

WEST DUNBARTONSHIRE COUNCIL**Report by Chief Officer – Regulatory and Regeneration****Planning Committee: 8th May 2024**

Subject: Scottish Government Consultations: Investing in Planning; Masterplan Consent Areas; and Development Plan Amendments

1. Purpose

- 1.1** To seek the agreement of the Committee to submit responses to various Scottish Government consultations on proposed planning regulations and changes to how the planning system is resourced.

2. Recommendations

- 2.1** It is recommended that the Committee agree the proposed Council responses set out in Appendix 1 (Investing in Planning), Appendix 2 (Masterplan Consent Areas Regulations: Consultation) and Appendix 3 (Development Plan Amendment Regulations: Consultation).

3. Background

- 3.1** The Planning (Scotland) Act 2019 has introduced new changes and responsibilities to the planning system in Scotland. The Scottish Government published the following consultation documents:
- [Investing in Planning – A Consultation on Resourcing Scotland's Planning System](#) (31 May 2024) -In response to current resourcing challenges as well as new aspects of the planning system, it sets out proposals to improve capacity and build resilience within planning authorities
 - [Masterplan Consent Area Regulations: Consultation](#) (22 May 2024) - are a new upfront consenting mechanism for development proposals, which remove the need for planning and other consent applications.
 - [Development Plan Amendment Regulations: Consultation](#) (22 May 2024) - With the new 10 year review period for the National Planning Framework and Local Development Plans, the 2019 act introduced a mechanism for these plans to be amended between full review cycles.

4. Main Issues

Investing in Planning Consultation

- 4.1 The Scottish Government is committed to working with stakeholders to ensure the planning system is better equipped to deal with current and future challenges. They recognise that there is a need to build capacity and skills to enable good quality development that improves places, benefits our quality of life and helps to grow a wellbeing economy and transition to net zero. The investing in planning consultation contains proposals seeking to address the resourcing challenges faced by local planning authorities, and new aspects of the planning system, such as Masterplan Consent Areas. The proposals contain a mix of short-term solutions and building long term resilience. Below is a summary of the key proposals within the consultation and the views expressed to those proposals in the Council's consultation response in Appendix 1 of this report.
- 4.2 **The proportionality of assessments:** Stakeholders have raised concerns about the level of information required to support planning applications and demonstrate that they meet the requirements of NPF4. Applicants have reported requirements differing significantly between authorities, potentially increasing the time and cost to applicants, authorities and communities in evaluating evidence. The Chief Planner is looking to set up a short life working group to contribute expertise and share examples of proportionate approaches. The consultation asks if any assessments might benefit from improved proportionality. The recommended response does not suggest specific assessments but supports sharing of best practice and a more standardised approach to assessments would be beneficial.
- 4.3 **Use of processing agreements:** The consultation asks about use and effectiveness of planning processing agreements in giving greater understanding and certainty to all parties of decision-making timescales. In West Dunbartonshire the Planning Service frontload all major and significant applications which has resulted in major application timescales being well below the Scottish national average. The Service do not tend to use processing agreements, but have developed a Pre-Application Framework instead, which is a more informal, flexible tool and includes public engagement, elected member engagement and the Place and Design Panel. There is no requirement to use a processing agreement if detailed pre application discussions take place as all the issues are understood upfront by applicant and officers and can be addressed together with early consultee comments. It is considered that a processing agreement would just add a further level of bureaucracy.
- 4.4 **Streamlining, alignment and standardisation:** This section suggests providing standardised templates for Section 75 agreements, improved cross council working to align different consents, and asks for any other

suggestions for streamlining, alignment or standardisation. The recommended response states certain types of smaller applications, such as householder applications, have similar issues and requirements. Standardised approaches to these types of developments may be helpful in speeding up the processing of these types of applications. A standardised template for Section 75 agreements would also be helpful.

- 4.5 Skills, Recruitment and Retention:** There is a challenge in recruiting and retaining planners, especially in the public sector, due to the lack of resources, and a general shortage of experienced planners. Additional demands on the skills pool, such as the increased complexity of applications and demand from other sectors, such as energy, are also contributory factors. The response highlights that specialist skills are lacking within local authorities, as they have been lost over time due to resource challenges. Specific subject areas include landscape, heritage, urban design and ecology. The response also highlights other actions that could be taken to address skill shortages, such as upskilling existing local government staff, and investigating the opportunities to support other built environment professionals (e.g. architects or surveyors) to move into planning. Whilst it is recognised that good progress is being made to encourage school leavers to join the profession through the joint work of the Scottish Government, RTPI and HOPS through bursaries and this will assist the profession in the future, more needs to be done to address the lack of experienced planners at present which can disproportionately affect smaller planning authorities. Whilst the larger planning authorities can upskill existing staff this can be difficult in a smaller Local Authority where focus can be in processing of applications to achieve good performance levels and deliver development on the ground.

- 4.6 Establishing a central planning hub to support planning authorities:** The consultation suggests that a Planning Hub would provide a central pool of staff or specialists local authorities could be called upon when needed. This could help to provide capacity, increase resilience, and allow better access to specialists in local authorities. The idea is very similar to the Building Standards Hub. The recommended response supports in part the idea, which could be of benefit to smaller planning authorities, like West Dunbartonshire, which has less resilience to the loss of staff and less resources to engage specialists. However, at this stage more information is required about how it would operate and costs. There is also some concern the hub may recruit some planning officers from local authorities thus causing more difficulties. The response also suggests a number of specialisms would be beneficial to have within the hub and suggests the hub could be hosted by the Improvement Service, which has an established relationship with local authorities and would be a natural extension to some of the services they provide. An increase to planning fees would be the most straightforward way to fund the hub, however any

funding proposal would need to be consistent with the Verity House Agreement and again further details would be required before commitment.

- 4.7 Planning fees:** The consultation proposes a number of changes to planning fees to provide more resources directly to local authorities. Devolving power to set planning fees to local authorities is proposed but it is not supported in the response. Setting fees locally would likely be complex and time consuming to implement. It could also lead to disagreements between authorities and developers, which would be unproductive, lead to longer timescales, and increase uncertainty. The consultation also proposes an annual inflationary increase to planning fees, which is supported and it is recommended that this should be implemented now.
- 4.8** The consultation proposes that local authorities could increase discretionary fees on sites not allocated in the local plan. The proposed response supports this proposal on the basis that sites allocated in the plan have already undergone a degree of assessment and scrutiny, whereas an unallocated site has not. It is also proposed to introduce fees for appeals and Local Review Bodies. The recommended response supports this measure due to the time and resource responding to an appeal, or running a Local Review Body requires. However, the response does suggest that a fee higher than that proposed in the consultation (between 10% and 40%) might be more appropriate.
- 4.9** The consultation proposes introducing a fee category for hydrogen projects, increased fees for prior notifications and approval categories, which is supported. Introducing a fee for using the online planning and building warrant portal is also proposed. The response does not agree with this proposal. A fee for the use of the portal on top of planning fees, may leave applicants feeling they are paying for their application twice. Charging for the portal through planning fees would effectively pass the cost onto local authorities. A fee may also discourage applicants from using the portal, which is usually the most efficient way to receive and process applications.
- 4.10 Energy application threshold:** Changing the 50MW threshold for energy applications to be determined by local authorities is supported, as it would give a greater level of local control over these projects and the local authority would receive the full planning fee on proposals above 50MW, where they currently only receive half. It would also alleviate pressures on the Energy Consents Unit.
- 4.11 Prioritisation:** The consultation asks which actions should be prioritised. The response supports prioritising increasing fees with inflation and charges for prior notifications and approval and guidance for the policies of

NPF4. Throughout the response, it has been highlighted that many of the resource issues faced by planning authorities are due to wider local authority and public sector resource challenges. It is not just planning services that are responsible for a well-functioning planning system. Other local authority services (e.g. roads, housing, green space, communities) also contribute to planning and they are challenged by the availability of resources. The broad range of policies in NPF4 has put more pressure on these services which need to be adequately resourced, otherwise the planning process will be slowed down. The same applies to Key Agencies, who are not able to provide the level of support they once were. More adequate funding for other services of local authorities and the public sector (such as fees) should also be considered.

Masterplan Consent Areas (MCAs)

- 4.12** MCA schemes will front-load consenting, by giving upfront consent for several types of consent, including planning permission, roads construction consent, listed building consent, and conservation area consent. The 1997 Act provides that planning authorities will be able to prepare a MCA 'Scheme' setting out the detail of what they are giving consent for, through the MCA scheme. The MCA scheme can include conditions, limitations and exceptions which may cover aspects such as development parameters, design and environmental matters. Within adopted MCA areas, development could be brought forward in line with the agreed scheme without the need for any further application.
- 4.13** The Council's response to the MCA regulations consultation is set out in Appendix 2. The key points from the Council's response include:
- Agreement with the principle of the regulations and is supportive of guidance being prepared before this part of the planning act comes into force.
 - Agreement with all forms of development which the Planning and Roads Authorities would otherwise grant consent for being able to be granted with a MCA.
 - Agreement that no additional areas should be excluded to those within the Planning Act, such as World Heritage Sites or Sites of Special Scientific Interest.
 - Suggestions that the requirements in relation to the duty to periodically consider making an MCA scheme should be set out in regulations, rather than guidance, so as to ensure certainty and consistency.
 - Agreement with requirements to consult community councils and hold public consultation events for possible proposals for a masterplan consent areas scheme.
 - Agreement that reasoning should be provided for any conditions placed on a MCA scheme, as is the case with planning applications.
 - Agreement with regulations in relation to who a planning authority must notify about a proposed MCA scheme and how consultation should be

undertaken as these broadly align with existing processes for planning applications.

- Agreement that there should be a minimum 30-day period for representations in line with current arrangements for Environmental Impact Assessment applications, with a suggested wording to clarify that this a longer period is acceptable.
- Agreement with the requirement to hold a hearing for development which would be national development as well as the proposal to give all interested parties the opportunity to be heard at such a hearing.
- Agreement with proposals in relation to notification of Ministers; inclusion in the planning register and for publication of decision notices online, with a suggestion to remove the requirement to publish a decision notice in a local newspaper or reduce the required content of notices to be published in a local newspaper.
- Agreement with the proposals for altering a MCA scheme, noting that the requirements for review should be proportionate to the extent that the scheme is to be altered.
- A suggestion that the form of notices should be included in regulations.
- Agreement that the processes for a MCA, which relates to Environmental Impact Assessment development should have similar procedures to Environmental Impact Assessment applications.

Development Plan Amendment Regulations

- 4.14** The Planning Act (Scotland) 2019 amended the Town and Country Planning Act (Scotland) 1997 to require the Scottish Government to fully review the National Planning Framework (NPF) every 10 years and planning authorities to fully review Local Development Plans (LDP) every 10 years. Given the length of time between these review periods, they also added provisions to enable both documents to be amended between full review cycles. The regulations will set out the processes to amend development plan documents and requirements the Scottish Government and planning authorities must consider when preparing amendments.
- 4.15** The Scottish Government are proposing that if an amendment would change at least half (nine or more) of the national developments or at least half (17 or more) of the national planning policies in the NPF then this would trigger a full review. This is acknowledged as being a high bar to trigger a full review, their reason given is that the wish to provide confidence in the planning system over the long term and that a full review is resource intensive for stakeholders.
- 4.16** The consultation paper sets out the process for amending the NPF which includes engagement and justification, preparation, consultation, scrutiny, and adoption. It also sets out the following process for amending LDPs,

which includes justification, preparation, consultation, examination and adoption.

4.17 The Council's response to the Development Plan amendment regulations consultation is set out in Appendix 3. The key points from the Council's response include:

- When considering if an amendment to the NPF would trigger a full review of the NPF a combination of changes to national planning policies and national developments should be considered.
- The way the consultation paper is worded makes it ambiguous as to whether Scottish Ministers will be required to outline the engagement that will take place during the NPF amendment process by regulation. It is suggested that this is an explicit requirement of the regulation, and that it should take the form of a Participation Statement.
- The Council agree that there should be flexibility within the regulations, for both NPF and LDP amendments, as to which groups of the public should be engaged and the weight given to statutory consideration for plan making, as the scope of who needs to be engaged and what needs given deep consideration will vary depending on the nature of the amendment.
- The Council agrees that there should be flexibility in consultation timescales for NPF and LDP amendments to enable longer periods if necessary, depending on the scope of the amendment. However, the proposed minimum timescale of six weeks may be too short.
- Currently a full Proposed LDP needs to be approved by full Council; however, it is currently proposed an amendment would not. This does not seem consistent with a collaborative planning system; a key outcome of the planning reforms and it is recommended that the requirement for approval by full Council is retained.

5. People Implications

5.1 There are no direct personnel issues associated with this report. However, the outcomes of the Investing in Planning consultation may assist in addressing some resourcing issues arising from the implementation of changes to the planning system including Masterplan Consent Areas.

6. Financial and Procurement Implications

6.1 There are no financial or procurement implications associated with this report.

7. Risk Analysis

7.1 There are no risks associated with this report.

8. Equalities Impact Assessment (EIA)

8.1 The responses to these consultations are not policy and do not themselves have any relevance to the four areas. The responses are screened out as not relevant.

9. Consultation

9.1 Planning officers have discussed the content of the consultation documents and attended Heads of Planning Scotland events to discuss the consultation documents.

10. Strategic Assessment

10.1 The consultations will be of relevance to the following strategic priorities:

- A strong local economy and improved employment opportunities – through setting planning policy for housing and economic development within a wider framework which has addressing climate change and nature recovery as primary guiding principles.
- Meaningful community engagement with active empowered and informed citizens who feel safe and engaged – through setting guidance for when and how communities should be engaged in the development planning process.

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Appendix:	<p>Appendix 1: Response to Investing in Planning</p> <p>Appendix 2: Response to Proposals for Masterplan Consent Area Regulations</p> <p>Appendix 3: Response to Proposals for Development Plan Amendment Regulations</p>
Background Papers:	<p>Investing in Planning – a consultation on resourcing Scotland’s planning system https://www.gov.scot/publications/investing-planning-consultation-resourcing-scotlands-planning-system/</p> <p>Masterplan consent area regulations: consultation https://www.gov.scot/publications/masterplan-consent-areas-consultation-draft-regulations/</p> <p>Development plan amendment regulations: consultation https://www.gov.scot/publications/proposals-regulations-amend-national-planning-framework-local-development-plans-2/</p>
Wards Affected:	All