

## Response ID ANON-2CP9-RFQW-X

Submitted to Local development planning - regulations and guidance: consultation  
Submitted on 2022-03-31 13:42:56

### PART A – Introduction

1 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?

Yes

Please explain why you agree or disagree::

1. Our members agree with this principle in theory. However, providing all detail in guidance can create uncertainties. It is important that the Regulations are sufficiently clear and comprehensive to provide the appropriate regulatory framework for delivering new style Local Development Plans.
2. There are some points which have been proposed, as guidance which would be more appropriate to be dealt with by regulations. An example is the Gate Check and Evidence Report process.
3. There are no timescales or detailed procedures noted in the guidance and our members are of the view that the prescribed time periods and detailed process should be outlined in regulations. Prescribed time periods are necessary to avoid protracted delays by both the DPEA and Planning Authorities. A lack of prescribed time periods and process could potentially also result in Planning Authorities and the DPEA applying different time frames to different cases. Consistency is needed across the country and Planning Authorities and the public should be able to rely on transparent time periods and processes which are clearly outlined in regulations.
4. Our members are concerned that as guidance cannot re-write legislation, we are of the view that there are some examples where the proposed draft currently may unintentionally attempt to do that. There are a few examples in connection with the production of the Evidence Report where it appears that the draft Guidance expands on the legal scope and purpose of the Evidence Report. These are fundamental tenets of plan making and we suggest that they should be seriously reconsidered and consulted upon again. It would be unfortunate if the new system of development planning was to be founded on the basis of what appears to be a misunderstanding of the legitimate scope of the Examination Report.
5. As a further example of the conflict between law and draft guidance, paragraph 193 of the draft guidance on local development planning sets out the limited grounds on which a planning authority can decline to accept a Reporter's recommendations. Those grounds are set out in full in the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009. The guidance in paragraph 193 suggests that one of those grounds is that "the modification would have the effect that the Plan would not be consistent with the NPF or any adopted National Park Plan". Some of our members believe that is wrong as a matter of law. The current form of the 2009 Regulations allows a planning authority to decline to accept a recommendation where it would result in a modification and is not consistent with the relevant Strategic Development Plan to which the Local Development Plan relates. There is no equivalent provision related to the National Planning Framework.
6. That example illustrates the potential problems that can arise through the use of slimmed down Regulations and expansive guidance. We note (paragraph 26 of Part B) that it is in fact Scottish Government's intention to amend the 2009 Regulations to deal with NPF consistency. Our members are of the view this (and any other consequential changes arising from the overhaul of the Development Planning system) should be set out clearly in revised draft Regulations now to allow for a proper discussion and debate on relevant issues.

2. i) Do you have any views on the content of the interim assessments?

No

Please explain your views::

No comment

2. ii) Do you have or can you direct us to any information that would assist in finalising these assessments?

No

Please provide or direct us to the information::

No comment

You can upload a file here::

No file uploaded

3. i) Do you have any views on the Fairer Scotland Duty and Strategic Environmental Assessment screening documents?

No

Please explain your views::

No comment

3. ii) If you consider that full assessments are required, please suggest any information sources that could help inform these assessments.

Please put down your suggestions here::

No comment

## PART B – Proposals for Development Planning Regulations

4 Do you agree with the proposals for regulations relating to the form and content of Local Development Plans?

No

Please explain why you agree or disagree::

1. Draft National Planning Framework 4 envisages a series of requirements for Local Development Plans, including the need for a housing delivery pipeline which should be linked to short, medium- and long-term land. In the interests of clarity, our members believe that whatever form NPF4 ultimately takes, the LDP Regulations should reflect that policy approach and impose a requirement on the relevant Local Development Plan to set these matters out in full.
2. The consultation suggests LDPs are to be map based and set out developer obligation methodology, however, it is not clear from the NPF4 consultation if, and to the extent developers are to be obligated in respect of existing deficiencies as well as future needs.

5 Do you agree with the proposals for regulations relating to the preparation and monitoring of LDPs?

Yes

Please explain why you agree or disagree::

Overall, yes. However, we note that the Government does not intend to bring into force the parts of the 2019 Act, which allow the amendment of Local Development Plans. It is difficult to understand why these provisions should not be considered at this time. It is entirely possible that a local authority (or indeed Scottish Ministers using their default powers under Section 20AA (2)) determine that it is necessary to make an amendment to an LDP rather than embarking on a full review of the Local Development Plan. The provisions in Section 20AA provide a degree of flexibility which may be useful when it comes to addressing the specific issues of a particular Local Development Plan, and we would have thought that it is in all stakeholder's interests to ensure that a clear regulatory framework is set out from the outset of the new LDP system.

6 Do you have views on additional information and considerations to have regard to when preparing and monitoring LDPs?

Yes

Please explain your views::

Regulation 8 states "(1) In preparing a local development plan the planning authority are to have regard to [...] (d) any regional spatial strategy prepared for the local development plan area or an area adjoining the local development plan area, (e) any regional transport strategy relating to the local development plan area..."

There is no definition of "region" provided here and the extent to which Councils must consider the RSSs of adjoining areas is potentially vast. This has implications in terms of transparency and public consultation. Noting that impending changes to the development planning system are not yet in effect and it is not clear what teething problems might arise with introduction of RSSs, amending this wording as follows would be prudent: "(1) In preparing a local development plan the planning authority are to have regard to the following, to the extent relevant" [...] (d) any a regional spatial strategy prepared for the local development plan area or prepared for an area adjoining the local development plan area"...

7 Do you agree with the proposals for regulations relating to the Evidence Report?

No

Please explain why you agree or disagree::

1. The purpose of the Evidence Report and Gatecheck should be clearer with stated minimum requirements to avoid confusion and delay.
2. Our members are concerned that the guidance is not the appropriate place to set out whose views should be sought for the Evidence Report and what the minimum evidence requirement is. Regulations would be more appropriate. Consistency is required and the use of guidance could lead to a wide interpretation leading to inconsistencies. Whilst flexibility is welcomed, some robustness is needed to ensure consistency.
3. Our members believe it is essential that minimum evidence requirements in certain areas are identified. We refer in our comments on Proposed Plan Guidance on the need for proper assessments of existing commercial property stock which we deem necessary to inform the LDP's assessment of future employment land. In order to establish the appropriate level of housing that is required for a local authority area over the 10-year life of the Plan, it is essential that the local authority has accurate and up-to-date housing data. We strongly recommend that the LDP Regulations require the local authority's Evidence Report to contain a household survey undertaken in the preceding 12 months that establishes the housing need and demand on an all-tenure basis that exists within the local authority area. That evidence would be invaluable in limiting future disputes on the adequacy of the LDP policy response

to housing need and demand. That is an issue that we understand the Scottish Government would like to address and this could be a simple and cost-effective step that would assist in achieving that objective.

4. We also believe that the Evidence Report should contain a requirement for an up to date (less than 12 months old) Housing Land Audit in order that the sufficiency of the forward land supply is properly understood at the time the Local Development Plan is produced.

5. Section 16B (4) requires the Evidence Report to include a statement on the extent to which views expressed by the public at large have been taken into account in the Report. That language does not go far enough to allow a Reporter considering the Evidence Report to understand the full content and nature of comments that have been made.

6. Our members are of the view that one of the matters that should be prescribed under Section 16B(3)(e) is a copy of all representations submitted on the Evidence Report, together with a summary of the issues that the comments have raised. It is only by identifying all of the issues that the Examination Report that the Reporter can fully understand the sufficiency of the evidence on which the planning authority intends to rely. The language in Section 16B(4)(c) is too vague and without further detail being prescribed, there is a danger that the Reporter examining the LDP Examination Report is unaware of substantial disputes that may arise as to the quality of the evidence on which the planning authority intends to rely. If these matters are not considered properly at the Evidence Report stage, they will resurface at the LDP Examination. We understand that is something Scottish Government and stakeholders wish to avoid.

8 Do you agree with the proposals for regulations relating to the preparation and publication of the LDP?

No View

Please explain why you agree or disagree::

No comment

9 Do you agree with the proposals for regulations relating to the examination of the LDP?

No

Please explain why you agree or disagree::

1. Our members believe that some clarification is required. It is current DPEA practice that, at the beginning of the LDP Examination, the Reporter will issue an informal request to the planning authority to provide further information to them in relation to any planning decisions taken on any of the sites under consideration through the LDP Examination. In practice, this appears to mean that the LDP Examination Reporter will receive, on a monthly basis, copies of any planning decisions which have been taken by the Council on allocated or proposed sites. Our members have experience of at least two LDP Examinations where the Reporter in question received information from the Council and reached conclusions on it, without requesting submissions from either the planning authority or any party that might be affected by it. We have strong concerns about the lack of transparency and fairness.

2. Our members have recommended that Regulation 17 is amended to make it clear that where an appointed person receives further representations and considers that they should be taken into account, the appointed person should consider which persons may be affected by the further information, and invite them to make representations on the matter should they wish to do so.

10 Are there matters you wish to highlight relating to amendment of the LDP which may have bearing on the proposals for regulations being consulted on in this document?

Yes

Please explain your view::

The effect of the 2019 Planning Scotland Act should be taken into account. For example, it affects s15 of the Town and Country Planning (Scotland) Act 1997, so development plans should take into account access and public convenience etc.

11 Do you agree with the proposals for regulations relating to Development Plan Schemes?

No View

Please explain why you agree or disagree::

No comment

12 Do you agree with the proposals for regulations relating to Delivery Programmes?

No

Please explain why you agree or disagree::

1. We note that draft NPF4 makes certain suggestions as to what matters should be covered in delivery programmes. The content of the Regulations should obviously reflect whatever policy position is adopted by the Scottish Parliament on NPF4 and, in our view, it will be necessary for the Regulations to be updated in due course to reflect the final content of NPF4 as approved.

2. Our members suggest that Regulation 22 is amended so that landowners of proposed and allocated sites in the proposed local development plan are specifically mentioned as being a named party for the statutory consultation for delivery programmes.

13 Do you agree with the proposals for regulations relating to the meaning of 'key agency'?

No View

Please explain why you agree or disagree::

No comment

14 Do you agree with the proposals for regulations relating to transitional provisions?

No

Please explain why you agree or disagree::

1. Given that there is a specific legislative requirement to consult with children and young people on the content of the LDP, we believe that the draft guidance should be updated to require local authorities to confirm explicitly in plain English to young people how their housing needs have been predicted in the documents that form part of the Evidence Report. The same duty should apply in relation to how the Local Authority intends to address those needs in its proposed Local Development Plan.

2. Our members are of the view that the current system of housing need and demand assessment does not take account of the individual needs of all young people. There is a risk that supply is not properly planned for to meet the demand that exists because the current HNDA system does not require local authorities to consider demand in full. The supply that is planned for and is built attracts a higher price because demand outstrips supply and therefore prices are beyond the reach of some young people.

3. Local authorities should be encouraged through the guidance on local development planning to be open with young people about the way in which their needs are being addressed. If Scottish Government's objective is to encourage young people to become interested in the planning system, they need to be engaged and properly informed on how emerging Local Development Plans intend to address their needs over the 10-year period that the Plan is supposed to cover.

## PART C – Draft Guidance on Local Development Planning

15 Do you agree with the general guidance on Local Development Plans?

No View

Please explain why you agree or disagree::

No comment

16 Do you agree with the guidance on Development Plan Schemes?

No View

Please explain why you agree or disagree::

No comment

17 Do you agree with the guidance on the Delivery Programme?

No

Please explain why you agree or disagree::

1. Paragraph 82 of the Draft Guidance sets out the content of Delivery Programmes and states that ideally it should identify costs and constraints and a clear pathway to addressing them eg. funding sources, timescales, and phasing. Whilst our members support the content of Delivery Programme it must be acknowledged in the Guidance that access to finance will be key to the delivery of many, if not all, allocated local development plan sites. This will inevitably result in greater uncertainty within a Delivery Programme, unless significant and upfront work is undertaken on development finance matters in tandem with the inclusion of policies and proposals contained in the local development plan. We support the intention expressed in para.86 that it should align, where possible, with wider local authority budgets.

2. Where there is the opportunity for debt funding to come through mainstay local authority capital programmes, such as the Public Works Loan Board, this may be more readily definable for public sector capital building projects such as new schools, leisure and cultural facilities, flood defences and road infrastructure. However, where private financing is required, there will be different types of finance applicable at different stages of a project and trying to identify these out at the outset of commercial projects may be much harder. Some projects identified in the LDPs may not even be fundable for debt and equity as the associated risks may be deemed to be too high. The collaborative work mentioned in para 86 will be essential and should include the landowners of every proposal site along with other commercial stakeholders.

3. Constraints to development, and the routes to unlocking them, should be identified in a table for every local plan proposal within the Delivery

Programme (noted in Paragraph 156) – much in the same way that constraints are set out for the delivery of allocated housing sites in local authority Housing Land Audits. Our members support the proposition that the renewal of the Delivery Programme is ongoing (para 87) and that it should be reviewed and renewed at least every two years.

18 Do you agree with the guidance on Local Place Plans?

No

Please explain why you agree or disagree::

In relation to paragraph 98, if the intent is that the LPP belongs to the local community it should be demonstrated that once the LPP has been prepared that there has been a process of consultation prior to submission and registration.

19 Do you agree with the guidance on the Evidence Report?

No

Please explain why you agree or disagree::

1. Our members have concerns about the lack of clarity of purpose or of Reporters and Councils' powers. How Local Place Plans fit into the procedure also needs to be tightened up to avoid endless delay and potential conflict.
2. Our members also have strong concerns about what the guidance assumes can/should be included in the Evidence Report. The legislation does not support many of these matters, which are policy related rather than evidence (e.g. the proposed Housing Land Requirements for the LDP or the methodology that the LDP is to use in site assessment).
3. We are of the view that the section on the Evidence Report should emphasise that evidence should be recent (within the 12-month period preceding the compilation of the Evidence Report) in order that it is relevant to matters under consideration.
4. The language in paragraphs 107 – 114 implies that the actual evidence on which the Evidence Report is based may not be provided as part of the overall Report. This is essential and the guidance cannot leave local authorities or third parties in any doubt that the actual evidence must be disclosed and available for consideration by consultees. If it is not and the Evidence Report is instead simply a summary of the planning authority's take on the evidence, it will simply result in further disputes that run counter to Scottish Government's objectives to streamline and simplify the planning system. We need a much-simplified NPF4 document and delivery focussed LDPs that have the clarity, the succinctness and accessibility that the Scottish Government's planning reform agenda set out to deliver.
5. Our members have serious concerns about the terms of paragraph 123 which appears to suggest that although views may be sought from particular groups of people including the public at large at an early stage prior to production of the draft Evidence Report, there may be no consultation on the content of the Evidence Report itself. If members of the public and others are not provided with the opportunity to comment on the draft Evidence Report, there will be significant risks that deficient Evidence Reports will be produced and submitted to examination without a proper understanding of areas of disagreement. The purpose of the gate check process was to resolve issues at any early stage, and paragraph 123 must be substantially revised to make it clear that Scottish Government's expectation is that all interested parties will be afforded an opportunity to comment on the background evidence and the Evidence Report itself, before the Report is submitted to the Gate Check. If this is not done, it would seriously undermine the requirement for the Evidence Report and Gatecheck.
6. We note the comment in paragraph 126 that "the Evidence Report stage aims to improve the consistency in the approach to evidence and Plan making across Scotland". It is difficult to understand how the Guidance can make that claim when the Scottish Government does not intend to impose minimum requirements for the Evidence Report. For the avoidance of doubt, our members fully support the sentiment of paragraph 126, but that sentiment needs to be replicated in the legally binding Regulations that will govern how an Evidence Report is prepared.
7. As previously stated, our members are of the view that the Evidence Report procedure and process should be dealt with through regulations

20 Do you agree with the guidance on the Gate Check?

No

Please explain why you agree or disagree::

1. As previously stated, the Gate Check procedure and process should be dealt with through regulations. The guidance does not detail what is "sufficient information" to allow the Planning Authority to prepare a LDP and there are no time frames for the Reporter preparing their assessment report. The Planning Authority is to revise its Evidence Report as required following the Reporter's assessment being produced and then the same process is followed again. There are no time frames for any of these steps. Without any prescribed time scales, in either guidance or regulations, delays are inevitable. If the Scottish Government is minded to retain the Gate Check and Evidence Report as guidance, then clear timescales are required and must be included in the guidance. However, it is our view that it is more appropriate to deal with these issues as regulations.
2. As we have also previously stated our members have concerns about the lack of clarity of purpose or of Reporters and Councils' powers. How Local Place Plans fit into the procedure also needs to be tightened up to avoid endless delay and potential conflict.
3. We note the line in paragraph 138 that the [LDP] examination is "not an opportunity to revisit the Evidence Report itself". That guidance is not legally correct as the scope of the LDP Examination depends on the nature of the representations made to the LDP.

4. It is possible that a LDP may be produced on the basis of an agreed Evidence Report, but that between approval of the Evidence Report and production of the LDP, a significant new piece of evidence on a particular topic becomes available. If a third party made a representation to the LDP to the effect that the relevant policy was inappropriate, because the evidence on which it was based is out of date, the LDP Examination Reporter would require (as a matter of law) to consider the Evidence Report itself.

5. Whilst such situations should be rare, if a local authority progresses quickly from approval of the LDP Evidence Report to production of the LDP proposed Plan, it is conceivable that these situations may arise, and it is important that the guidance does not give a false impression as to what the LDP Examination can and cannot consider.

21 Do you agree with the guidance on the Proposed Plan?

No

Please explain why you agree or disagree::

1. As previously stated, our members have concerns about the lack of clarity of purpose or of Reporters and Councils' powers. How Local Place Plans fit into the procedure also needs to be tightened up to avoid endless delay and potential conflict.
2. Paragraph 190 provides guidance to a planning authority in what is hoped rare situation where a LDP Reporter indicates that the Plan is unsatisfactory because it has not allocated sufficient land to meet identified housing needs. The paragraph restates the law in Section 19ZA (6) that, in those circumstances, "the Evidence Report already prepared may be used to inform the new proposed Plan". Our members suggest that sentence is expanded. It cannot be assumed that the Evidence Report, which may have been prepared several years before the LDP Reporter reached their conclusions, is still a sound basis on which to produce a new proposed Plan. Although we recognise that Section 19ZA (6) permits the use of an earlier Evidence Report, we think it is important that the Guidance recognises that it may not be appropriate for this approach to be taken in all cases.
3. As pointed out earlier, the summary of the 2009 Regulations contained in paragraph 193 is incorrect.
4. Our members disagree with the summary of the Reporter's powers in paragraph 204. This suggests that the Reporter can "refine or redefine the issues to be assessed, but at all times these must be limited to issues raised in the original representations". This implies that the Reporter may be able to narrow the scope of the issues raised by the representations, which is not permitted under the legislation. We would recommend that this sentence in the guidance is deleted.
5. Our members also disagree with the summary of the Reporter's powers and duties in paragraph 205. If a party makes a representation to the effect that Site B (unallocated) is more suitable than Site A (allocated) in the proposed Local Development Plan, the Reporter must examine and reach conclusions on that issue. The legislation does not simply task the Reporter with "modifying those parts [of the LDP] that are clearly inappropriate or insufficient". The Reporter is tasked with making recommendations on the unresolved representations. The nature of the Reporter's duty will vary from representation to representation and the overall summary of the Reporter's duties in paragraph 205 is inappropriate and potentially misleading. We note that the same point is repeated in paragraph 210.
6. We believe that paragraph 206 should be clarified. We have seen examples in the past where Reporters have suggested that they are unable to recommend modifications to an LDP on a particular site because it was not subject to strategic environmental assessment and public engagement during the preparation of the LDP. That is clearly wrong in law. This can be seen by reference to the Act itself (Section 19(11)) which allows the local authority in appropriate circumstances post examination to undertake further strategic environmental assessment and to consult upon a site that a Reporter recommends should be added to the Plan. We recommend that paragraph 206 is deleted, and that clarification is given as to the ability of a Reporter to recommend allocations for sites which have not been through equivalent processes to those in the original SEA given the safeguards on this issue contained within the Act itself.
7. Our members are of the view that the purpose of the last sentence in paragraph 208 is unclear. This indicates that "Ministers do not expect the Reporter, within the scope of the Examination, to have to consider making wholesale changes to the plan".
8. Whilst that may be Ministers' expectation, our members are concerned that this sentence may be interpreted by some as providing guidance that imposes limits on the legal duties of LDP Reporters. It may be necessary for a Reporter to consider making representations that would result in wholesale changes to a LDP. That will depend on the nature of the representations that have been made and have not been resolved by the local authority. We would recommend that this sentence is deleted or clarified to avoid any doubt as to ministers' intentions.
9. Our members note that paragraph 211 gives an example of a Reporter identifying a serious deficiency with a LDP such as "inconsistency with the NPF". We note that the drafting of the 2019 Act assumes that there may be such inconsistency and it is therefore difficult to see why the Guidance should identify that as a specific example.

22 Do you agree with the guidance on Local Development Plan Examinations?

No

Please explain why you agree or disagree::

1. As previously stated, our members have concerns about the lack of clarity of purpose or of Reporters and Councils' powers. How Local Place Plans fit into the procedure also needs to be tightened up to avoid endless delay and potential conflict.
2. Paragraph 190 provides guidance to a planning authority in what is hoped rare situation where a LDP Reporter indicates that the Plan is unsatisfactory

because it has not allocated sufficient land to meet identified housing needs. The paragraph restates the law in Section 19ZA (6) that, in those circumstances, “the Evidence Report already prepared may be used to inform the new proposed Plan”. Our members suggest that sentence is expanded. It cannot be assumed that the Evidence Report, which may have been prepared several years before the LDP Reporter reached their conclusions, is still a sound basis on which to produce a new proposed Plan. Although we recognise that Section 19ZA(6) permits the use of an earlier Evidence Report, we think it is important that the Guidance recognises that it may not be appropriate for this approach to be taken in all cases.

3. As pointed out earlier, the summary of the 2009 Regulations contained in paragraph 193 is incorrect.

4. Our members disagree with the summary of the Reporter’s powers in paragraph 204. This suggests that the Reporter can “refine or redefine the issues to be assessed, but at all times these must be limited to issues raised in the original representations”. This implies that the Reporter may be able to narrow the scope of the issues raised by the representations, which is not permitted under the legislation. We would recommend that this sentence in the guidance is deleted.

5. Our members also disagree with the summary of the Reporter’s powers and duties in paragraph 205. If a party makes a representation to the effect that Site B (unallocated) is more suitable than Site A (allocated) in the proposed Local Development Plan, the Reporter must examine and reach conclusions on that issue. The legislation does not simply task the Reporter with “modifying those parts [of the LDP] that are clearly inappropriate or insufficient”. The Reporter is tasked with making recommendations on the unresolved representations. The nature of the Reporter’s duty will vary from representation to representation and the overall summary of the Reporter’s duties in paragraph 205 is inappropriate and potentially misleading. We note that the same point is repeated in paragraph 210.

6. We believe that paragraph 206 should be clarified. We have seen examples in the past where Reporters have suggested that they are unable to recommend modifications to an LDP on a particular site because it was not subject to strategic environmental assessment and public engagement during the preparation of the LDP. That is clearly wrong in law. This can be seen by reference to the Act itself (Section 19(11)) which allows the local authority in appropriate circumstances post examination to undertake further strategic environmental assessment and to consult upon a site that a Reporter recommends should be added to the Plan. We recommend that paragraph 206 is deleted, and that clarification is given as to the ability of a Reporter to recommend allocations for sites which have not been through equivalent processes to those in the original SEA given the safeguards on this issue contained within the Act itself.

7. Our members are of the view that the purpose of the last sentence in paragraph 208 is unclear. This indicates that “Ministers do not expect the Reporter, within the scope of the Examination, to have to consider making wholesale changes to the plan”.

8. Whilst that may be Ministers’ expectation, our members are concerned that this sentence may be interpreted by some as providing guidance that imposes limits on the legal duties of LDP Reporters. It may be necessary for a Reporter to consider making representations that would result in wholesale changes to a LDP. That will depend on the nature of the representations that have been made and have not been resolved by the local authority. We would recommend that this sentence is deleted or clarified to avoid any doubt as to ministers’ intentions.

9. Our members note that paragraph 211 gives an example of a Reporter identifying a serious deficiency with a LDP such as “inconsistency with the NPF”. We note that the drafting of the 2019 Act assumes that there may be such inconsistency and it is therefore difficult to see why the Guidance should identify that as a specific example.

23 Do you agree with the guidance on Adoption and Delivery?

No View

Please explain why you agree or disagree::

No comment

24 Do you agree with the proposed guidance on the Evidence Report in relation to the section on Sustainable Places (paragraphs 240–247)?

No

Please explain why you agree or disagree::

Our members do not agree with the general sentiments expressed on the Evidence Report in paragraphs 237 to 239. As mentioned earlier in our submission, we believe that the Regulations should set out minimum requirements that need to be addressed in the Evidence Report (including for example, the need for a recent survey of housing need and demand and an up-to-date Housing Land Audit).

25 Do you agree with the proposed guidance on the Evidence Report in relation to the section on Liveable Places (paragraphs 248 – 283)?

No

Please explain why you agree or disagree::

Our members do not agree with the general sentiments expressed on the Evidence Report in paragraphs 237 to 239. As mentioned earlier in our submission, we believe that the Regulations should set out minimum requirements that need to be addressed in the Evidence Report (including for example, the need for a recent survey of housing need and demand and an up-to-date Housing Land Audit).

26 Do you agree with the proposed guidance on the Evidence Report in relation to the section on Productive Places (paragraphs 284 – 296)?

No

Please explain why you agree or disagree::

The LDP must include up to date and expert analysis of commercial property requirements. This is urgent in some sectors: across key Scottish economies the availability of Grade A office and industrial (logistics and distribution) facilities can be critically low due to historic under-supply of new or replacement stock. This impact of this lack of availability is to apply upwards pressure on rental values for these forms of property which itself can affect affordability and competitiveness for businesses - this should therefore be critical evidence for the LDP as it is for housing.

27 Do you agree with the proposed guidance on the Evidence Report in relation to the section on Distinctive Places (paragraphs 297 – 310)?

No View

Please explain why you agree or disagree::

No comment

28 Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Sustainable Places (paragraphs 317 – 328)?

No

Please explain why you agree or disagree::

There is a broad indication of a requirement to consider retrofit within the proposed Plan, but this needs to be a more sophisticated assessment. There is little point in developing a plan for sustainable places that you think you need, if you do not really know the status of buildings that your authority already has. Glasgow City Council recently published a Green Deal plan which identified some £17bn of opportunity for retrofit of its commercial and industrial stock alone. This assessment must also go beyond identifying the need for retrofit of vacant and derelict land and buildings – it needs to consider the status of existing buildings that are in use. Glasgow is of course our largest commercial property city but the figure it has identified for commercial retrofit is nonetheless an indicator of the scale of requirement for commercial property retrofit across Scotland. This is not just a requirement for the private sector but for the public sector which itself is of course a major occupier and sometimes owner of commercial properties. Therefore, we feel the LDP must not just refer loosely to the need for retrofit but it should include an actual assessment of the need for commercial retrofit in its Proposed Plan.

29 Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Liveable Places (paragraphs 329 – 400)?

No

Please explain why you agree or disagree::

1. Paragraph 342 indicates that the proposed plan is expected to “identify the HLR which was concluded at the gatecheck”.
2. As previously stated, we do not consider that approving the HLR is a legitimate role for the gate check. The HLR is a policy decision that can only be taken at LDP stage, not at the stage of gathering evidence to support the formulation of policy. The LDP must, however, identify the HLR that the planning authority has determined is appropriate as part of the LDP preparation process.
3. Our members are of the view that the statement in paragraph 347 that “shorter term sites should be substantially delivered before longer term sites are brought forward” is too simplistic. It is possible that short term sites within a Community Growth Area may be constrained due to a fundamental infrastructure constraint linked to that particular site. This Guidance would suggest that other long-term sites (ie not within that Community Growth Area) in the local authority area may be precluded from coming forward even though they are not affected by the site specific constraint related to that CGA. Our members suggest that the text is deleted.
4. It is unclear what paragraph 350 means. “Alternative delivery mechanisms” are not specified. It is essential the intention is clarified here. Paragraph 350 should also recognise the possibility that development of unallocated sites in sustainable locations may be necessary in order to deliver housing in accordance with the housing land pipeline set out in the LDP.
5. Paragraph 353 needs to be reconsidered as it suggests that “all sites for new homes should be assessed using the site appraisal methodology included in the evidence report and confirmed at the gatecheck”. This is the first reference in any of the consultation documents that suggests site selection methodology for new housing sites should be included in the Evidence Report. As mentioned above in the context of digital infrastructure, we cannot find any legal basis on which the methodology for LDP site selection could be included in the Evidence Report. As previously stated, criteria for site selection is a policy decision and not evidence. Evidence may inform the criteria in due course but that is a decision to be taken at the LDP stage (assuming that the evidence is sufficient to allow the policy to be properly formulated).
6. If the government is to truly support the concepts of mixed-use development and 20-minute neighbourhoods then the focus on housing should be complemented by wider commercial property considerations. This should include the hospitality and cultural sectors, in addition to considerations of natural capital. The new town being developed at Winchburgh offers a good example of this mix, with a housing led development supported by employment, retail and leisure amenities, as well as public transport. The plan for the Dundee Waterfront is another example, centred as it was on the new V&A together with wider public realm improvements.
7. Although Education is listed as an indicative policy area to assess LDP requirements, we feel this should be expanded to ensure that this includes an assessment of expected student requirements within a local authority plan. The student population is now a significant part of local communities and economies and the need for student accommodation has increased rapidly in recent years.

30 Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Productive Places (paragraphs 401 – 424)?

No

Please explain why you agree or disagree::

1. Although the proposed guidance alludes to the need to consider demand for new retail there is aside from this comment very little on wider commercial property needs. Local development Plans must assess and analyse their employment property stock and identify appropriate needs and



demands. Leading agents in our membership have stated that much of our industrial stock, including logistics and distribution, is more than 40 years old. This stock is in large part going to require reinvestment – replacement or refurbishment - to make it suitable for modern use. The importance of logistics to an authority cannot be overstated. We have seen enough recent crises to remind us of the need for essential supplies of fuel, food and medical supplies. The previous term ‘just in time’ is now being supplemented with a need for just in case logistics. The authority would fail in its duty if it did not make a proper assessment of its connection to adequate sources of logistics infrastructure. Unless the LDP includes an analysis of the need for replacement of its industrial, logistical and distribution stock then it will fail to provide a proper assessment of productivity for the area.

2. The same could be said for much of our office stock, even unfortunately properties built in the early part of the 21st century. This is in addition to consideration of the impact of hybrid working on future demand for Office space. The importance of the office not just to their direct occupiers but to their wider city and town economies has become all too apparent during the lockdowns. The Local development Plan must maintain an assessment of the relative strength of offer of their offices and assess the anticipated need for replacement, reduction or additional floorspace that may be required.

3. Although we have covered hospitality in the earlier section on liveable places the government should see the hospitality and cultural sectors as key parts of our productive economy. It is critical that Scotland invests in its offer as a destination to attract major employers or cultural investors (films, tech, business tourism as well as the larger personal tourism sector). These factors contribute to making great destinations and this helps to attract high quality businesses to locate and retain their workforces in Scotland.

31 Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Distinctive Places (paragraphs 425 – 466)?

No

Please explain why you agree or disagree::

In relation to paragraphs 438 to 441 on Historic Assets and Places. As stated in our response to NPF4 to refurbish and reuse existing buildings effectively, some degree of relaxation is required in the use and adaptation of heritage buildings. Many of our towns and cities contain large quantities of Victorian building stock and to refurbish these to provide modern, low carbon business premises and healthy homes, flexibility on heritage restrictions is required. While NPF4 should encourage the effective re-use of buildings with this in mind, the policy should also recognise that in some instances, the loss of heritage assets may be acceptable to deliver wider economic and community benefits. This is in accordance with the Historic Environment Scotland Policy Statement and the HES guidance on Managing Change in the Historic Environment.

32 Do you agree with the proposed thematic guidance on the Delivery Programme (paragraphs 467 – 482)?

No

Please explain why you agree or disagree::

Paragraph 474 is inconsistent with policy 9i of the draft NPF. Paragraph 474 should also acknowledge that appropriate unallocated sites may be developed in order to meet the agreed programming. Paragraph 475 should acknowledge that it may be necessary for unallocated sites to be developed to achieve the agreed programming.

## About you

What is your name?

Name:  
Mandy Catterall

What is your email address?

Email:  
mcatterall@bpf.org.uk

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:  
Scottish Property Federation

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

## Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Neither satisfied nor dissatisfied

Please enter comments here.: