



SPF Response to Development plan amendment regulations consultation

22 May 2024

Amendments to National Planning Framework: full review requirements

1 To what extent do you agree that it is appropriate to adopt a broad and high-level approach as to when a full review of the National Planning Framework is required? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

The NPF process is a lengthy, technical and ultimately politicised process. It can lead to significant uncertainty among the development and investment community. Indeed, one of the key intentions of the 2019 Act was to provide greater certainty for investors through establishing a ten year development process. This intention would be undermined through overly frequent and detailed reviews of the NPF4. However, the key issue is to get the NPF right in concept first time and to enable amendments where required. Major concern for the industry is to avoid delays and to ensure that if changes are made then these are also subject to robust scrutiny.

2 In cases where amendments would require changes to half or more of the contents of the National Planning Framework (NPF), to what extent do you agree that a full review of the NPF would be required? Where applicable, please give reasons for your answer.

Agree

Please give us your views:

We mostly agree with the threshold of half or more amendments to trigger a full review, but it is unclear what are these 'triggers'. Also, we suggest a lower threshold for review and an 'amend as we go' approach to ensure a more responsive planning system. Waiting for 9+ national developments or 17+ national planning policies is a long wait and considering the market changes quickly this could add further delay to the process. It is also not clear how far reaching these amendments will be, to what extent can policies like the MATHLR housing numbers or climate policies be amended.



Key concern is what is the trigger for an amendment to NPF4? How is this brought forward and by whom? Whilst our members recognise that Scottish Ministers can decide to review the NPF in full at any time without amendments reaching any trigger point, it is considered unlikely that this would be enacted given this proposed amendment process. There also needs to be guidance on how to raise these issues. For instance, will it be a more localised approach or at national level? The process seems to put a lot of pressure on planning resources. How will that be managed given the current resourcing issues?

Amendments to National Planning Framework: engagement and preparation

3 In preparing an amendment to the National Planning Framework (NPF), to what extent do you agree that the Scottish Ministers should have the same considerations as they would for a full review of the NPF, where that is relevant to the proposed amendment? Where applicable, please give reasons for your answer.

Agree

Please give us your views :

It is important to strike a balance by ensuring flexibility, maintaining the consistency of planning policies and meeting parliamentary standards. We agree that employing similar considerations as you would in a full review would result in the greatest level of scrutiny, but it is also important for amendments to be made in a timely manner which can respond to challenges that may arise suddenly.

4 To what extent do you agree with the list of those the Scottish Ministers should consult with on a proposed amendment? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

We agree that the Scottish Ministers should consult with the public at large and key agencies and planning authorities. In consulting with the public at large, we advocate a similar process for consultation should be followed as currently undertaken for other Scottish government policies, circulars and guidance etc.

5 To what extent do you agree that a copy of the proposed amendment should be laid in the Scottish Parliament during the consultation period? Where applicable, please give reasons for your answer.

Agree

Please give us your views:

We agree that parliamentary approval is appropriate for amendments to the NPF.



6 To what extent do you agree with the proposed minimum 6 week consultation period, understanding that the timescale may be extended when deemed appropriate given the significance and nature of the amendment? Where applicable, please give reasons for your answer

Agree

Please give us your views:

The key issue is to ensure that any amendments are made and agreed in a timely fashion to provide policy certainty to the development industry. We agree with the 6 weeks consultation period but there should be a caveat that if it is a technical matter, there should be a longer timeframe to respond to the consultation.

Amendments to National Planning Framework: adoption

7 To what extent do you agree that the Scottish Ministers be required to publish an Explanatory Report before the amended National Planning Framework is adopted? Where applicable, please give reasons for your answer

Strongly agree

Please give us your views:

We strongly agree with transparency in preparing an Explanatory Report before the amended NPF is adopted. Giving Ministers the opportunity to consider stakeholder feedback and how it has influenced the amendments enhances transparency within the decision-making process.

8 To what extent do you agree that all amendments to the National Performance Framework should have to be approved by a resolution of the Scottish Parliament? Where applicable, please give reasons for your answer

Agree

Please give us your views:

The NPF is the most senior development planning document in Scotland and has been approved by a vote of the Scottish Parliament. It is important therefore that any amendments should be endorsed by the Scottish Parliament to ensure full transparency of how the NPF is amended. It is important that Parliament sanctions the amendments to NPF.

9 To what extent do you agree that the amended National Planning Framework should take effect when it has been adopted by Scottish Ministers? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:



We agree that if the amends are approved, they should be adopted by Scottish Ministers with a timescale specified as to when the amendment will take effect – this could be for example 30 days.

Amendments to NPF policies will of course affect live planning applications and having a set time period for live adoption of the amendment will provide greater certainty to the development industry.

10 To what extent do you agree that the full updated version of the amended National Planning Framework, incorporating the amendment, should be published as soon as practicable after it has been adopted by Scottish Ministers? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

We strongly agree that any full updated version of an amended NPF must be published as soon as it is adopted.

Amendments to Local Development Plans: preparation and considerations

11 To what extent do you agree that planning authorities should be required to have regard to community engagement guidance issued by the Scottish Ministers under section 16C when amending a Local Development Plan? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

As with all legislative changes, stakeholder input is vital. Therefore, we agree that local authorities should seek community engagement on their amendment proposals to ensure they align well and have considered the varying needs of affected stakeholders. We do raise the concern that there will be cases where it will be an urgent change so there should be flexibility and mechanisms in place to bring in these changes.

12 To what extent do you agree that planning authorities should be required to provide a statement outlining how they intend to engage with stakeholders on an amendment to a Local Development Plan? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

We agree that planning authorities should be transparent in the way they intend to collect feedback. Providing a clear strategy for engagement is likely to invite more meaningful contributions that will ultimately contribute to more equitable policy.

The data collection strategy may differ depending on the type of stakeholder that the planning authority may wish to engage.



13 To what extent do you agree that not every amendment to a Local Development Plan should require specific participation of children and young people? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

Whilst we agree that the views of children and young people should be considered as much as possible, at times this may not be relevant nor easy to collect. As a result, we agree that planning authorities should have flexibility in the types of people who they are required to be engaged with.

14 To what extent do you agree that, when preparing an amendment, a planning authority must have regard to the information and considerations set out in regulation 9 of the Town and Country Planning (Scotland)(Development Planning) regulations 2023? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

Major planning applications occur over a lengthy period of time and therefore any amendments to the statutory development plan could have a significant effect upon an application. This could potentially put investors at serious risk of compromising major financial outlays. It is important therefore to ensure awareness of LDP amendments for key stakeholders who are relevant to the planning system through a clear statement of reasons, with particular regard to the statutory consultees. The last thing an investor would wish for is that an LDP amendment triggers a late objection by a statutory consultee or even a legal challenge by a third party because a clear statement of reasons as to why the amendment has been made by the authority has not been given. We also have concerns over the vast array of information and considerations that LPAs need to have to take into account or 'to have regard to' set out in regulation 9 of the regulations – there are far too many issues! This amendment process is meant to be streamlined.

Amendments to Local Development Plans: justification

15 To what extent do you agree that an authority should be required to collate relevant evidence to inform the proposed amendment and prepare a Justification of Amendment Statement?Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

For the reasons provided in our answer to Question 14 it is important that a clear statement of reasons is provided in the Justification Statement. This should be supported by evidence-based policy making. This is not only fair for all users of the planning system – applicants, communities, statutory consultees etc, but to do otherwise could put the authority at risk of legal challenge by stakeholders



who conclude, for whatever reason, that an amendment to the development plan has not been made based on the necessary evidence.

16 To what extent do you agree that a Play Sufficiency Assessment should not be required for an amendment to a Local Development Plan? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

Any relevant Play Sufficiency Assessments should already have been made so this should not be required in most cases of amendment. Where an adjustment might be required, for example in the event of significant additional housing being part of a development plan amendment (although we recognise the government do not envisage amendments necessarily being used for the purposes of single sites), then this should be addressed by the planning authority.

17 To what extent do you agree that an authority should not be required to have regard to the self-build list for every amendment to a Local Development Plan? Where applicable, please give reasons for your answer.

Agree

Please give us your views:

We agree that it is unlikely to be necessary for planning authorities to have regard to the list of self-build housing. If the policy change affects this issue, then planning authorities should be afforded the local discretion to engage and notify the persons on this list.

Amendment to Local Development Plans: consultation

18 To what extent do you agree that approval by the full council is not always required before the publication of a proposed amendment to a Local Development Plan for consultation? Where applicable, please give reasons for your answer.

Agree

Please give us your views:

We need to trust the local authority planning departments to be able to consult as appropriate on a proposed amendment. We agree therefore that full council should not be a requirement and that the planning authority should be able to decide on the most appropriate level of approval or sign off.

The planning authority may simply need by force of events to delegate the decision to initiate publication for consultation to its Chief Planner. This might be for technical purposes. To require an authority to seek full council approval before it even consults on an amendment would in our view be an unnecessary constraint upon the planning authority. Nearly all Scottish local authorities are also significantly divided politically and there is a danger that achieving a decision to even consult could be a much delayed and fragmentary process.



19 To what extent do you agree that the proposed amendment to a Local Development Plan should be published for consultation, alongside the Justification of Amendment statement and any statement on the consequences for the Delivery Programme which are to be published for information? Where applicable, please give reasons for your answer

Strongly agree

Please give us your views:

We agree that the planning authority should prepare a Justification of Amendment Statement as opposed to an Evidence Report at the Gate Check stage of the LDP process. As it is a statutory document, justification is necessary to ensure transparency and proportionality of any amendments.

20 To what extent do you agree that planning authorities should be required to notify Scottish Ministers and to consult with the public at large and key agencies, alongside others they consider appropriate, when amending a Local Development Plan? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

Scottish Ministers are a part of the process of approving a local development plan. It is appropriate therefore that they are consulted when an LDP is proposed to be amended. It is also appropriate that statutory consultees are consulted as appropriate.

21 To what extent do you agree with the proposed minimum 6 weeks consultation period, understanding that the timescale may be extended when deemed appropriate given the scale of the amendment? Where applicable, please give reasons for your answer.

Agree

Please give us your views:

We agree that six weeks is an appropriate minimum engagement period for amendments to the LDP as the normal 12 week period could simply be too long for a given amendment.

Amendment to Local Development Plans: adoption

22 To what extent do you agree with our proposed approach to independent examination? Where applicable, please give reasons for your answer

Agree

Please give us your views:

We agree with the approach – not all LDP amendments will trigger representations (or representations that cannot be resolved) following the modifications report publication. There these amendments



should not require an examination. Where there are unresolved representations however the regulations must make sure that where an examination is triggered it is proportionate, and not subjected to unnecessary delay.

23 To what extent do you agree that an amendment to a Local Development Plan should take effect when it is adopted by the planning authority? Where applicable, please give reasons for your answer.

Agree

Please give us your views:

We agree that before a proposed amendment is published for consultation, it must be approved by the planning authority. Whilst this gives the LPA flexibility as to how to approve the amendment e.g. delegated powers, committee, full council etc. we strongly recommend that amendments should be scrutinised and approved by the full council to provide more accountability and transparency to the process.

As for amendments to the NPF, once an amendment has been approved by the planning authority there should be a set timeframe before the policy takes effect to enable decisions to be taken by the development industry on live applications.

24 To what extent do you agree that a full, updated version of the amended Local Development Plan (LDP), incorporating the amendment, should be published in the same way as the initial LDP? Where applicable, please give reasons for your answer

Strongly agree

Please give us your views:

We agree that the process should be the same. Having the revised LDP available for use once adopted is essential to provide policy certainty and clarity.

Impact assessments

25 To what extent do you agree with our approach to the impact assessments for the proposed regulations? Where applicable, please give reasons for your answer.

Strongly agree

Please give us your views:

These regulations are procedural and intended to allow flexibility to local authorities to amend their LDP in light of circumstances and requirements. We agree with the government's approach to the standard list of impact assessments therefore for the purposes of this consultation.