

North Lanarkshire Council Report

Planning Committee

Does this report require to be approved? Yes No

Ref PL/CMT/SG/GL Date 28/03/22

Scottish Government Consultations on Implementation of the New Planning System

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Executive Summary

The Scottish Government is currently running 3 linked consultations as the next stage of the Planning Transformation programme. These documents seek views on the proposed National Planning Framework 4 (NPF4) incorporating National Planning Policy, Local Development Plan (LDP) Regulations & Guidance, and Open Space and Play Sufficiency Assessment Regulations & Guidance. The overall intention behind the suite of documents being consulted upon is to give effect to the provisions of the Planning (Scotland) Act 2019 and the Town and Country Planning (Scotland) Act 1997 as amended.

The Council is, through its own policy agenda, supportive of and aligned with the overall aim to simplify the Planning system and to bring focus to the Climate Emergency, Nature Crisis and the use of the Place Principle to respond to those challenges and the challenge of creating a fairer society. The current Local Plan and soon to be Adopted LDP already incorporate, or sought to incorporate, many of the broad principles outlined in these documents. However, there are significant policy and practical concerns around the content and implications of the proposed new arrangements which may have an effect on the organisation, resourcing and efficiency of the Planning service.

Recommendations

The Committee is asked to

- 1) Consider the contents of this report regarding major implications for the planning system arising from the proposed changes to planning policy and regulations, and
- 2) Support the submission of detailed responses to the consultations on behalf of the council, based on the summary in section 2.5, by 31st March 2022

The Plan for North Lanarkshire

Priority All priorities

Ambition statement All ambition statements

1. Background

- 1.1 As members will be aware the Planning system in Scotland is undergoing significant reform. The Planning (Scotland) Act 2019 received Royal Assent in July 2019. During consultation on the likely provisions of the Act, the Scottish Government highlighted that it sees the planning system as being central to supporting the objective of creating a more successful country with opportunities for all to flourish through increased wellbeing and sustainable and inclusive economic growth. The planning system plays a key role in achieving this goal and the new legislation puts in place a range of new statutory duties and measures to make it more efficient and effective and to ensure it can provide a high-quality service.
 - 1.2 Prior to introducing the final policy and regulatory changes and accompanying guidance the Scottish Government is carrying out a series of public consultations on their proposed National Planning Framework 4 (NPF4) incorporating National Planning Policy, Local Development Plan (LDP) Regulations & Guidance, and Open Space and Play Sufficiency Assessment Regulations & Guidance.
 - 1.3 Copies of the consultations, which are linked below, were circulated to all relevant Services within the Council and the final responses to the consultations will reflect the input received.
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2. Report

- 2.1.1 This report sets out a summary of some of the key issues within the consultations and their implications with a view to keeping the Committee informed of the Government's thinking on how the planning system should be operating as it moves forward. Full responses to the consultation questions including describing in more detail our concerns and suggesting improvements will be submitted by the deadline of 31st March 2022.
- 2.1.2 It is the Government's stated intention that these provisions will come into effect in the summer of 2022 following this consultation process and any required parliamentary scrutiny, although there are provisions within legislation for a further consultation to take place if it is deemed necessary.

2.2 National Planning Framework 4 (NPF4)

- 2.2.1 The draft of "*Our Fourth National Planning Framework, Scotland 2045*" (NPF4) was laid before Parliament on 10th November 2021, for consultation. The expectation is that "*Once approved by the Scottish Parliament and adopted by the Scottish Ministers (expected during 2022), this plan will become part of the statutory development plan and will directly influence planning decisions*".
- 2.2.2 Climate Change and adapting to it and its locked in impacts are the underpinning drivers of the document. Transition, place and equity are recurring themes along with protecting and restoring biodiversity through such things as a wellbeing economy and a nature-positive economy. Notably, economic growth does not feature as a main driver of the new NPF and the role of Regional Spatial Strategies, the replacement for Strategic Development plans, is not fully explored.
- 2.2.3 NPF4 is in four main parts covering the National Spatial Strategy; National Developments; National Planning Policy and a brief Delivery outline, with a fifth part containing annexes, including the housing numbers identified for each Local Authority area. The identified 10-year Minimum All Tenure Housing Land Requirement (MATHLR) for North Lanarkshire in Annex B is 7,350 units.

2.2.4 As a key project in the proposed Central Urban Transformation Action Area, the aim of which is to transform and pioneer a new era of low carbon urban living, Ravenscraig is recognised as being “*a longstanding post-industrial site where new development can bring new models of low-carbon living at scale*”. However, it no longer has National Development Status.

2.3 Local Development Plan Regulations and Guidance

2.3.1 The Scottish land-use planning system is a plan-led planning system and Local Development Plans (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.

2.3.3 The consultation paper on Regulations and Guidance for Local Development Planning (LDPs) covers, in four parts, an Introduction; Proposals for Development Planning Regulations; Draft Guidance on Local Development Planning, and Interim Impact Assessments.

2.3.4 The Draft Guidance states that Development Planning, in addition to considering where new homes and workplaces will be built, will have to include how services and facilities will be provided, such as education and travel. With the intention stated in the Draft Guidance that an LDP will be a toolkit to support delivery of development; presented as a collation of site briefs and masterplans with minimal policy wording. The next North Lanarkshire Local Development Plan would, therefore, be required to take the leading role in co-ordinating and aligning many different sectors and interests to achieve the desired change for places and communities.

2.3.5 This is to be achieved through a comprehensive ‘Delivery Programme’ defined as “*a corporate document which project manages the timing of the authority’s financial investment for the delivery of the plan, and any coordination with private or other funding identified as being required to deliver intended plan outcomes*”. The Chief Executive is named by role as being ultimately responsible for the Programme. Certain decisions can no longer be delegated to a sub-committee and must be agreed by full council including the Proposed Plan and the Delivery Programme.

2.3.6 The Guidance, as written, potentially introduces significant new requirements on matters for inclusion in an LDP, often without a legislative underpinning or recognition of the resource implications. There are also concerns regarding the role and function of Regional Spatial Strategies (RSS), to which an LDP must have regard, but on which further guidance is not being issued until after NPF4 and LDP Regulations are in place

2.4 Open Space Strategies and Play Sufficiency Assessment Regulations

2.4.1 New duties on planning authorities to prepare and publish an Open Space Strategy, and to assess the sufficiency of play opportunities in their area for children, were introduced in the Planning (Scotland) Act 2019. This Consultation asks a series of questions relating to proposed Regulations covering these new duties but also indicates some of the matters the Government expect to cover in future guidance.

2.4.2 The Council has already committed to carrying out an Open Space Audit and Open Space Strategy and work on this is already underway taking cognisance of the contents and spirit of the current consultation documents. However, by directly linking the provision of an up-to-date Open Space Strategy and new Play Sufficiency assessment to the Local Development Plan process and given the time required to produce them, there is the potential for an impact on the development of the next North Lanarkshire LDP.

2.4.3 Summary of Proposals

In summary the suite of proposed Policies, Regulations and Guidance introduce

- A new National Spatial Strategy, Action Areas and National Developments
- National Planning Policies which will supersede LDP Policies
- Over 50 new duties which will require to be discharged, including new forms of evidence, audits and assessments associated with both Development Planning and Development Management
- Additional or enhanced tests, assessments, statements or requirements to demonstrate meeting an aim for Planning Applications e.g., Health Impact Assessment, whole-life assessment of greenhouse gas emissions, demonstration of enhancement of biodiversity, statement of community benefit, futureproofing of development etc.
- New full Council approval arrangements for LDPs and Delivery Programmes
- A significant requirement for additional 'evidence' as part of the LDP preparation process including
 - A comprehensive Open Space Strategy and Play Sufficiency Assessment
 - The provision of Health and Social Care
 - The provision of Education
- An LDP with less emphasis on Policies and more on sites and proposals
- A more complex and comprehensive Delivery Programme for the LDP

2.5 Summary of Implications

2.5.1 The overall intention behind the suite of documents is to give effect to the provisions of the Planning (Scotland) Act 2019 and the Town and Country Planning (Scotland) Act 1997 as amended. As such, North Lanarkshire Council is supportive of the overall legislative aims but has significant concerns around the scope, deliverability, and resourcing of the strategies, actions, policies, and requirements within the documents.

2.5.2 When taken in conjunction with the introduction of Local Place Plans, the rolling programme of changes in Development Management and the forthcoming guidance on Regional Spatial Strategies, the scale and complexity of the changes, being proposed at the one time is such that there is the possibility that the system may become more unwieldy and less responsive, rather than simplified.

2.5.3 Responses to the questions contained in each consultation are being finalised for submission. There is a common theme across all the responses which can be summarised as follows:

- Concern about the scope of these documents,
- Concern about the deliverability of the scale of change proposed within identified timescales
- Concern about consistency between the documents,
- Concern about the implications for the Council and partner organisations strategies, programmes, operational and management structures.
- Concern about the resourcing required to carry out the expanded and new duties in terms of
 - Preparing significant volumes of evidence
 - Preparing and agreeing delivery programmes
 - The co-ordination of action between statutory and non-statutory functions
 - Consideration of additional assessments and tests associated with Planning Applications

2.5.4 The significant implications for the Council of these proposed changes, if they remain in their current form, would be that:

- Through their construction and use of language, Policies and provisions may not be sufficiently robust to withstand legal challenge
- They will introduce uncertainty over the primacy of Policies where LDPs are not out of date and have more detailed policies than those in NPF4
- They will require alterations to Council decision making processes
- They will require significant additional skills and resources to apply and may introduce delays in preparing the next LDP and dealing with Planning applications
- Our ability to deliver timeously on the Council's Ambition will potentially be affected

2.6 Impacts

2.6.1 As these are consultation documents, subject to potential change, the full impacts cannot be quantified at this stage but, as can be seen from the potential implications outlined in this Report, there may be a range of potentially significant impacts which the Council will have to consider when there is more clarity on the final suite of strategies, policies, regulations and guidance.

3. Measures of success

3.1 Submitting responses to these consultations helps to inform the development of policy and guidance.

4. Supporting Documentation

[Local development planning - regulations and guidance: consultation - Scottish Government - Citizen Space](#)

[Draft National Planning Framework 4 - Scottish Government - Citizen Space \(consult.gov.scot\)](#)

[Open Space Strategies and Play Sufficiency Assessments - Scottish Government - Citizen Space \(consult.gov.scot\)](#)



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5. Impacts (<http://connect/report-template-guidance>)

<p>5.1 Public Sector Equality Duty and Fairer Scotland Duty Does the report contain information that has an impact as a result of the Public Sector Equality Duty and/or Fairer Scotland Duty? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, please provide a brief summary of the impact?</p> <p>If Yes, has an assessment been carried out and published on the council's website? https://www.northlanarkshire.gov.uk/your-community/equalities/equality-and-fairer-scotland-duty-impact-assessments Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>5.2 Financial impact Does the report contain any financial impacts? Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant financial impacts have been discussed and agreed with Financial Solutions? There are likely to be financial implications associated with implementation of the proposed changes but it is not possible to quantify these currently. Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>
<p>5.3 HR policy impact Does the report contain any HR policy or procedure impacts? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, have all relevant HR impacts have been discussed and agreed with People and Organisational Development? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>
<p>5.4 Legal impact Does the report contain any legal impacts (such as general legal matters, statutory considerations (including employment law considerations), or new legislation)? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Yes, have all relevant legal impacts have been discussed and agreed with Legal and Democratic Solutions? Legal services have been consulted regarding the proposed changes but it is too early to fully assess legal implications, but potentially increased risk of legal challenge Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please provide a brief summary of the impact?</p>
<p>5.5 Data protection impact Does the report / project / practice contain or involve the processing of personal data? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If Yes, is the processing of this personal data likely to result in a high risk to the data subject? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, has a Data Protection Impact Assessment (DPIA) been carried out and e-mailed to dataprotection@northlan.gov.uk Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>5.6 Technology / Digital impact Does the report contain information that has an impact on either technology, digital transformation, service redesign / business change processes, data management, or connectivity / broadband / Wi-Fi? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>

If Yes, please provide a brief summary of the impact?

Where the impact identifies a requirement for technology, has an assessment been carried out (or scheduled) by the Enterprise Architecture Governance Group (EAGG)?

Yes No

5.7 Environmental / Carbon impact

Does the report / project / practice contain information that has an impact on any environmental or carbon matters?

Yes No

If Yes, please provide a brief summary of the impact?

NPF4 seeks to ensure the planning system supports the transition to net zero carbon.

5.8 Communications impact

Does the report contain any information that has an impact on the council's communications activities?

Yes No

If Yes, please provide a brief summary of the impact?

5.9 Risk impact

Is there a risk impact?

Yes No

If Yes, please provide a brief summary of the key risks and potential impacts, highlighting where the risk(s) are assessed and recorded (e.g. Corporate or Service or Project Risk Registers), and how they are managed?

It is not possible to fully assess risk but there is a risk in relation to the council's ability to collectively implement so many changes to the planning system in a short space of time which could impact on ability to process planning applications and result in more legal challenge.