

Scottish Government Consultation:
Effective Community Engagement in Local Development Planning Guidance

1.0 EXECUTIVE SUMMARY

- 1.1 This aim of this Report is to advise the PPSL of the Scottish Government consultation on [Effective Community Engagement in Local Development Planning Guidance](#) and seek approval for the proposed response to this consultation (See Appendix 1). This response is due by 13th September 2023.
- 1.2 This guidance is being consulted on as part of the Scottish Government's wider work on planning reform and implementing of the Planning (Scotland) Act 2019.
- 1.3 The planning authority, will require to have regard to the finalised guidance in the preparation of Local Development Plan 3. It sets out the high-level expectations on how planning authorities can comply with their legal duties to engage with the public when preparing their local development plans. The focus of the guidance is on compliance with statutory duties and degree of influence of views. Potential issues relate to resource levels, descriptions of levels of influence and integration with the Council's approach to community engagement.
- 1.4 Recommendations
- It is recommended that the PPSL:
- i) note this report and the implications of the proposed guidance for the planning service and wider council.
 - ii) approve the proposed response on this consultation to the Scottish Government (Appendix 1).

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2.0 INTRODUCTION

- 2.1 The Scottish Government is consulting on [Effective Community Engagement in Local Development Planning Guidance](#). The proposed guidance is part of the Scottish Government's wider work on planning reform and implementing the Planning (Scotland) Act 2019. The proposed response to this consultation is set out in Appendix 1. The due date to respond to the consultation is 13th September 2023.
- 2.2 This guidance is being consulted on as part of the Scottish Government's wider work on planning reform and implementing of the Planning (Scotland) Act 2019.

3.0 RECOMMENDATIONS

3.1 Recommendations

It is recommended that the PPSL:

- i) note this report and the implications of the proposed guidance for the planning service and wider council.
- ii) approve the proposed response on this consultation to the Scottish Government (Appendix 1).

4.0 DETAIL

- 4.1 The new section 16C of the Town and Country Planning (Scotland) Act 1997, which was introduced by section 7 of the 2019 Planning (Scotland) Act, requires planning authorities to have regard to the proposed “*Effective Community Engagement in Local Development Planning Guidance*”. Therefore, community engagement throughout the preparation of Local Development Plan 3 would require to take account of the finalised Guidance. The proposed Guidance sets out the high-level expectations on how the planning authority can comply with its legal duties to engage with the public when preparing its local development plans. The focus of the guidance is on compliance with statutory duties and degree of influence of views. The proposed Guidance sits alongside PAN 3/2010 Community Engagement, which is to remain in place. Given that consolidation of the advice is not proposed then the relationship between the two sets of guidance should be made clear. Appendix 1 Question 5
- 4.2 There are a series of documents that require to be prepared alongside the Local Development Plan, each of which has its own requirements in terms of public engagement. This includes Strategic Environmental Assessment, Public Sector Equalities Duty Assessment and Island Communities Impact Assessment. The proposed Guidance does not supersede the requirements of these assessments. Appendix 1 Question 4.
- 4.3 The proposed Guidance covers new aspects of engagement where there are currently no formal assessment methods or where practice in the area is evolving, for example Human Rights assessment and Health Inequalities Impact Assessment. In these cases, emerging good practice is highlighted.
- 4.4 Table S1 sets out the local development plan engagement duties as required under the new Act. This provides a useful list of the requirements for easy reference. New duties such as seeking the views of and having regard to views expressed by the public about the content of the Participation Statement and inviting local communities to prepare Local Place Plans are noted. A statement of how the views of specific sectors of the community, including children, young people, disabled people and gypsies and travelers were sought and how they have been taken into account is required. There will be resource requirements associated with these duties.
- 4.5 Table S2 notes that there are new strategies required now as part of the LDP process that will also have public engagement requirements. These include Woodland and Forestry Strategy, Open Space Strategy and the Play Sufficiency Assessment. These are dealt with more fully in other regulation and have resource requirements.
- 4.6 The proposed Guidance is not prescriptive about the methods of engagement to be used as this should be appropriate to the subject, context and groups to be engaged. This approach is welcomed as it gives the planning authority latitude to utilise methods appropriate to its own circumstances.

- 4.7 Table 1 sets out “*Levels of Engagement / Spectrum of Participation*”, which ranges from informing, consulting, collaborating to empowering and associated descriptions. This table raises a number of issues in terms of potential variations in interpretation and practicalities of implementation as follows:

“Involving” – implies that each individual concern and/or aspiration would be directly reflected in the outcome /alternatives developed. It would be appropriate to consider every concern raised, however, it may not be practical to include every individual concern or aspiration as an outcome or alternative developed in the LDP process. This definition may give rise to unrealistic expectations of the LDP process and not necessarily be an efficient or effective way to handle issues raised. Grouping of like issues would be a reasonable approach. It should be transparent and demonstrable how concerns and aspirations have been assessed and addressed.

“Collaborating” - the table states that “*we will incorporate your advice and recommendations into decision / implementation to the maximum extent possible.*” Although this does note “*to the maximum extent possible*” this may still raise expectations regarding the weight to be given to one community’s advice vis-a-vis that from other participants in the process e.g. Key Agencies or differing community groups. The addition of a phrase such as “*and taking all views into account*” may assist.

“Empowering” – this definition states that “*we will implement what you decide*”. Empowering has been linked further on in the proposed Guidance to Local Place Plans (LPP). Although the Guidance states LPPs should be taken into account in the LDP process, the definition of empowerment in Table 1 of the Guidance has the potential to raise expectations regarding how the planning authority will handle LPPs. It may not be possible to implement what is decided in an LPP due to other community views being in conflict or a conflict with other significant material considerations. The term “*implementing*” also implies a commitment of local authority resource to the implementation of actions in an LPP. This use of this definition, in relation to LPPs, has the potential to be misleading and should be clarified. Appendix 1 Question 2.

- 4.8 The local development plan preparation stages are set out with statutory minimum timings from the Act, e.g. minimum consultation period on the proposed local development plan 12 weeks. Previously a maximum time was set, which proved useful in managing expectations. It may be useful to give an indication of typical timings or maximum timings within this Guidance to help manage expectations. Appendix 1 Question 9
- 4.9 It is noted that there is currently a Scottish Government review of Public Sector Equality Duty underway. The outcomes of this will need to be taken in to consideration in the finalisation of this Guidance. Appendix 1 Question 9
- 4.10 Given the increased requirements in respect of public engagement throughout the new Local Development Plan process, including for specific sectors of society and reporting requirements, it would be advisable to ensure a robust engagement strategy is drawn up as part of LDP3 programme management.

The key elements of this may then be articulated in the statutory Participation Statement (publication setting out how people may become engaged in the LDP process during the various stages), the preparation of which is now subject to engagement.

- 4.11 It is understood that the council is reviewing its own guidance for community engagement. It would be useful to ensure that the approach the council takes considers what is required by other statutory processes, such as planning, in order to provide a clear, efficient and effective approach to engagement across different services within the council.

5.0 CONCLUSION

- 5.1 Once finalised this guidance will require to be taken into consideration in the preparation of future Local Development Plans by the planning authority. It sets out high level expectations of how the planning authority should engage with the public when preparing local development plans. It also describes how the public can expect its comments to be taken in to consideration by the planning authority.
- 5.2 There are resource implications associated with public engagement but the detailed methods are not included in this guidance, being left to the discretion of the planning authority. In general, the proposed Guidance is to be welcomed although a number of issues have been raised in the proposed consultation response (Appendix 1).

6.0 IMPLICATIONS

- 6.1 Policy: When finalised the proposed Guidance will require to be taken into account in the preparation of the Local Development Plan.
- 6.2 Financial - None as a result of this consultation.
- 6.3 Legal – None as a result of this consultation. However, failure to comply with legislative requirements may result in challenges to the planning authority's handling of the LDP process.
- 6.4 HR None
- 6.5 Fairer Scotland Duty: The Guidance gives further advice on this issue for the LDP process
- 6.5.1 Equalities: The Guidance gives further advice on this issue for the LDP process
- 6.5.2 Socio-Economic Duty: The Guidance gives further advice on this issue for the LDP process
- 6.5.3 Islands Duty: The Guidance gives further advice on this issue for the LDP process

6.6 Climate Change - None

6.7 Risk – None as a result of this consultation. However, failure to comply with legislative requirements during the LDP process may result in challenges, delays and additional costs.

6.8 Customer Service None

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APPENDICES

Appendix 1 Proposed Response

Appendix 1 Proposed Response

Question 1 – Do you agree that the purpose and scope of the guidance is clear?

• Yes • No • No view • Please comment on your answer (particularly if you do not agree).

Question 2 – Do you agree that the terms inform, consult, involve, collaborate and empower, as described in the table, are helpful terms to support understanding of different levels of engagement and the influence that results from it?

• Yes • No • No view • Please comment on your answer (particularly if you do not agree)

The terms themselves are useful, however, there are some descriptions in the table that appear to be misleading or difficult to implement in practice.

“Involving” - This states regarding the planning authority that *“we will work with you to ensure that your concerns and aspirations are directly reflected in the outcome /alternatives developed”*. This raises an issue, as whilst it would be appropriate to consider every concern raised it may not be appropriate or practical to include every individual concern or aspiration as an outcome or alternative developed in the process. This may give rise to unrealistic expectations of the LDP process and not necessarily be an efficient or effective way to handle issues raised. Rather than individual concerns (*“your concerns”*) it should be clear that grouping of like issues would be a reasonable approach. It should be transparent and demonstrable how concerns and aspirations have been assessed and addressed and this may not be in all cases as an outcome or alternative.

“Collaborating” - the table states that *“we will incorporate your advice and recommendations into decision / implementation to the maximum extent possible.”* Although this does note *“to the maximum extent possible”* this may raise expectations regarding the weight to be given to one community’s advice vis-a-vis that from other stakeholders e.g. experts such as Key Agencies or differing community groups. The addition of a phrase such as *“and taking all views into account”* may assist.

Empowering” – this definition states that *“we will implement what you decide”*. Empowering has been linked further on in the proposed Guidance to Local Place Plans (LPP). Although the Guidance states LPPs should be taken into account in the LDP process. the definition of empowerment in Table 1 of the Guidance has the potential to raise expectations regarding how the planning authority will handle LPPs. It may not be possible to implement what is decided in an LPP due to other community views being in conflict or a conflict with other significant material considerations. The term *“implementing”* also implies a commitment of local authority resource to the implementation of actions in an LPP. This use of this definition in relation to LPPs has the potential to be misleading and should be clarified.

Question 3 - Do you agree that the appropriate levels of engagement have been identified for the stages of local development plan preparation?

• Yes • No • No view • Please comment on your answer (particularly if you do not agree)

Yes, subject to the clarification of the levels of engagement as set out in the answer to question 2.

Question 4 - Do you agree that the appropriate levels of engagement have been identified for the impact assessments?

• Yes • No • No view • Please comment on your answer (particularly if you do not agree).

The levels of engagement require to be clarified as set out in the answer to question 2. The statutory requirements should be clear. It should also be noted that engagement should relate to those elements scoped in to impact assessments.

Question 5 – Overall, is the approach set out in the guidance helpful?

• Yes • No • No view • Please comment on your answer (Particularly if you do not think the approach is helpful).

It may have been useful to take the opportunity to combine PAN3/2010 Community Engagement with this proposed Guidance to give a consolidated guidance. However, in the absence of this the relationship between the 2 documents should be made clear.

Question 6 – Do you have any views about the initial conclusions of the impact assessments that accompany and inform this guidance?

• Yes • No • No view • Please comment on your answer (particularly if you do have views to share).

Question 7 - Thinking about the potential impacts of the guidance – will these help to advance equality of opportunity, eliminate unlawful discrimination, and foster good community relations, in particular for people with protected characteristics?

• Yes • No • No view • Please comment on your answer.

Question 8 – Do you have evidence that can further inform the impact assessments that accompany this guidance, in particular in relation to the impact of the guidance on people with protected characteristics, businesses and costs to businesses?

• Yes • No • No view • Please comment on your answer.

None

Question 9 - Please provide any further comments on the guidance set out in this consultation.

The local development plan preparation stages are set out with statutory minimum timings from the Act, e.g. minimum consultation period on the proposed local development plan 12 weeks. Previously a maximum time was set, which proved useful in managing expectations. It may be useful to give an indication of typical timings or suggested maximum timings within this Guidance to help manage expectations.

It is noted that there is currently a Scottish Government review of Public Sector Equality Duty underway and that the outcomes of this will need to be taken in to consideration in the finalisation of this Guidance