

# Report

Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>8 June 2021</b>
Report by:	<b>Executive Director (Community and Enterprise Resources)</b>

Subject	<b>Scottish Government Consultation on Proposals for Regulations on Local Place Plans</b>
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## 1. Purpose of Report

1.1 The purpose of the report is to:-

- advise members on the Scottish Government consultation on Proposals for Regulations on Local Place Plans
- seek approval of the Council's response to the consultation

## 2. Recommendation(s)

2.1 The Committee is asked to approve the following recommendation(s):-

- (1) that the wording contained in the appendix to this report be submitted as the Council's response to the Scottish Minister's consultation on Proposals for Regulations on Local Place Plans; and
- (2) that the Head of Planning and Economic Development Services be authorised to make drafting and technical changes to the response prior to its submission.

## 3. Background

3.1 The Scottish Government's work on reform of the planning system included steps to reduce conflict, improve community engagement and build public trust in planning matters. The Planning (Scotland) Act 2019 received Royal Assent in July 2019 and introduced a number of measures including:-

- The introduction of a definition of the purpose of planning which is "to manage the development and use of land in the long-term public interest". The long-term public interest includes anything contributing to sustainable development or achieving the national outcomes set out in the Community Empowerment Act. The latter point reflects one of the overarching aims of the Government to strengthen links between spatial and community planning
- Enhanced community engagement in the preparation of Local Development Plans (LDP) including direct reference to the requirement to engage with children and young people

- The statutory requirement for a new LDP to take account of the Council's Local Outcome Improvement Plan (the term Community Plan is used in South Lanarkshire)

3.2 More fundamentally, the Act introduces the ability for communities to produce Local Place Plans (LPP) for their places with scope for these plans, or parts of them, to become part of the Local Development Plan for the area. The aim is to significantly increase engagement in development planning by effectively empowering communities to play a proactive role in defining the future of their places by setting out proposals for the use and development of land and buildings. The consultation paper identifies LPPs as offering the opportunity for a community led and, at the same time, collaborative approach to creating great local places. They can support community aspirations for responding to the climate emergency and tackling inequalities. Reference is made to the Place Principle which promotes a shared understanding of place and the need for those responsible for providing services and looking after assets to collaborate with local communities to achieve better outcomes for people and communities. At the same time places all have a direct and significant impact on health and wellbeing.

3.3 The Act provides some high level detail on the preparation of an LPP. They may be prepared by what is described as a community body which can be either a community council or a community controlled body within the definition of the Community Empowerment Act. The LPP has to have regard to both the National Planning Framework (national planning policy) and the LDP. It must also set out reasons for why the local development plan should be amended. An LPP may be prepared at any time; however, the Act requires specifically that, before preparing a local development plan, a planning authority is to invite local communities in its district to prepare local place plans. A community body must comply with any associated regulations before submitting a local place plan and describe how the views of councillors for the area to which the local place plan relates are to be taken into account in the preparation of the local place plan. The community body may submit a local place plan to the planning authority for the district to which the plan relates. When a valid local place plan relating to its district is submitted to them by a community body, a planning authority must include it in its register. A planning authority may decide not to register a local place plan on the basis that it is not valid but it must provide reasons for reaching that view.

#### **4. Consultation on Regulations for Local Place Plans**

4.1 The Scottish Government published a consultation on its proposals for the associated regulations on Local Place Plans in March this year to support the implementation of the LPP provisions in the Act. This includes provisions for the content, preparation, submission and registration of LPPs. The consultation paper states that a 'light touch' approach has been developed in order to allow for flexibility to suit local circumstances. At the same time a 'How To' to aid communities develop their plans has been produced by consultants on behalf of the Government, however, this does not form part of the current consultation. The consultation paper includes the following table which highlights how an LPP could be developed.

Stage	Activity
Getting the ball rolling	Involves the community body and others recognising that an LPP may add value to the community. This may be prompted by an invitation from the planning authority, but does not have to be
Preparing the LPP	Involves drawing together the evidence, and includes seeking views of the community on the key issues for the LPP, alongside the requirement to have regard to the LDP and the National Planning Framework (NPF)
Developing proposals	Based on the evidence gathered what are the key issues which should be contained in the LPP
Sense-checking the LPP	Engagement with stakeholders
Submitting the LPP	Finalise the LPP and additional material. Submit to the planning authority
Registering and delivery	Planning authority validation and registering of the LPP. Taken into account when developing the LDP

- 4.2 The proposed response to the consultation is found in the Appendix to the report. One of the main issues is the Government's desire for a light touch approach to the process. While it is recognised that the requirements should be user friendly, avoid unnecessary bureaucracy and not be overly prescriptive, the LPP when registered will have a statutory basis and, therefore, it is considered the overall balance of the process should be reviewed.
- 4.3 Firstly the matters to which an LPP should have regard to beyond the NPF and LDP are very limited and make reference only to a Locality Plan (known as Neighbourhood Plans in South Lanarkshire) where one is in place. This means there would be no reference to the Council Plan or Community Plan or its other plans and strategies nor to those of its Community Planning partners. In addition, it is likely that there will be instances where the area to be covered by an LPP does not correspond with that addressed in a Locality Plan or a LPP may be covered by two or more Locality Plans. A Locality Plan may not even be in place for a proposed LPP area. Furthermore, the Locality Plan may become out of date before the LPP is fully delivered or vice versa. The consultation paper also notes that a range of Community-led Action Plans (CAP) have already been developed prior to the LPP legislation coming into effect. In such cases, where the bodies responsible are different, it is important that the 'community body' developing an LPP collaborates with the body that was responsible for the CAP to avoid conflict between them. In addition, it is considered that guidance should be provided on who would be responsible for conflict resolution within communities.
- 4.4 Another important element will be to address how consultation is to be carried out. Placemaking is at the heart of the Scottish Government's future planning policy development and there are already several tools and guidance available to enable people to consider the quality of their local places. There is reference in the recent NPF4 position statement to embedding the use of the Place Standard tool within the planning process and, therefore, the Regulations should reflect this aspiration given it is already firmly established in community engagement processes. There is no reference to if and how the views of other parties will be sought – this includes landowners who are based outwith the community (especially where the land is already identified for new development in an existing LDP); existing businesses particularly where they are not locally owned; and public authorities. Their engagement and participation in the process is important to ensure the outcomes are delivered.

- 4.5 The Local Place Plan will have a statutory basis alongside the Local Development Plan and, therefore, it is considered that some elements of the consultation process on the latter should form part of the LPP process rather than the light touch approach referred to in the consultation. As a minimum, an advert should be placed in a local newspaper and/or the community bodies website. A public event similar to that required as part of the Pre-Application Consultation on major applications could also be a requirement with a consultation report being submitted with the completed LPP. This would include showing how the community body has taken into account the statutory requirements and addressed any outstanding contrary views.
- 4.6 The success of the Local Place Plan process is significantly dependent on the representativeness of the plan and requiring equality outcomes to be addressed throughout. There should be robust requirements to make sure that any plan the community produces uses good practice. In this respect the National Standards for Community Engagement should be used as a baseline for the consultation process. There should be a minimum proportion of the community that would be covered by the LPP to be involved in the creation and adoption of plans by the community in order to avoid plans being produced in near isolation. Endorsement of the plan by the local community is also crucial. Consideration should be given to the carrying out of a vote on the proposed plan to demonstrate a clear majority of the local stakeholders are in support of the proposals before it is submitted to the Council to register – this should include other parties such as local businesses and landowners. The draft Regulations are also silent on governance of the LPP making process particularly in terms of how it fits into the Council decision making process e.g. should committee approval be sought before the plan is placed on the register.
- 4.7 Other key issues include ensuring resourcing in terms of officer time and financial costs to the Council. There are currently over 30 active community councils within South Lanarkshire while there are other local community groups that do not have that status but could be seeking to prepare a Local Place Plan. The associated How To guide that has been produced in tandem with the consultation highlights a number of parts in the process where officer involvement is highlighted; it is likely this requirement will especially be the case for hard to reach communities. The impact on resources could, therefore, be significant. The management of community expectations will also be an important element.

## **5. Next Steps**

- 5.1 The closing date for the submission of responses to the consultation is 25 June 2021. Scottish Government's current timetable anticipates that, following the completion of the consultation exercise, the Regulations will be laid before Scottish Parliament at the end of 2021 and, thereafter, the provisions of the Act will come into effect. The timetable also intends for Regulations in relation to new style Local Development Plans introduced in the 2019 Act to be approved and take effect in the same period. This will allow LPPs to be able to influence the first round of local development plans in the new system. In advance of this the Planning Service has been developing a closer working partnership with the Council's Community Participation team under the scrutiny of the Community Planning Partnership Board and this work will continue.

## **6. Employee Implications**

- 6.1 The right of community bodies to prepare Local Place Plans is a new statutory duty introduced by the 2019 Act. It is anticipated that additional officer resources will be required to facilitate the process based on the contents of the associated 'How To' guide, however, the extent is unknown at present.

## **7. Financial Implications**

- 7.1 The costs of the preparation and production of the Local Place Plan will be the responsibility of the community body. The Partial Business and Regulatory Impact Assessment included with the consultation highlights that the establishment of a register and map of LPPs will cost £10,000 and £5,000 a year to maintain.

## **8. Climate Change, Sustainability and Environmental Implications**

- 8.1 It is implicit that the principles of placemaking will help address the effects of climate change and the delivery of mitigation measures.

## **9. Other Implications**

- 9.1 The consultation paper seeks stakeholders to submit their views on the document. There would be reputational risk if the Council did not respond.

## **10. Equality Impact Assessment and Consultation Arrangements**

- 10.1 An Equalities Impact Assessment (combining Child Rights and Wellbeing Impact Assessment) has been published alongside the consultation paper.
- 10.2. There is also no requirement to undertake any consultation in terms of the information contained in the report.

**Michael McGlynn**

**Executive Director (Community and Enterprise Resources)**

28 May 2021

### **Link(s) to Council Values/Ambitions/Objectives**

- Work with communities and partners to promote high quality, thriving and sustainable communities
- Accountable, effective, efficient and transparent

### **Previous References**

- None

### **List of Background Papers**

- Planning (Scotland) Act 2019
- Scottish Government consultation on Proposals for Regulations on Local Place Plans.

### **Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

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## **Appendix**

### **Scottish Government Consultation – Proposals for Regulations on Local Place Plans**

#### **Preparation of Local Place Plans**

1. *Do you agree with the proposal that community bodies should have regard to any Locality Plan that is in place for the area under consideration when preparing their Local Place Plan?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer (particularly if you do not agree)*

The Scottish Government's reform of the planning system sought to strengthen the contribution planning can make to inclusive growth and empowering communities, including sustaining and supporting communities across Scotland. The Planning (Scotland) Act 2019 establishes a definition for the purpose of planning which includes achieving the national outcomes within the meaning of Part 1 of the Community Empowerment (Scotland) Act 2015. The link between spatial and community planning is therefore implicit. Locality Plans (referred to as Neighbourhood Plans in South Lanarkshire) are intended to set out the priorities in which improvements can be made to achieve local outcomes. It is inevitable that proposals in a Locality Plan will have a spatial dimension (for example new housing, active travel, community facilities) which can be promoted in a Local Place Plan (LPP). It is important that the two documents align and therefore a LPP should have regard to a Locality Plan within the area the subject of the LPP. In addition, this will have the added benefit of ensuring local communities, the community planning partners, and the planning authority all work in collaboration to deliver the local outcomes.

It is likely that there will be instances where the area to be covered by a LPP does not correspond with that addressed in a Locality Plan or a LPP may be covered by two or more Locality Plans. In addition, a Locality Plan may not even be in place for a proposed LPP area. Further the Locality Plan may become out of date before the LPP is fully delivered or vice versa. The Regulations should address this matter.

Finally, the primary legislation and draft regulations do not consider the benefits of combining Locality Plans and LPPs within a single document. This would result in efficiencies by bringing all issues together and reduce duplication as well as confusion over the terminology and different plans. It may be that is a matter for each local authority to consider however guidance on how to address such circumstances would be welcome.

2. *Do you consider that community bodies should have to have regard to other additional matters beyond the Locality Plan when preparing their Local Place Plan?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer, giving examples (particularly if you agree)*

As noted in the response to Q1 there are likely to be instances where a Locality Plan is not in place for an area proposed to be subject of an LPP. In such cases the LLP should be required to show it accords with the LOIP (referred to as the Community Plan in South Lanarkshire).

The consultation paper states that it is not intended to include other public sector plans, programmes and strategies. as other matters the LPP should have regard to. However, it is considered important that a LPP should align with, at a high level, the Council Plan plus all related relevant strategies; in the case of South Lanarkshire this would include the Local Housing Strategy, Sustainability and Climate Change Strategy, Local Transport Strategy, Good Food Strategy and Open Space Strategy when it is produced. In addition, the LPP should take into account plans and strategies prepared by members of the Community Planning Partnership.

It is hoped that a key driver when developing a LPP will be to address climate change and ensure plans have this theme at the heart of its strategy (this would be in accordance with the recent position statement on NPF4). As an example, a Glasgow City Region Climate Adaptation Strategy has recently been approved which has as one of its guiding principle the need to equip communities to drive forward actions so places are climate ready. This topic should be a standard item in any LPP.

Notwithstanding this it is likely that other plans, programmes and strategies will be at different points in either preparation, review or implementations. In turn this may mean that community bodies may find it difficult to keep up to date. This could possibly something for individual authorities to address e.g., keeping a register of plans etc. This reinforces the desire for early engagement to take place with the Council.

The consultation paper also notes that a range of Community Action Plans (CAP) have already been developed out with the LPP process. In such cases, where the bodies responsible are different, it is important that the 'community body' developing a LPP collaborates with the body that was responsible for the CAP to avoid conflict between them. The Regulations should reflect this issue. In addition, clear guidance should be provided on who would be responsible for resolving such conflicts.

### **Form and Content of the Local Place Plan**

3. *Do you agree with the proposal that an LPP should contain a statement setting out the community's proposals plus a map of the area, setting out the LPP boundary?*

- Yes
- **No**
- No view

*Please comment on your answer (particularly if you do not agree)*

It is recognised that the ability of community bodies to produce LPPs will vary widely and therefore the intention not to be over prescriptive in the form and content is appropriate. The guidance set out in the associated 'How To' Guide is a good starting point for ensuring the aspirations and implementation of the plan are clearly established.

Nevertheless, it will be important for the Planning Authority and the wider local community covered by a LPP to understand how the proposals and delivery mechanisms were arrived at. This would include reference to any evidence base used to develop the plan. In addition the point at which an LPP is taken into account in preparing the LDP (ie at the evidence report stage or when the proposed LDP is produced) has also to be made clearer. If it the former then guidance has to be provided on the type of evidence that should accompany the submission of an LPP. The timing of the submission of the LPP would also be critical as it would be inappropriate to delay the submission of the evidence report to Scottish Ministers while waiting for LPPS to be produced.

One matter not covered in the consultation is reference to the area that may be covered by a LPP. Clearly the intention of the legislation is to empower communities to engage with the planning system and therefore it is understandable the extent of an LPP area should be a matter for the community body. However, it may be useful to provide guidance on the implications of an area being either too narrowly defined or too extensive to be meaningful. As an example, the Council is in early discussions with a Development Trust who propose to develop a LPP that covers an entire parish – not just the main town but a number of other settlements of varying size and character. Their view is that this

wider area allows the smaller settlements to draw on the experience of a wider pool of resources and source funding that might not otherwise be available. Whether this is appropriate will be a matter for the relevant communities and elected members but the possibility of conflict within a community of this size and nature in such a scenario is evident.

#### **Steps to be taken before preparing the Local Place Plan**

4. *Do you think a requirement for the community body to engage and seek the views of people to assist in the preparation of an LPP should be set out in law?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer*

To demonstrate that the proposed LPP represents the views of the local community that it covers it is considered that minimum consultation requirements should be established in the regulations. The reasons for this that are set out in the consultation, i.e., transparency, ensuring the plan is truly representative and that aspirations are captured, are all relevant in this context. This would also reflect the key outcome of the reform of the planning system to empower communities through appropriate engagement. As noted above it is critical however that a conflict resolution mechanism is built into the regulations to address varying views within the community. However, it is not considered appropriate that the Planning Authority would undertake this role.

One important element will be to address how consultation is to be carried out. Placemaking is at the heart of the Scottish Government's future planning policy development. As the consultation paper outlines there are already a number of tools and guidance available to enable people to consider the quality of their local places. There is reference in the NPF4 position statement to embedding the use of the Place Standard tool within the planning process and therefore the Regulations should reflect this aspiration given it is already firmly established in community engagement processes. At the same time it is recognised that the wide variety of other products and technologies can be highlighted in the 'How To' guide rather than making their use a legal requirement.

There is no reference to if and how the views of other parties will be sought – this includes landowners who are based out with the community (especially where the land is already identified for new development in an existing LDP); existing businesses particularly where they are not locally owned; and public authorities. Their engagement and participation in the process is important to ensure the outcomes are delivered.

5. *If a requirement to seek the views of people is put into law, what should any minimum requirement be?*

In addition to the comments in response to Q4, as the LPP will have a statutory basis alongside the LDP it is considered that, to ensure the views of the wider community are captured, the duties prescribed in the 2019 Act in relation to engagement during the preparation of the LDP (e.g., children and young people) are equally relevant. In addition, a participation statement should be made a requirement when the LPP is submitted to the Planning Authority.

#### **Submission of Local Place Plans**

6. *Do you agree with the proposal that there should be a minimum statutory requirement on the community body to consult the community once a draft LPP has been prepared and before submitting an LPP?*

- **Yes**
- **No**
- **No view**



*Please comment on your answer (particularly if you do not agree)*

Consultation on a draft LPP is key to ensuring that the views of the wider community have been taken into account and reflect the varying aspirations across the area to be covered by an LPP.

7. *If a requirement to consult across the community on the content of a draft LPP is to be put into law, what should any minimum requirement be?*

The Local Place Plan will have a statutory basis alongside the Local Development Plan and therefore it is considered that some elements of the consultation process on the latter should form part of the LPP process rather than the light touch approach referred to in the consultation. As a minimum an advert should be placed in a local newspaper and/or the community bodies website. A public event similar to that required as part of the Pre-Application Consultation on major applications should also be a requirement with a consultation report being submitted with the completed LPP. This would include showing how the community body has taken into account the statutory requirements and addressed any outstanding contrary views.

The Council considers that success of the Local Place Plan process is significantly dependent on ensuring the representativeness of the plan and requiring equality outcomes to be addressed throughout. There should be robust requirements to make sure that any plan the community produces uses good practice. In this respect the National Standards for Community Engagement should be used as a baseline for the consultation process. There should be a minimum proportion of the community that would be covered by the LPP to be involved in the creation and adoption of plans by the community in order to avoid plans being produced in near isolation.

Endorsement of the plan by the local community is also crucial. Consideration should be given the carrying out of a vote on the proposed plan to demonstrate a clear majority of the local stakeholders are in support of the proposals before it is submitted to the Council to register – this should include other parties including businesses and landowners.

### **Taking the views of councillors into account**

8. *Do you agree with the proposal that the community body should seek the views of ward councillors when preparing the LPP?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer - particularly if you do not agree or have a view as to how ward councillors' views should be taken into account or reported?*

In order to reflect the views of their constituents it is imperative that elected members have a strong and clear role in the preparation of LPPs. As well as the reasons set out in the consultation paper, councillors can also ensure that the voices of all of the community are heard. Nevertheless, reconciling political views within multiparty wards may be difficult to manage and achieve.

There is no reference in the consultation paper to the decision-making process for a planning authority to agree to register an LPP. In particular, it is not established whether committee approval will be required. If so, this could result in elected members being reluctant to get closely involved in LPP preparation because of concerns over a potential conflict of interest.

## **Information to submit alongside a local place plan**

9. *Do you agree that, alongside the LPP itself, the community body should submit a statement on how it has complied with the legal requirements?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer (particularly if you do not agree)*

The Council considers that each of the proposed requirements set out in paras 78 and 79 of the consultation paper should be required to be submitted with the LPP. These additional matters should be included in the secondary legislation and not be a matter for the guidance. This includes

- Showing how the LPP complies with statutory requirements
- Demonstrating that the LPP complies with the Local Development Plan/National Planning Framework (and the Locality Plan or LOIP where relevant) and justify a departure where relevant
- As per the response to Q2 above how the LPP accords with the Council Plan and other strategies
- The evidence base used for the preparing the LPP. As a minimum this should be informed by evidence of consultation with and buy in from the local community.
- How the LPP will be delivered – as a minimum this should include the consideration has been given to involving other partners/organisations and potential funding sources in order to avoid community expectations being disproportionately raised

## **Register and map of Local Place Plans**

10. *Do you agree the requirements planning authorities have to keep the register of local place plans should be aligned to the existing arrangements for registers?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer (particularly if you do not agree)*

This is not considered to be an issue given the current requirements that the Planning Authority has to comply with.

11. *Do you agree that the additional information provided by the community body alongside the LPP should be kept on the register of local place plans?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer (particularly if you do not agree)*

It is important that all of the information submitted with the LPP is placed on the register to ensure transparency in the plan preparation process and demonstrate the journey made in developing the LPP.

12. *Please provide your views on the level and content of information to be placed on the register.*

See response to Q11 above

### **Removal of the LPP from the register**

13. *Do you agree with the proposal that a planning authority may remove an LPP from the register once it has been taken into account in the LDP, and must do so when requested by the community body that prepared it?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer (particularly if you do not agree)*

The removal of the LPP from the register will be appropriate once the associated LDP has been adopted. However, the consultation refers to the possibility of planning authorities retaining an LPP should it wish to; if this is to be brought forward in the Regulations then clear guidance is needed to assess such scenarios.

In terms of dealing with requests by the community body to remove from the register care should be taken to ensure this reflects the view of the wider community. There may be circumstances where participants in the community body/elected members change.

There is also no recognition in the consultation to cases where one or more additional community body is established with different aspirations and proposals.

Committee approval?

### **Making the Local Place Plan map available**

14. *Do you agree the requirements planning authorities have for making the map of local place plans available should be aligned to the existing arrangements for registers?*

- **Yes**
- **No**
- **No view**

*Please comment on your answer (particularly if you do not agree)*

No additional comment

### **Impact Assessments**

- Business and Regulatory Impact Assessment
- Equalities Impact Assessment (combining Child Rights and Wellbeing Impact Assessment)
- Island Communities Impact Assessment

15. *Please give us any views you have on the content of these partial assessments.*

In terms of the Business and Regulatory Impact Assessment the section on the costs associated with the preparation focusses on the impact on the community body preparing the LPP with the only reference to the planning authority being in relation to the setting up of the register. The ability to prepare LPPs is a new one and not currently required to be resourced. The associated 'How To' guide refers to communities working with the planning authority 'throughout' for example ensuring the legal requirements have been met; providing advice on existing detailed policy and a range of information

that may be sought to evidence the plan; and being part of what is described as a steering group. South Lanarkshire currently has 35 active community councils as well as a large number of informal community groupings and development trust and therefore the impact on resources is potentially significant.

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

None

- Fairer Scotland Duty
- Strategic Environmental Assessment

17. *Please give us your views on the Fairer Scotland Duty and Strategic Environmental Assessment screening documents and our conclusion that full assessments are not required.*

The Council considers that there will be no significant environmental effects resulting from the preparation and implementation of the proposed regulations. This is particularly so given that LPPs should take account of the LDP, which itself will have been subject to a full and robust SEA.

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