



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 1 MARCH 2022

SUBJECT: DRAFT LOCAL DEVELOPMENT PLAN REGULATIONS AND GUIDANCE

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

- 1.1 To inform the Committee of the publication and consultation on draft Local Development Plan (LDP) Regulations and Guidance and to ask the Committee to agree the proposed response set out in **Appendix 2**.
- 1.2 This report is submitted to Committee in terms of Section III E (2) of the Council's Scheme of Administration relating to the Review and Preparation of Strategic and Local Plans.

2. RECOMMENDATION

2.2 It is recommended that the Committee:-

- (i) Note publication of the draft Local Development Plan Regulations and Guidance and the extensive additional work arising in Appendix 1;**
- (ii) Agree the proposed response set out in Appendix 2 be submitted to the Scottish Government;**
- (iii) Note the budget pressure from 2023/24 onwards arising from new statutory planning procedures; and**
- (iv) Agree that an updated Development Plan Scheme and Participation Statement are reported to a meeting of this Committee in Autumn 2022.**

3. BACKGROUND

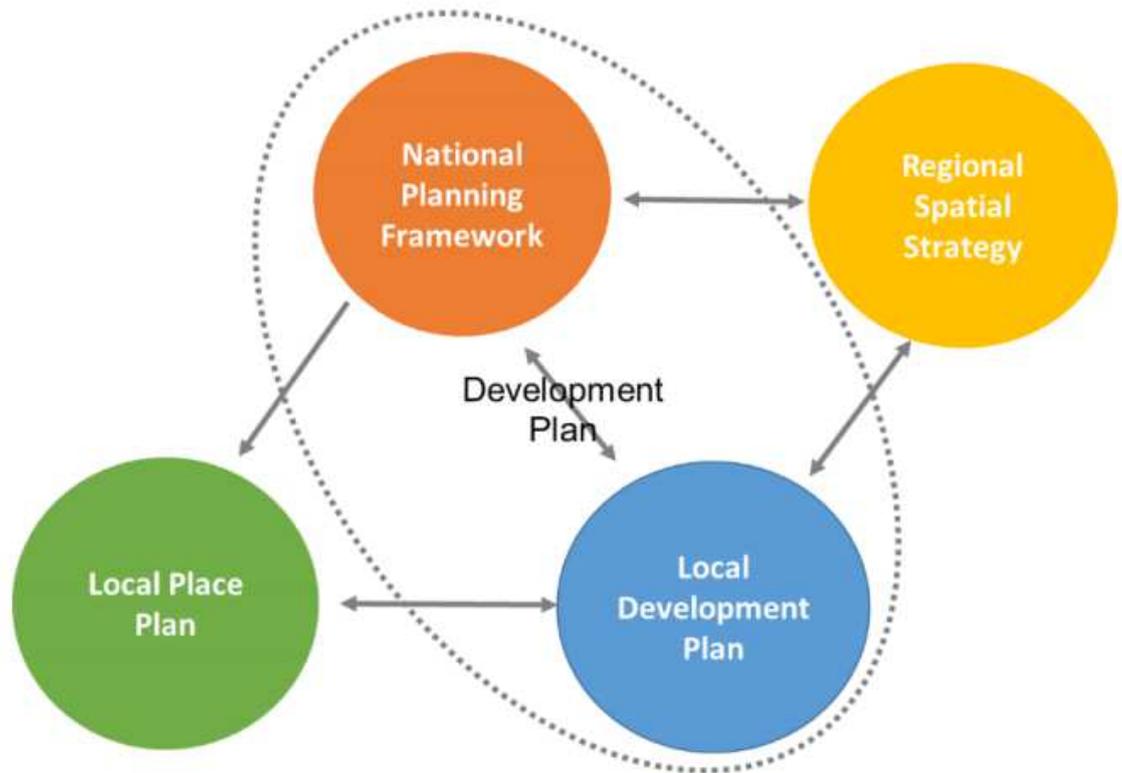
- 3.1 Scotland's planning system has been undergoing review over the last few years. The Scottish Government has published proposals for new Development Planning regulations and guidance, structured to reflect the

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

- 3.2 The new legislation introduces a new system and process for preparing Local Development Plans, with National Planning Framework (NPF) 4 forming part of the LDP. NPF4 is subject to a separate report to this Committee.
- 3.3 The Scottish Government has also recently approved regulations and guidance on Local Place Plans (LPP) and Open Space Strategies and Play Sufficiency Strategies which are also subject to separate reports to this Committee. The Deadline for responses is 31st March 2022.

4. PROPOSALS

- 4.1 The aim of planning reform was to create a streamlined system, with greater evidence base front loading preparation of the LDP, which would become more place based. Streamlining the process was intended to free up resources to implement and deliver the Plan with the role of planners recognised as “enablers”. However, as members will note from the separate report to this Committee on draft NPF4, it is likely that the next Moray Local Development Plan will include a number of local policies.
- 4.2 The Scottish Government has clarified that any Local Development Plan policies which are approved after NPF4 has been adopted, will have primacy over NPF4.
- 4.3 The diagram below summarises the new “hierarchy” of plans.



The new process for preparing a Local Development Plan is summarised below and the requirements are set out in more detail in **Appendix 1**.

- Preparation of Regional Spatial Strategy- setting out long term strategic approach to land use planning.
- Invitation to prepare Local Place Plans.
- Early engagement with stakeholders, including children and young people, elderly and disabled people, community councils and Gypsy Travellers and a “Call for Ideas” on future changes to places.
- Preparation of Evidence Report- this should set out key relevant data and how it influences the approach taken in the Proposed Plan. Key stakeholders will be involved and asked to indicate their agreement or areas of dispute.
- Gatecheck- Reporter is appointed by Scottish Ministers to consider whether the evidence provided by the Council is sufficient to proceed to prepare the Proposed Plan. Where evidence has not been disputed, the Reporter should not be required to evaluate sufficiency. The Council is required to pay for the Gatecheck.
- Proposed Plan- This will set out the spatial strategy and the place based approach, with local level guidance. This should take account of Local Place Plans which have been registered and be supported by a Delivery Plan.
- Consultation and Modification- the Proposed Plan will be subject to a minimum of 12 weeks public consultation and following consultation the

Council may choose to make modifications to the Plan to resolve representations. Unresolved representations are submitted with all supporting information to Scottish Ministers with a request for an Examination.

- Examination process with Reporter appointed by Scottish Ministers to consider unresolved objections. Reporter issues Examination Report to Scottish Ministers and Council makes required changes and moves to adopt the Plan. The Council is required to pay for the Examination.
- Adoption of Plan- Plan is formally adopted and submitted to the Scottish Government.
- Delivery of Plan- Council and key stakeholders progress to deliver the Delivery Programme.

4.4 The timescale for replacing a LDP has been changed from 5 years to 10 years to place greater emphasis on delivery and implementation of the Plan and for working with communities to deliver their aspirations. It is unlikely that planning authorities will wait 10 years to review their plans as circumstances change and a realistic time period for review is probably around 7-8 years.

4.5 Members will note from **Appendix 1** the amount of additional work the new local development plan process introduces, particularly regarding;

- Much earlier and more extensive engagement with stakeholders
- More and earlier scrutiny of the effectiveness and viability of sites
- A more place based approach
- Significant evidence gathering at the outset through the Evidence Report and Gatecheck procedure
- Extensive additional assessments processes required to support the plan
- Greater focus on planning and delivering an infrastructure first approach
- Greater focus on delivery of the Plan and the role of planners as enablers to bring about change
- A more corporate approach to preparing the Plan and implementing the Delivery Programme

4.6 Officers have attended and participated in a sub group to inform the Heads of Planning Scotland response to the regulations which has helped to inform the Council's response in **Appendix 2**. While some changes are welcomed, members will note from the proposed response that a number of matters require further clarification and officers are suggesting some changes to the process.

4.7 In terms of transitional arrangements, the Scottish Government has clarified that planning authorities are required to prepare new Local Development Plans within 5 years of NPF4 being adopted. The report on the annual Development Plan Scheme to the meeting of this Committee on 18th January 2022 (para 8 of minute refers) proposed that the DPS be updated when the full implications of the Local Development Plan Regulations and Guidance were known and an updated version of the DPS with the Participation Statement will be submitted to a meeting of this Committee in Autumn 2022.

- 4.8 The guidance also covers supplementary guidance and indicates that a period of 24 months after the development plan regulations come into force will be allowed for the adoption of supplementary planning guidance associated with LDP's adopted under the 2006 Act.

5 SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The LDP is a vital aspect of supporting and facilitating the Council's priority for economic growth. The Plan also aims to deliver other key objectives including the delivery of affordable housing and conservation and enhancement of our high quality natural and historic environment.

The new LDP process will involve considerable community engagement at the evidence gathering stage and then more formally at the Proposed Plan and the introduction of Local Place Plans will support the place based approach advocated by the Scottish Government.

(b) Policy and Legal

Preparation of a LDP is a statutory requirement and the new regulations and guidance aims to bring significant improvements to the process and introduces additional statutory requirements.

(c) Financial implications

The guidance introduces a range of new statutory requirements and a more delivery and infrastructure focussed approach to the LDP.

The Council is required to pay for both the Gatecheck and Examination processes.

Some elements of the evidence report requirements can be met through the increased budget allocated for the two financial years 2021/22 and 2022/23, however, the significant additional evidence and processes required and the need to pay for the Gatecheck and Evidence Report followed by the focus on delivery of the Plan, would require the current annual revenue budget of £100,000 to continue and this budget pressure from 2023/24 onwards will be reported for consideration through the normal processes.

(d) Risk Implications

There are a number of risks arising from the draft guidance. If the Council do not present sufficient evidence in the Evidence Report then at the Gatecheck stage, the Reporter will not allow the Council to proceed to Proposed Plan stage, delaying the process.

If the process is delayed then there is a risk of a shortage of available land for development.

There is a risk that if the resources are not available then the Council cannot engage fully with stakeholders throughout the process, take an infrastructure first approach and deliver the quality outcomes and changes required by NPF4.

(e) Staffing Implications

There are considerable additional staffing implications arising from the guidance for Strategic Planning and Development and also for other services including development management, transportation, legal and open spaces.

A budget pressure for a Senior Planning Officer in Strategic Planning and Development has been noted at the meeting of the Council on 1st November 2021 (para 6 of minute refers) and potential staff resource implications are highlighted in the report to this meeting on LPP.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None at this stage. The next LDP will be subject to a detailed equalities/ socio/ economic impact.

(h) Climate Change and Biodiversity Impacts

The new planning system will include national and local planning policies aimed at reducing carbon emissions and addressing our nature crisis as well as concepts such as 20 minute neighbourhoods which will be key drivers in delivering change, reducing carbon and conserving and enhancing biodiversity.

A full Carbon and Biodiversity Assessment will be undertaken at Evidence Report stage, which requires a significant amount of data to be gathering on heat sources, energy networks, climate change risks and issues, declining habitats and species, active travel measures and many other sources of data set out in Appendix 1.

(i) Consultations

Consultation has taken place with the Depute Chief Executive Economy, Environment and Finance, the Head of Economic Growth and Development, the Head of Education Resources and Communities, the Legal Services Manager, the Senior Engineer Transportation, the Equal

Opportunities Officer, the Principal Climate Change Officer, the Development Management and Building Standards Manager and Paul Connor (Principal Accountant) and their comments incorporated into the report.

6. CONCLUSION

The Scottish Government has published Draft Regulations and Guidance on Local Development Planning which sets out the requirements for preparing, adopting, monitoring and delivering local development plans in the future.

The process involves much greater evidence and earlier scrutiny of evidence by a Reporter via a Gatecheck process before planning authorities can proceed to prepare and consult on a Proposed Plan.

The process has a greater focus on taking a place based and infrastructure first approach and directing more resources to the vital delivery stage of the Plan. Responses to the draft have been invited by 31 March 2022.

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Background Papers:

Ref: