

Appendix 2

Local Development Planning Regulations and Guidance Consultation- Proposed Response

General	<p>The Council's response to the set questions is set out in the table below. The suggested changes to provide an improved system can be summarised as;</p> <ol style="list-style-type: none"> (1) Early project planning and engagement- Development Plan Scheme and Participation Statement (2) Developing a Place based approach, invitation to prepare Local Place Plans, evidence gathering, wider engagement and working with stakeholders and communities to inform a place based approach, issuing a Call for Ideas- not site based (3) Prepare Evidence Report- with clarity that the Reporter will be asked to consider; <ol style="list-style-type: none"> (i) the sufficiency of the evidence to support a proposed spatial strategy with evidence of infrastructure required to support the strategy, including how the Council has considered the Call for Ideas, which could include alternatives to the spatial strategy. Evidence would also be provided as to infrastructure requirements to support the proposed spatial strategy (ii) areas of dispute identified by stakeholders <p>This approach would provide an agreed approach to the plan, reducing further debate at Examination stage on spatial distribution of growth, housing land requirements etc, but still allow for debate around alternative sites, consistent with the spatial strategy.</p> (4) Gatecheck- Reporter to consider the above matters and whether the evidence supports the proposed spatial strategy, which is likely to have been set out in the Regional Spatial Strategy. <p>Reporter is not exploring background evidence which has been approved through different processes such as a Transport Strategy or Local Housing Strategy.</p> <ol style="list-style-type: none"> (5) Proposed Plan (6) Examination (7) Modification (8) Adoption (9) Delivery
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Q1 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?	<p>The Council considers that further detail needs to be included in the regulations or a circular to address the points set out below and in the Heads of Planning Scotland response.</p> <p>Regulations is required to provide certainty to all stakeholders in the planning system and reduce the scope for interpretation and legal challenge.</p>
Q2 Do you have any views on the content of the interim assessments	No comment.
Q3 Do you have any views on the Fairer Scotland Duty and SEA screening documents.	No comment.
Q4 Do you agree with the proposals for regulations relating to the form and content of LDP's	<p>No, further detail is required to be included either in regulations or a circular, giving greater weight than being included in guidance. This provides the certainty all parties seek and provides a legally defensible position for planning authorities.</p> <p>Further guidance on how RSS feeds into LDP spatial strategy may be worth including in terms of future challenge and status of RSS spatial strategy. As guidance on the preparation of RSS has been delayed until later in 2022, it is difficult to follow the proposed structure for the new local development planning process.</p> <p>Also worth further regulation or circular on how a Place based plan will look, accepting some current samples have been provided as extracts in published guidance.</p>
Q5 Do you agree with the proposals for regulations relating to the preparation and monitoring of LDP's	Yes, welcome the RSS addition.
Q6 Do you have views on additional information and considerations to have regard to when preparing and monitoring LDP's	No comment.
Q7 Do you agree with the proposals for regulations relating to the Evidence Report	<p>Should this not relate directly to the information required for the Evidence Report? While some references to infrastructure are included, education and health are omitted and the policy approach to embed health and well-being into the planning system is missing.</p> <p>The role of the Reporter has to be clearly set out. The regulations and guidance introduce some confusion as to whether the Reporter is being asked to consider areas of dispute or whether the evidence is sufficient to proceed to prepare the Proposed Plan and there is a danger that this stage does become a form of Examination unless clarified.</p>

	<p>Para 14- some clarification is required of whether the prescribed evidence is the only evidence which could be challenged at Gatecheck? If not, then is further regulation required to set out clearly the appointed persons remit at the Gatecheck in terms of the extent of evidence being scrutinised.</p> <p>There has to be a clear understanding of why the information is being requested and how it will be used to then set a minimum threshold of information to be included within the Evidence Report.</p> <p>The level of information required to establish a site's viability requires further clarification and a national approach. This would require developer obligation assessments, detailed site investigations to understand infrastructure and ground conditions and while the intention is welcomed, a nationally consistent approach would be useful.</p>
Q8 Do you agree with the proposals for regulations relating to the preparation and publication of LDP's	Yes.
Q9 Do you agree with the proposals for regulations relating to the examination of the LDP	The role of Regional Spatial Strategies needs to be further clarified through forthcoming guidance and could usefully be referenced in regulations or circular.
Q10 Are there matters you wish to highlight relating to amendment of the LDP which may have bearing on the proposals for regulations being considered on in this document	Any amendment process should be streamlined and not result in a further 3-4 year process.
Q11 Do you agree with the proposals for regulations relating to the Development Plan Scheme	Reference to the timeframe for producing Regional Spatial Strategies is required.
Q12 Do you agree with the proposals for regulations relating to Delivery Programmes	The name of the person who is to carry out each action is unusual and may be better to be the organisation?
Q13 Do you agree with the proposals for regulations relating to the meaning of key agency	Should other infrastructure providers and industry representation be included as key agencies? This relates back to who is likely to be a key agency in preparing the Evidence Report.
Q14 Do you agree with the proposals for regulations relating to transitional arrangements	No. The supplementary guidance provisions should continue until the current Plan is replaced, which in many cases throughout Scotland will be more than 24 months, otherwise there will be a gap in provision.
Q15 Do you agree with the general guidance on Local Development Plans?	The Council welcomes and supports the general aims and ambitions but does not consider that the guidance will result in significant improvements to the current system as currently set out, but could do with so with some amendments.

	<p>Positive proposals such as greater engagement, a place based approach and opportunity for Local Place Plans are welcomed, however, the role and function of Regional Spatial Strategies and the Evidence Report and Gatecheck procedures need further work and clarification to deliver the intended outcomes.</p> <p>The Regional Spatial Strategy will establish a spatial strategy at a strategic level and this will need to be part of the Evidence Report showing how minimum housing land requirements will be met. This offers the opportunity to avoid being site specific but for the gatecheck to agree the spatial strategy which is then developed into site specific proposals at Proposed Plan stage. This was proposed through the working groups and is the main change which will bring significant time savings at the later Examination phase.</p> <p>The role of planning authorities to support Local Place Plans needs to be clarified. While the invitation and registering process is clear, the planning authority is required to evidence how LPP have been supported, suggesting a proactive approach is required. Further clarity of the relationship between LOIP's, LDP engagement and LPP is required, communities are facing constant consultation from community planning partners, in a system awash with plans, strategies and guidance on a plethora of subjects.</p> <p>Habitats Regulation Appraisal and Strategic Environmental Assessment are significant pieces of work with very limited impact upon the Plan process and these require a huge amount of staff time to complete. Further thought is required as to these processes and a streamlined national approach would be welcomed.</p> <p>The Delivery focus and Infrastructure First approach is also welcomed, however it has to be resourced not just for the planning authority but all infrastructure providers to promote alignment of investment.</p>
Q16 Do you agree with the guidance on Development Plan Schemes?	Yes
Q17 Do you agree with the guidance on the Delivery Programme?	No. In an ideal world this would be a simple process, however the issues raised in response to Q 15 above need to be considered regarding financial and staffing resourced to deliver and align investment. It also requires knowledge of private sector investment programmes and will likely rely upon additional funding streams which will not have been secured when preparing the Programme.

	<p>The more corporate approach to plan preparation and implementation is welcomed, however, this will require some significant changes in how some planning authorities may currently operate.</p> <p>There is a role for Community Planning partners in aligning investment.</p> <p>Will progress against the Programme be scrutinised by Scottish Government.</p>
Q18 Do you agree with the guidance on Local Place Plans	<p>Broadly yes, as noted above the role of the planning authority in supporting the preparation of LPP requires clarification. There is a danger that well- resourced communities will take the opportunity to prepare LPP, however, other communities will be unable to, or will require additional support.</p> <p>Resources are required to ensure this is rolled out to address inequalities.</p>
Q19 Do you agree with the guidance on the Evidence Report?	<p>The merit in front loading “what to plan for” is recognised and welcomed and will help to promote an infrastructure approach as long as the delivery of this approach extends to better alignment of infrastructure investment plans between infrastructure providers. This is a significant challenge.</p> <p>The role of the RSS and its spatial strategy has to be clarified in terms of the Evidence.</p> <p>It appears that the guidance is suggesting a wide engagement exercise to consider the views of as many people as possible in pulling the Evidence Report together which is welcome. It seems as if this may be either through community groups preparing their own Local Place Plans or though planning authorities working collaboratively with community groups to feed issues and views into the Evidence Report. This needs to be clarified as it will require considerable resources to achieve this desirable approach.</p> <p>It is important to ensure that data is not gathered for the sake of gathering data as the list of requirements is verging on overwhelming for under resourced planning authorities who have many other tasks beyond plan preparation.</p> <p>The relationship between LPP and the ER requires further clarification.</p> <p>It is noted that the views of stakeholders and specific groups is required in preparing the ER, but there is no formal requirement to consult on the ER. Further detail is required on the sign off process and consultation aspects of the ER prior to the Gatecheck process.</p>

	<p>Para 102 refers to the public at large and a statement being required as to how the planning authority has sought the views of particular stakeholders and how they have been taken into account. Clarification is required as to whether the Call for Ideas referred to in the guidance covers this, or is additional engagement for the general public required.</p> <p>See comments below and above regarding the proposed spatial which the Council considers should be the conclusion of the Evidence Report and support the infrastructure first approach. The Evidence Report could also set out the target within the housing land requirement for use of brownfield sites.</p>
Q20 Do you agree with the Guidance on the Gatecheck	<p>No, clarity is required on the role of the Regional Spatial Strategy in the Gatecheck. Consideration of a non- site specific spatial strategy at this stage would bring significant benefits at Examination stage, which is likely to exist in the RSS?</p> <p>It would also embed the infrastructure first approach at a spatial level so the Reporter is presented with evidence that cities, towns and villages can accommodate the MATHLR and other land requirements and that the infrastructure is, or can be, provided to support that level of growth at Evidence Report stage.</p> <p>The lack of formal public engagement at this stage causes some concern. It is difficult to consider that an Evidence Report has been signed off when only a limited number of stakeholders have been involved.</p> <p>Moray Council previously neighbour notified at Main Issues Report stage to allow stakeholders and the public as many and as early opportunity to get involved formally in the plan process. That approach brought considerable benefits and reduced objections at Proposed Plan stage. The new process removes that formal opportunity.</p> <p>The Council does not consider that the Gatecheck process, as currently proposed will reduce the level of debate arising at the Examination at the end of the Proposed Plan period.</p> <p>If the Scottish Government paid for the Gatecheck and Examination stages, it would allow more resources to be diverted to delivery of the Plan.</p>
Q21 Do you agree with the guidance on the Proposed Plan?	<p>Broadly. The reference to “should” in para 159 is weak and an improvement would be “must” in terms of a word limit on submissions, applied to all parties providing representations.</p> <p>The Council suggest that the Call for Ideas (not sites) be before the Evidence Report and the Evidence report respond to the</p>

	<p>submissions and that a Call for Sites be issued as part of preparing the Proposed Plan.</p> <p>There is an opportunity for a national approach to site appraisal methodology.</p> <p>Clarification sought as to how we confirm sites are deliverable, most are if resources are available to overcome constraints.</p> <p>Para 160 causes concern where stakeholders promoting alternatives are required to provide evidence of public opinion. This is understandable for a community bid but from a developer, this could easily be used to undermine the spatial strategy.</p> <p>The opportunity to modify the Plan in response to representations is welcome.</p>
Q22 Do you agree with the guidance on Local Development Plan Examinations	<p>Para 212 requires clarification in terms of amendment procedures if the Reporter concludes there to be a serious issue unresolved at the end of the Examination such as non-conformity with NPF.</p> <p>Note comments above regarding Scottish Government paying for the Examination process.</p>
Q23 Do you agree with the guidance on Adoption and Delivery	<p>Yes, however note earlier responses regarding resources and alignment of investment between partners.</p>
Q24- 32	<p>See responses above, nothing to add</p>