

# **Local Development Planning**

## **Regulations & Guidance Consultation**

**December 2021**

# **Local Development Planning Regulations & Guidance Consultation**

## **Part A**

### **Introduction**

## PART A – Introduction

### Consultation

1. This consultation paper on Local Development Planning (LDPs) is in the following parts:
  - Part A - This Introduction
  - Part B - Proposals for Development Planning Regulations
  - Part C - Draft Guidance on Local Development Planning, and
  - Part D - Interim Impact Assessments
2. The regulations and guidance are part of our wider work on planning reform and implementing the [Planning \(Scotland\) Act 2019](#) (the 2019 Act). Significant changes to development planning were made by the 2019 Act. To guide implementation of these changes, the following documents above have been prepared and the Scottish Government is now inviting views on these proposals.
3. Views should be submitted to [LDPRegsandGuidance@gov.scot](mailto:LDPRegsandGuidance@gov.scot) by 31 March 2022.

### Planning Reform

4. LDPs set out how our local places will change into the future, including where development should and should not happen. It is a legal requirement for planning authorities to prepare LDPs. They form part of the statutory ‘development plan’ and will, alongside the National Planning Framework, be the main basis for all decisions on planning applications.
5. There is strong support for a plan-led planning system in Scotland. Planning reform, including provisions of the 2019 Act, has sought to strengthen and simplify LDPs. We want a new approach to preparing plans that will result in new style plans that support the management and use of land in the long term public interest. We want to refocus plans on the outcomes that they will deliver for people and places, rather than the processes of preparing them. We want plans to be informed by consultation and collaboration so that they are relevant, accessible and interest people.

### Collaborative Preparation

6. Collaboration has informed the preparation of this consultation. It follows on from the extensive engagement undertaken prior to the Planning (Scotland) Bill being considered by the Scottish Parliament.
7. Following the passage of the 2019 Act, four working groups were convened to support the Transforming Planning in Practice programme. One group focused on Development Planning: it was a cross-sector [group](#), comprising over 30 individuals. At the first meeting of the working group, in December 2019, members proposed that subgroups should be formed to explore and develop proposals for implementation in more detail. Subgroups were therefore set up to consider:

## PART A – Introduction

- Scope and content of future LDPs,
  - Procedures for preparing LDPS, and
  - Detail of the Evidence Report & Gate Check.
8. Despite the challenges for collaborative working presented by the coronavirus pandemic, the subgroups have convened online, discussed and provided written input to the preparation of this consultation. We are especially grateful for the work of the subgroups members, for their time and positive contributions, given the challenging circumstances.
9. The Development Planning Working Group was provided with an [Overview](#), outlining the remit, aims and outputs requested of each subgroup. Each subgroup was provided with a Discussion Paper that covered the requirements of the 2019 Act, a summary of thinking so far and questions to support production of the requested outputs. These papers and a [library of relevant information](#) was made available [online](#). This page has been updated with information as the subgroups have met, including presentations, meeting notes and their outputs.
10. The three subgroups met in the Autumn of 2020 and draft outputs were provided at the end of 2020. Final outputs were presented at a meeting of the subgroups in February 2021. These outputs have been used to inform the preparation of this consultation.

### Proposed Regulations

11. Regulation is necessary to provide additional detail to the requirements set out in primary legislation. New regulations will be prepared for the implementation of the new LDP system. Our proposals for these are set out in **Part B** of this consultation.
12. Given the amount of change, we consider there to be benefit in working to the principle that regulations are kept to the minimum necessary. This view was also reflected by the Procedures Subgroup, who noted there are already many procedures set out in the Act. We consider that much of the detail of Scottish Ministers' expectations for implementation of the 2019 Act should be set out in guidance. This will provide for maximum flexibility and resilience, allowing experience from implementing the new system to be incorporated into updated guidance as it emerges.

### Draft Guidance

13. [Scottish Government Planning Circular 6/2013](#) provides guidance on the legislative requirements relating to development planning to implement the Town and Country Planning (Scotland) Act, 1997, as amended by the Planning etc. (Scotland) Act, 2006. We do not however intend to prepare a Circular for the changes to be introduced by the 2019 Act. We consider that an alternative approach to guidance will allow us to be clear on Scottish Ministers' intentions and expectations for the new system so that they deliver new style plans. Draft guidance is set out in **Part C** of this consultation.

## PART A – Introduction

14. The Draft Guidance is structured in three sections, each fulfilling a different purpose:
- Section 1 sets out the overall **aims and expectations** for new style plans. It provides key messages of what they should be like in the future.
  - Section 2 sets out the **process** of how to achieve a new style plan. It covers the legislative requirements, how these are met and responsibilities of stakeholders.
  - Section 3 sets out detailed **thematic** guidance on how new style plans are expected to implement the Draft National Planning Framework 4 (NPF4) policies for the development and use of land. This will be revised as appropriate following both this and the NPF4 consultations.
15. The above structure enables the guidance to be a live document, so that it can be reviewed in parts and offer access to the different types of information as needed by different audiences. It provides flexibility to adapt and evolve as we all learn how the new system is implemented.

### **Question 1**

**Do you agree with the principle that regulations be kept to the minimum necessary and that more detail be provided in guidance and kept updated?**

**Yes / No / No View**

**Please explain why you agree or disagree.**

### **Amendment of LDPs**

16. The 2019 Act introduced the ability to amend LDPs at section 20AA. We do not intend to commence these parts of the Act at present. We will consider the regulations and guidance for amending LDPs once the new development planning system is in place.

### **Impact Assessments**

17. This consultation paper is accompanied by the interim impact assessments listed below. The outcomes of the initial assessments are contained in **Part D** of this consultation.
- Business and Regulatory Impact
  - Equalities Impact Assessment, combining human rights considerations
  - Child Rights and Wellbeing Impact
  - Island Communities Impact

## PART A – Introduction

### **Question 2**

**i) Do you have any views on the content of the interim assessments?**

**Yes / No**

**Please explain your views**

**ii) Do you have or can you direct us to any information that would assist in finalising these assessments?**

**Yes / No**

**Please provide or direct us to the information**

18. We have also included initial screening assessments regarding the requirements to undertake assessments on the Fairer Scotland Duty and Strategic Environmental Assessment.

### **Question 3**

**i) Do you have any views on the Fairer Scotland Duty and Strategic Environmental Assessment screening documents?**

**Yes / No**

**Please explain your views**

**ii) If you consider that full assessments are required, please suggest any information sources that could help inform these assessments.**

## **Responding to this Consultation**

19. We are inviting responses to this consultation by 31 March 2022.
20. Please respond to this consultation using the Scottish Government's [consultation hub](#), Citizen Space. You access and respond to this consultation [online](#). You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 31 March 2022.
21. If you are unable to respond using our consultation hub, please complete the [Respondent Information Form](#) and return with your views to:

Planning and Architecture Division  
Scottish Government  
Area 2-F  
Victoria Quay  
Edinburgh. EH6 6QQ

## PART A – Introduction

### Handling Your Response

22. If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and will treat it accordingly.
23. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any requests made to it under the Act for information relating to responses made to this consultation exercise.
24. If you are unable to respond via Citizen Space, please complete and return the [Respondent Information Form](#).
25. To find out how we handle your personal data, please see our [privacy policy](#).

### Next Steps in the Process

26. Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public on our [consultation hub](#). If you use the consultation hub to respond, you will receive a copy of your response via email.
27. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

### Comments and Complaints

28. If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or to [LDPRegsandGuidance@gov.scot](mailto:LDPRegsandGuidance@gov.scot).

### Scottish Government Consultation Process

29. Consultation is an essential part of the policy making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.
30. You can find all our consultations online on our [consultation hub](#). Each consultation details the issues under consideration as well as a way for you to give us your views, either online, by email or by post.
31. Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

## **PART A – Introduction**

- indicate the need for policy development or review;
  - inform the development of a particular policy;
  - help decisions to be made between alternative policy proposals;
  - be used to finalise legislation before it is implemented.
32. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.





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