- strengthening enforcement; and
- stronger leadership and resources, alongside improved performance and positive outcomes.

Our commencement of the Act's provisions began in autumn 2019, shortly after it had been passed by the Scottish Parliament and it received Royal Assent. In September 2019, we published the original Transforming Planning in Practice work programme, setting out our proposed staged implementation of the Act alongside some wider aspects of Scotland's planning reform programme.

Under that schedule, most of the changes to our planning system would have been implemented by the end of 2021. However, in spring 2020, much of this work was paused so that we could focus collective efforts on maintaining a functioning planning system during the COVID-19 pandemic, and also so that we could ensure people had the capacity to engage effectively and remain involved in these crucial improvements to our planning system.

Some aspects of the work programme continued to move forward, albeit at a less rapid pace than we had previously intended. For example, it is important to have the new development planning regulations in place alongside the adoption of National Planning Framework 4 (NPF4), now anticipated by summer 2022 after that had also been held up last year. So that new local development plans can proceed as soon as possible afterwards, we have maintained work on this and will be ready to consult soon. And we were determined to progress those provisions of the 2019 Planning Act which will help people to be involved in shaping the future of their areas, to reduce conflict and to build public trust in planning.

We remain committed both to completion of the full package of planning reforms, and to doing so in close collaboration with planning stakeholders and following thorough public consultation.

In this refreshed Transforming Planning in Practice work programme, we update on progress so far in the implementation of the Planning (Scotland) Act 2019 and other

aspects of planning reform, and provide a new schedule for the remaining aspects of the work to reform Scotland's planning system. We hope stakeholders will find this helpful, to inform their own forward work plans.

Development Planning

National Planning Framework

Section 2 of the Act, making amendments to the content and procedures for preparing the National Planning Framework, came into force on 8 November 2019 along with the Purpose of Planning (section 1) which applies to the preparation of the Framework as well as local development plans.

The preparation of Scotland's fourth National Planning Framework (NPF4) has progressed significantly and our team led extensive public engagement in early 2020, which was drawing to a conclusion just ahead of the restrictions arising from the pandemic. This is a major project as it includes a national spatial strategy for Scotland and a comprehensively revised suite of national planning policies. NPF4 will form part of the statutory development plan when it is adopted by the Scottish Ministers. The draft will explain how NPF4 will contribute to the six outcomes set out in the Act, and will also include national developments and requirements for housing land.

As a result of the pandemic, we extended the overall NPF4 timescale and published and consulted on an interim Position Statement in November 2020. Having taken into account the views we received in response to the Position Statement, we are on course to lay a draft of NPF4 in the Scottish Parliament later this autumn for scrutiny alongside a period of formal public consultation and extensive engagement activity. Under the new procedures, the draft will be laid in the Parliament for a period of up to 120 days to allow representations to be made, which we expect to take until spring 2022 to conclude. The final adoption date will depend on the approval of NPF4 by the Scottish Parliament, but we are currently aiming to lay a finalised version for approval by summer 2022.

Local Development Plans

The Act made significant changes to the approach to preparing local development plans (LDPs), with the aim of making them more effective, with greater community involvement and more focus on delivery. It introduces a requirement to produce evidence reports along with an early 'gatecheck' to ensure the evidence is sufficient, new requirements for participation and engagement of communities and particular groups, and a range of issues which must be considered in the plan. The Act also removed the provisions relating to main issues reports and statutory supplementary guidance and changed the period within which LDPs must be reviewed from within 5 years to within 10 years.

This has proven to be a complex part of the planning reforms, and more time was initially taken to ensure that stakeholders were given adequate opportunity to contribute their views on new regulations and guidance through participation in three cross-sectoral working groups.

We published guidance on the transition to the new system of development plans during 2020 as well as further additional guidance on development planning during the pandemic.

As the draft NPF4 has emerged, we have also been considering in more detail how the new policies will relate to the processes and content of local development plans. We expect to be in a position to publicly consult on draft regulations and guidance later this autumn, alongside the draft NPF4. Also as part of this package, we will consult on regulations covering the detailed arrangements for production of play sufficiency assessments and open space strategies.

Drawing on experiences from recent pilots, we will produce guidance on preparing and maintaining lists of persons seeking land for self-build housing early in 2022 and commence the provisions requiring such lists by the summer.

Regulations on future amendment of the NPF and local development plans will be considered later, once the initial versions are in place.

Regional Spatial Strategies

The Act will remove the requirement for strategic development plans in the four largest city regions, and introduce a requirement for all authorities, working together as they see fit, to prepare regional spatial strategies setting out strategic development priorities. This part of the Act has not yet come into force but significant progress has been made to explore how the provisions could work in practice. This work has also formed part of our preparation of NPF4 with local authority-driven indicative regional spatial strategies emerging through a collaborative and creative process to inform the national spatial strategy. The outputs will therefore be considered as an integral part of the formal consultation on the draft National Planning Framework.

Given the significance of the consultation on NPF4, and mindful of the capacity of our stakeholders, we now expect to publish draft statutory guidance on Regional Spatial Strategies later in 2022, building on experiences with the indicative strategies.

Community Engagement

It is vital that people have the opportunity to engage meaningfully and have a positive influence in the future planning of development in their areas. Despite the difficulties during the pandemic, we have sought to progress this aspect of reform as a priority.

We have published guidance on the promotion and use of mediation in planning within the 2-year timescale required by the Act.

We are making changes to pre-application consultation in relation to major developments, now being scheduled to come into force in April 2022. The timing of this has been closely linked to temporary changes made to the requirement to hold public events under coronavirus legislation, now extended to the end of March 2022.

Earlier this year we consulted on regulations and guidance for Local Place Plans. Drawing on the outcomes from that, we have recently laid new regulations in the Scottish Parliament and will continue to develop the guidance to support them and to encourage communities to take advantage of this new opportunity to influence the development of their areas. The regulations are expected to come into force in January 2022.

Work to prepare new guidance on effective community engagement is ongoing and we are now expecting to produce this in draft during 2022, alongside finalisation of the new regulations and guidance on development planning.

Masterplan Consent Areas

We have recently worked with several planning authorities to pilot the new provisions of the Act on Masterplan Consent Areas, using the existing Simplified Planning Zone mechanism. Work to implement Masterplan Consent Areas through new regulations was paused during the pandemic. We will take this forward again during the course of 2022, drawing on experiences from the pilots, to ensure new powers are in place to support the delivery of NPF4, once approved and adopted, and the new system of local development plans. Advertisement consent regulations will be updated to make provision for Masterplan Consent Areas at the same time.

Short term lets

We have put in place new regulations enabling the designation of Short-Term Let Control Areas, effective from April 2021, as part of a cross-government approach to regulating short term lets.

Development management

We have brought into force the Act's provisions relating to: the preparation of forestry and woodland strategies; giving notice to elected members about major applications; removing the need for full council decisions in certain situations; and including a statement about development plan conformity on decision notices.

In late 2020, we brought into force the Act's procedural changes for the modification and discharge of planning obligations, along with a clarification about what planning obligations may comprise.

Work on other development management changes has been paused, to allow our team to focus on the vital task of keeping the planning system running over the course of the pandemic. We intend to pick up the range of development management provisions again during the course of 2022. These will include:

- Duration of planning permission and completion notices – the Act changes the arrangements for setting the duration of planning permission and for challenging a notice requiring development to be completed. We intend to issue guidance on how to consider appropriate duration.
- Guidance on the meaning of “similar application” and “significant change” in relation to declining to determine ‘repeat’ applications, and extending the time period in which authorities can decline to determine an application from 2 years to 5.
- Requirement to publish planning obligations and an annual report.
- Considering whether there should be a statutory requirement to consult a representative body in relation to planning applications affecting music venues, and whether any changes to neighbour notification would be appropriate in relation to listed building consent.
- Potential changes to provisions relating to the delegation of decisions to planning officers and to local reviews.

We are to lay a statement in the Scottish Parliament setting out the circumstances in which the Scottish Ministers consider it appropriate for them to call in planning applications. We will do that in 2022 following the adoption of NPF4, to reflect the new national policies and spatial strategy.

Health Impact Assessment

The proposed national developments to be included in the Draft NPF4 have been informed by Strategic Environmental Assessment, which includes consideration of the impacts on human health. We will reflect on the lessons from this work and use it to inform future regulations on assessing the health effects of national and major developments.

Agent of Change principle

At the end of 2019, we brought into force the requirement for planning authorities, when considering an application for a noise sensitive development, to take particular account of whether sufficient measures are included to mitigate, minimise or manage the effect of noise from existing cultural venues, particularly live music venues, dwellings or businesses. As we have previously committed, the draft NPF4 will also include a new policy to address the Agent of Change principle, recognising the need to support live music venues and their contribution to Scottish culture and society.

Changing Places toilets

The Act requires that a planning authority may only grant permission for certain types of development if they include a Changing Places toilet, suitable for adults with complex care needs. We brought forward regulations, which came into effect in May 2020, to align the requirements in the Planning Act with the Building Regulations technical guidance which had previously come into effect in October 2019.

Compensation

The Act provides for Ministers to make regulations about the payment of compensation where planning permission granted by a development order is withdrawn, and an application subsequently made for permission that would have been granted by that order is refused. We will continue our work to address the complexities involved in this change, and now expect to lay regulations in summer 2022.

Enforcement

Increased fines for failing to comply with various types of notices issued to enforce planning controls were brought into effect in late 2019, together with requirements for courts to consider the financial benefit gained from the breach of planning control when setting the level of fines.

Work on charging orders and enforcement charters was paused, but this will recommence in 2022 with a view to having the new regulations in place later in the year.

Fees and Performance

We consulted on a new approach to measuring and improving performance and a new structure for planning fees. The consultation and analysis of responses concluded in early 2020. We paused the work at that stage as we did not consider it appropriate to progress such change during a period of lockdown. However, this work has recommenced and we expect to lay fees regulations in the Scottish Parliament by the end of 2021.

We are working with the High Level Group on Planning Performance to determine the role and arrangements for a National Planning Improvement Co-ordinator and will take forward recruitment early in 2022. We are also continuing to work with the High Level Group to consider the scope to introduce regulations on annual performance reporting and to develop regulations on training for elected members of planning authorities.

The Royal Town Planning Institute has progressed work to inform guidance on the appointment of Chief Planning Officers, recognising the value that planning adds to delivering authorities' objectives and to achieving positive outcomes. We will take this into account as we progress this further aspect of the Act during 2022.

Other workstreams

In addition to the implementation of the Planning (Scotland) Act 2019, we are taking forward a number of other strands of work under the wider planning reform programme.

Permitted development rights

We are undertaking a substantial review of permitted development rights that are granted by the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended). Through Phase 1, we introduced new permitted development rights earlier this year for: digital telecommunications infrastructure; agricultural development; peatland restoration; development related to active travel; and aquaculture development. We expect to consult on Phase 2 in early 2022.

Land value uplift capture

We will progress work towards an effective, fair mechanism for capturing, for public benefit, a share of the increase in land value that occurs when development is supported through the planning system. As part of our ongoing review of existing mechanisms, we commissioned and recently published research on the use of Section 75 planning obligations. The findings, together with the new power for an infrastructure levy introduced by the Act, will inform our next steps on this important area, with a view to introducing new legislation in 2023-24.

Compulsory purchase reform

In the coming year, and in advance of a Bill later in this parliamentary term, we will commence stakeholder engagement towards future reform and modernisation of the compulsory purchase system in Scotland so that it can be clearer, fairer and faster for all parties. This will help support the delivery of much-needed infrastructure, development and regeneration projects in the public interest.

Digital planning

We published a Digital Strategy for Planning in November 2020, setting out a framework for a digital planning system based on people, data, technology, working practices and a culture of innovation. We have secured a 5 year, £35 million funding commitment to support the delivery of its priorities and actions. The Digital Transformation Programme will provide a comprehensive new suite of digital services for planning. The programme got underway recently, a programme board has been appointed and met for the first time in July and the first procurement opportunities have been issued. In the early stages, we are embarking on a pilot roll-out of a digital community engagement tool and will begin to comprehensively

improve the online process of applying for planning permission, for greater speed and clarity for applicants.

Place

Ultimately, the reforms of the planning system must ensure we are creating great places for all. So we will broaden our programme on the promotion of place by implementing the Place Principle. We are launching a new Our Place website with information, tools and resources to help support the development of places and services that improve our health, prosperity, and quality of life, and protect our environment. We will also support the delivery of 20 Minute Neighbourhoods, as places where people can have their needs met locally within a 20 minute walk from their homes, reducing emissions and encouraging active travel.



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