

Transforming Planning in Practice Regulations and Guidance – Discussion Paper

Scope & Content of Local Development Plans

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1. Introduction

This paper is intended to support the sub-group in producing outputs that will inform the drafting of the regulations and guidance associated with the new development plan system. It outlines the requirements of the 2019 Act, thinking so far and includes questions to prompt consideration and discussion by sub-group members.

The **aim** of the subgroup work is to produce a visual of what a future place-based local development plan (LDP) should look like.

The outputs of the subgroup will be:

- Signposting a series of succinct **case-studies / exemplars** highlighting key messages for what a ‘good looking plan’ should be and suggestions on **how this can be disseminated** to wider planning stakeholders.
- Suggestions on content that was **previously in Supplementary Guidance**.
- A graphic showing the **connection** of the LDP to other key documents, nationally, regionally and locally.

The output should reflect the fact that a review of our national planning policies is ongoing and that current approaches may evolve – flexibility will therefore be essential.

2. Requirements of the 2019 Act

Section 15 of the Town and Country Planning (Scotland) Act, 1997 as amended by the 2019 Act sets out the requirements for the form and content of LDPs. In summary, it outlines the need for the following:

- A spatial strategy covering matters outlined at 15(5)
- Targets for meeting housing needs for people living in the district
- Policies and proposals relating to public conveniences and water refill stations

- A schedule of land owned by the planning authority affected by development proposed in the plan
- Maps, diagrams, illustrations and descriptive matter.

With regard to the above schedule of land owned by the planning authority, a form for this is currently contained in Schedule 1 of the Development Planning (Scotland) Regulations, 2008.

With regard to the above maps and diagrams etc, the 2008 Regulations require “a map or maps, (to be known as “the Proposals Map”), describing the policies and proposals set out in the LDP, so far as practicable to illustrate such policies or proposals spatially. The Proposals Map is to be sufficiently detailed so as to enable the location of proposals for the development and use of land to be identified.”

Section 16, Preparation and Monitoring of LDPs also has implications for the scope and content of plans. In summary, it outlines the need for planning authorities to:

- Take into account - National Planning Framework, Local Outcome Improvement Plans and registered Local Place Plans.
- Have regard to – preserving disused railway infrastructure for future public transport and the list relating to self-build housing.

Section 4ZB of the Act requires planning authorities to have regard to their adopted Regional Spatial Strategy when preparing, revising or amending a LDP.

The full text of sections 15, 16 and 4ZB of the 1997 Act, as amended by the 2019 Act, are set out in Annex A. This includes setting out where there are powers to prescribe more detail in regulations or where Ministers are required to issue guidance. Annex B sets out section 10 of the Town and Country Planning (Development Planning) (Scotland) Regulations, 2008 that outlines the information and considerations a planning authority are to have regard to in preparing a LDP under the existing system. The subgroup should consider where there is a need to make regulations on any points, including whether the requirements of the current regulations should be changed.

3. Thinking So Far

Several matters that the regulations and guidance will need to contain in relation to LDP scope and content have been identified during the planning reform considerations of the last few years. The following key documents provide reference and are available either on or via the [Transforming Planning](#) web pages:

- Report of Independent Panel (May 2016)
- Places, People and Planning: Consultation Paper (January 2017)
- Independent Analysis of Consultation Responses (to January 2017 consultation)
- Places, People and Planning: Position Statement (June 2017)
- Planning Bill Policy Memorandum (December 2017)

At present, whilst there are many examples of good practice, as a result of existing requirements the 'development plan' can often be complex, lengthy, focused on drafting and re-drafting technical written policies and difficult for people to understand what change is proposed, why it is needed and where, how and when it will happen.

The reform of planning has been clear in its aim for the content of plans to be more focused on places and less on policy. This is order for them to be more relevant and accessible to the communities whose interest they are intended to serve. They should be map based and provide a spatial strategy that is clear on where development will happen and how our places may change over time.

The 2019 Act has removed the requirement for the LDP to provide a vision statement. This is to avoid unnecessary preparation of multiple visions for an area, in the expectation that the plan will contribute to the wider vision as set out in the local outcome improvement plan (LOIP). Plans can of course still consider how this relates to development and land use and explain this to ensure the alignment is strong.

The LOIP, Local Place Plans, Regional Spatial Strategies and National Planning Framework (NPF) provide the context for the content of LDPs. The NPF in particular, will, for the first time be an integral part of the statutory development plan and deal with a lot of the policy issues addressed previously at the local level. There are requirements to 'take account of' and 'have regard to' these other documents in preparing the plan. It will be important for the sub-group to consider these connections and how the documents 'speak to each other'.

Planning reform has highlighted the importance of embedding an Infrastructure First approach into Local Development Plans. Each stage of the new process has a role to play. Plans need to be better informed early on with regard to utilities and services, to support site selection and then delivery, so that the spatial strategy and outcomes are realised.

The 2019 Act has also removed the provision for statutory Supplementary Guidance. This can currently contain a significant amount of the content of the 'development plan' covering a wide range of topics. The sub-group should consider what topics are appropriate for inclusion in the plan and those more appropriate for non-statutory planning guidance.

Digital transformation of planning is on-going to support a system that is more inclusive and efficient. The potential for digital platforms to support the content and accessibility of the plan and supporting information will be of relevance to the sub-group.

4. Discussion Questions

Output 1

- What does an inspirational and effective place-based LDP look like / not look like?
- What are the relevant examples from the UK or internationally?
- What makes a plan relevant and accessible?
- How can we promote the benefits of a place-based LDP?
- How do the above relate to the need to have a plan that is the basis for legal decision making on planning applications?

Output 2

- How can necessary content from statutory supplementary guidance be incorporated into plans effectively, recognising that detailed matters can still be address in non-statutory guidance?

Output 3

- How can LDPs align with other key documents (national, regional and local) and how can this be shown in a diagram?

Contextual questions

- What might a 'how to' guide to preparing plans look like to promote a new style of plan?
- Are there key elements that should be prescribed (fixed) in regulations, where there is the power to do so, rather than covered more flexibly in guidance?

5. Background Information

Existing Regulations & Guidance

- Existing [development planning regulations](#)
- [Circular 6/2013](#)
- Gov.scot [web guidance](#)
- Development plan project management gateway review [research](#)

Guidance available in other nations

- Wales - [Development plans manual](#)
- England – [Guidance on plan-making](#)

Annex A – Statutory Requirements for Content of LDP

Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act, 2019.

(Clauses where further details may be prescribed or where the Scottish Ministers are required to publish guidance are highlighted)

Local development plans

15 Form and content of local development plans *(as amended by section 7 of the 2019 Act)*

- (1) A local development plan is a plan in which is set out, for land in the part of the district to which it relates—
 - (a) a spatial strategy, being a detailed statement of the planning authority's policies and proposals as to the development and use of the land taking account of the matters mentioned in subsection (5),
 - (b) such other matters as may be prescribed, and**
 - (c) any other matter which the planning authority consider it appropriate to include.
- (1A) The local development plan must also include targets for meeting the housing needs of people living in the part of the district to which it relates.
- (2) [Repealed.]
- (2A) A local development plan is to include a statement of the planning authority's policies and proposals as to the provision of public conveniences.
- (2B) A local development plan is to include a statement of the planning authority's policies and proposals as to the provision of water refill locations.
- (3) Where a local development plan contains policies or proposals for, or views as to, the occurrence of development on land owned by the planning authority, there is to be appended to the plan a schedule, in such form as may be prescribed, which identifies the land, states that it is so owned and refers to the policies, proposals or views in question.
- (4) A local development plan is, for the purpose of explaining or illustrating the proposals in the plan, to contain or be accompanied by—
 - (a) such maps, diagrams, illustrations and descriptive matter as may be prescribed,
 - (b) such other diagrams, illustrations and descriptive matter (if any) as the planning authority think appropriate.
- (5) The matters referred to in subsection (1)(a) are—
 - (a) the principal physical, cultural, economic, social, built heritage and environmental characteristics of the district,
 - (b) the principal purposes for which the land is used,
 - (c) the size, composition, health and distribution of the population of the district,

- (ca) the housing needs of the population of the area, including, in particular, the needs of persons undertaking further and higher education, older people and disabled people,
 - (cb) the availability of land in the district for housing, including for older people and disabled people,
 - (cc) the desirability of allocating land for the purposes of resettlement,
 - (cd) the health needs of the population of the district and the likely effects of development and use of land on those health needs,
 - (ce) the education needs of the population of the district and the likely effects of development and use of land on those education needs,
 - (cf) the extent to which there are rural areas within the district in relation to which there has been a substantial decline in population,
 - (cg) the capacity of education services in the district,
 - (ch) the desirability of maintaining an appropriate number and range of cultural venues and facilities (including in particular, but not limited to, live music venues) in the district,
 - (d) the infrastructure of the district (including communications, transport and drainage systems, systems for the supply of water and energy, and health care and education facilities),
 - (e) how that infrastructure is used,
 - (f) any change which the planning authority think may occur in relation to any of the matters mentioned in paragraphs (a) to (eb).
- (5A) In subsection (5)(d), references to systems for the supply of energy include in particular land available for the development and use of facilities for renewable sources of energy.

16 Preparation and monitoring of local development plans: general *(as amended by sections 7(4) and 14(4) of the 2019 Act and schedule 2, para 1)*

- (1) A planning authority are—
 - (a) as soon as practicable after the coming into force of section 2 of the Planning etc. (Scotland) Act 2006 (asp 17) and thereafter—
 - (i) whenever required to do so by the Scottish Ministers, or
 - (ii) subject to sub-paragraph (i), at intervals of no more than 10 years, to prepare local development plans for all parts of their district, and
 - (b) to keep under review the plans so prepared.
- (2) In preparing a local development plan the planning authority—
 - (a) are to take into account—
 - (i) the National Planning Framework, and

- (ii) any local outcomes improvement plan (within the meaning of section 6 of the Community Empowerment (Scotland) Act 2015) for the part of their district to which the local development plan relates,
 - (iii) any registered local place plan (see schedule 19) that is for the part of their district to which the local development plan relates,
 - (aa) are to have regard to the desirability of preserving disused railway infrastructure for the purpose of ensuring its availability for possible future public transport requirements,
 - (ab) are to have regard to the list published under section 16E of persons seeking to acquire land in the authority's area for self-build housing,
 - (b) are to have regard to such information and considerations as may be prescribed, and**
 - (c) may have regard to such other information and considerations as appear to them to be relevant.
- (3) Different local development plans may be prepared for different purposes for the same part of any district.
- (4) Parts of districts for which local development plans are prepared for some purpose need not have the same boundaries as parts for which they are prepared for another purpose.
- (5) Two (or more) planning authorities may prepare a joint local development plan extending to parts of each (or all) of their districts.
- (6) [Repealed.]
- (7) Where a planning authority fail to comply with subsection (1)(a), the Scottish Ministers may direct them to prepare a report as to the reasons for such failure and to submit that report to the Scottish Ministers.
- (8) In carrying out their duty under paragraph (b) of subsection (1), a planning authority are in particular to monitor—
- (a) changes in the characteristics referred to in section 15(5)(a), and
 - (b) the impact of the policies and proposals contained within the local development plans.

4ZB Duties to have regard to regional spatial strategies

- (1) In exercising their functions of preparing, revising or amending the National Planning Framework, the Scottish Ministers must have regard to any adopted regional spatial strategy submitted to them under section 4ZA(4)(b).
- (2) In exercising their functions of preparing, revising or amending a local development plan, a planning authority must have regard to their adopted regional spatial strategy (or strategies) submitted to the Scottish Ministers under section 4ZA(4)(b).

Annex B: The Town and Country Planning (Development Planning) (Scotland) Regulations 2008

Part 3: Local Development Plans: Information and considerations

10.—(1) In preparing a local development plan the planning authority are to have regard to—

- (a) the resources available or likely to be available for the carrying out of the policies and proposals set out in the local development plan;
- (b) any local development plan prepared for a different purpose for the local development plan area;
- (c) any local development plan or strategic development plan prepared for an area adjoining the local development plan area;
- (d) any regional transport strategy relating to the local development plan area;
- (e) any local transport strategy relating to the local development plan area;
- (f) any river basin management plan relating to the local development plan area;
- (g) any local housing strategy relating to the local development plan area;
- (h) the national waste management plan; and
- (i) where the local development plan area adjoins land in England, any regional spatial strategy or local development framework published in respect of that land.

(2) In addition to the matters specified in paragraph (1), in preparing a local development plan the planning authority are also to have regard to—

- (a) the objectives of preventing major accidents and limiting the consequence of such accidents;
- (b) the need in the long term to maintain appropriate distances between establishments and residential areas, areas of public use and areas of particular natural sensitivity or interest; and
- (c) the need in the case of existing establishments for additional technical measures in accordance with Article 5 of the Directive so as not to increase the risks to people.

(3) In paragraph (1) references to a local development plan or a strategic development plan include, as the case may be, a reference to a proposed local development plan submitted to the Scottish Ministers in accordance with section 18(4)(a) or section 19A(5)(b)(ii) of the Act or a proposed strategic development plan submitted to the Scottish Ministers in accordance with section 10(3)(b) or 12A(5)(b)(ii) of the Act.

(4) In this regulation “local transport strategy” has the same meaning as in section 82(1) of the Transport (Scotland) Act 2001(1).