

## REPORT TO INFRASTRUCTURE SERVICES COMMITTEE – 17 JUNE 2021

### REGULATIONS ON LOCAL PLACE PLANS CONSULTATION

#### 1. Reason for Report/Summary

- 1.1 To consider and respond to the current consultation by the Scottish Government on Proposals for Regulations on Local Place Plans initially laid in Parliament as part of The Planning (Scotland) Act 2019 (Commencement No. 1) Regulations 2019 (Section 14 – Local Place Plans). This forms the next phase (Quarter 2- 2021) of the Post Bill work programme - *Places, People and Planning: Transforming Planning in Practice* towards the full implementation of the Planning (Scotland) Act 2019.  
(<https://consult.gov.scot/local-government-and-communities/local-place-plan-regulations/> )

#### 2. Recommendations

**The Committee is recommended to:**

- 2.1 Review and agree the draft consultation response to the Scottish Government's Proposals for Regulations on Local Place Plans Consultation as part of the phasing towards full implementation of the Planning (Scotland) Act 2019 as attached at Appendix 2; and**
- 2.2 Agree that Appendix 2 of the Report be submitted as Aberdeenshire Council's formal response to the Scottish Government's Proposals for Regulations on Local Place Plans Consultation.**

#### 3. Purpose and Decision-Making Route

- 3.1 In May 2016 an independent review of the planning system was published. In January 2017, a consultation was undertaken by the Scottish Government on proposals for improving the Scottish Planning system to which Aberdeenshire Council provided a written response.
- 3.2 The Planning (Scotland) Bill 2017 was introduced to the Scottish Parliament on 4 December 2017 and was approved on 20 June 2019. The Bill received Royal Assent on 25 July 2019 and thereafter became the Planning (Scotland) Act 2019. The Planning (Scotland) Act 2019 ("the Act") amends the primary legislation concerning the use and development of land in Scotland, namely the Town and Country Planning (Scotland) Act 1997.
- 3.3 Section 14 of the Planning (Scotland) Act 2019 introduces a new right for communities to produce Local Place Plans, with scope for these plans, or parts of them to become part of the Local Development Plan. A Local Place Plan can be prepared by a 'community body' as defined by Section 19 of the Community Empowerment (Scotland) Act 2015, or a Community Council established in accordance with Part 4 of the Local Government (Scotland) Act 1973.

- 3.4 The Planning Act 2019 also makes reference to Local Place Plans identifying land and buildings that the community body considers to be of particular significance to the local area. In preparing a Local Place Plan community bodies have to have regard to the National Planning Framework and the Local Development Plan.
- 3.5 Local Place Plans offer the opportunity for a community led but collaborative approach to creating local plans. Improving community involvement in the planning system was a key aim of the recent planning reform. Local Place Plans must support the Local Development Plan which will continue to be the primary document against which planning applications will be determined.
- 3.6 It is expected that the regulations supporting the preparation of Local Place Plans will be in place by the end of 2021, linked with a 'How to Guide' for community bodies.

#### 4. Discussion

4.1 The consultation is split into different sections relevant to the preparation of a Local Place Plan:

- Preparation of Local Place Plans
- Other prescribed matters
- Form and content of the Local Place Plan
- Steps to be taken before preparing the Local Place Plan
- Submission of Local Place Plans
- Steps which must be taken before submitting a Local Place Plan
- Taking the views of Councillors into account
- Register and map of Local Place Plans

Further details covering the key points of each section is attached at **Appendix 1**.

- 4.2 Engagement was carried out by the Planning & Environment Service with Elected Members, Area Managers, Community Councils and a variety of Council Services.
- 4.3 Elected Member engagement was done through both a digital briefing and two virtual 'drop in' sessions (19 and 20 May).
- 4.4 All responses have been collated and set out under each of the 18 consultation questions as appropriate and as attached at **Appendix 2**. This forms the draft proposed response to the consultation from Aberdeenshire Council in addition to any additional comments and views from the Infrastructure Services Committee.
- 4.5 The Scottish Government are inviting responses by 25 June 2021.

## 5. Council Priorities, Implications and Risk

5.1 The following Council priorities are relevant to this Report:

<b>Pillar</b>	<b>Priority</b>
Our People	Health & Wellbeing
Our Environment	Infrastructure Resilient Communities
Our Economy	Economy & Enterprise

5.2 The table below shows whether risks and implications apply if the recommendations are agreed.

<b>Subject</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
<i>Financial</i>			✓
<i>Staffing</i>			✓
<i>Equalities</i>			✓
<i>Fairer Scotland Duty</i>			✓
<i>Town Centre First</i>			✓
<i>Sustainability</i>			✓
<i>Children and Young People's Rights and Wellbeing</i>			✓

5.3 An Equality Impact Assessment is not required because this Report is a response to a Scottish Government consultation on proposals to be implemented nationally and does not have a differential impact on any of the protected characteristics.

5.4 As this is a consultation response, no risks have been identified as relevant to this matter on a Corporate or Strategic Level.

## 6. Scheme of Governance

6.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this Report and their comments are incorporated within the Report. They are satisfied that the Report follows the Aberdeenshire Council's Scheme of Governance and relevant legislation.

6.2 The Committee is able to consider and take a decision on this item in terms of Section F 3.2 of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to approval of a response to an external consultation on a policy matter falling within the delegation of the Committee.

**Alan Wood**  
**Director of Infrastructure Services**

Report by: Mairi Stewart, Service Manager, Planning & Environment  
Date: 17 May 2021

**List of Appendices:**

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|-------------------|--|
| <b>Appendix 1</b> | Scottish Government Proposals for Regulations on Local Place Plans Consultation – Sections and Key Points              |
| <b>Appendix 2</b> | Scottish Government Proposals for Regulations on Local Place Plans Consultation – Aberdeenshire Council Draft Response |

## Appendix 1

### **Scottish Government Proposals for Regulations on Local Place Plans Consultation - Sections and Key Points**

The consultation is split into different sections relevant to the preparation of a Local Place Plan. A summary of the key points is set out below for information:

#### Preparation of Local Place Plans

- The Planning (Scotland) Act 2019 sets out what community bodies must do when preparing a Local Place Plan.

#### Other Prescribed Matters

- It is proposed that, where one is in place, community bodies should have regard to Locality Plans prepared by Community Planning Partnerships under section 10 of the Community Empowerment (Scotland) Act 2015.
- It is not proposed to specifically include reference to other public sector plans, programmes or strategies other than the Locality Plan, where one is in place.
- It is proposed that the value of community bodies using community-led plans as a point of reference or starting point to give an initial steer as to a community's aspirations should be highlighted in guidance, rather than a legal requirement.

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

- A Local Place Plan should be clear and visual using graphics photos and maps.
- A Local Place Plan should contain a statement setting out the proposals for future development or use of land within the Local Place Plan area and a map annotated to provide a boundary. This will be the minimum requirement of a Local Place Plan.

#### Steps to be Taken Before Preparing the Local Place Plan

- Community bodies are required to comply with any prescribed requirements with regards to steps for consultation before preparing the Plan.
- The Scottish Government has contracted the Scottish Community Development Centre/ Nick Wright Planning to prepare a 'How to Guide' based on current practice in developing community led plans.
- In preparing a Local Place Plan, consultation would ideally include those who are impacted/ affected by the proposals. The Scottish Government are therefore considering how public authorities, developers, businesses, and landowners can be actively and collaboratively engaged.
- Arguments have been made as to whether there should be a requirement for the community body to undertake some form of engagement within the regulations, or whether this is overly prescriptive. Thoughts on the minimum level of requirement for engagement are being sought.

### Submission of Local Place Plans

- Steps which must be complied with when submitting a final version of a Local Place Plan will be set out in regulations.
- Information that should be submitted by community bodies preparing a Local Place Plan include supporting information on the form of the consultation undertaken in preparing the plan and a statement as to how the community body has taken account of the statutory requirements.
- A validation framework to support Planning Authorities evaluation of Local Place Plans has also been suggested as being of benefit.

### Steps which must be Taken Before Submitting a completed Local Place Plan

- This stage provides an opportunity for the community body to publicise to the wider community what proposals it has developed to form the Local Place Plan based on the evidence gathered. A clear endorsement from across the community and different interests should add weight to the proposals when they are being taken into account by the Planning Authority.
- The community body should be able to provide evidence of the wider community's views and aspirations plus how it has considered representations and evidence, including how it has had regard to the National Planning Framework, the Local Development Plan and any other prescribed matters.

### Taking the Views of Councillors into Account

- A community body must comply with any prescribed requirements as to how the views of Councillors for the area of the Local Place Plan are to be taken into account.
- It is not currently proposed that a wider requirement to consult in advance of preparing a Local Place Plan, although it is highlighted through the consultation that there is value in a community body specifically seeking the views of the ward councillors for the area.

### Register and Map of Local Place Plans

- Planning Authorities are required to maintain a register of Local Place Plans. Planning Authorities must make publicly available a map showing the land to which the Local Place Plans in their register relate.
- The register held, including a map of the areas plans cover, may assist community bodies in defining the boundaries so they don't overlap and provides potential developers with a source of information on the community's aspirations for its future development.
- The regulations are expected to outline when a Planning Authority may, or must, remove a Local Place Plan from their register. A range of reasons for this are noted in the consultation including that the Local Place Plan has been taken account of in the Local Development Plan which has been adopted and published.

Appendix 2

**Scottish Government Proposals for Regulations on Local Place  
Plans Consultation - Aberdeenshire Council Draft Response  
Consultation Feedback**

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

Yes, where appropriate, as this is only relevant to a small number of communities.

Locality planning areas by definition are experiencing more disadvantages so may need more support to develop their LPP.

Clear guidance and support for communities will be key; there is concern about confusing communities with the number of plans that exist. In order to ensure that there is enough capacity in our communities and Council services these plans should be integrated with other plans rather than becoming another stand alone plan. The integration isn't solely about the plan having regard to other plans but there is an opportunity to rationalise the number of plans that exist. A joined-up framework across policy areas at a national level would ensure that community planning, planning, health and social care, police and fire etc. all understand how to input into the one place, in a model that services and communities can support. Is there a danger of too much planning and not enough action?

The words 'should have regard to' can be interpreted widely and if the LPP and Local Development Plan (LDP) are to align then this wording may need to be strengthened.

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

Yes, it is important for the LPP to have regard to other plans and the wider context, including all of the planning policy documents, Equalities Act 2010 and Fairer Scotland Duty, and consider the Local Outcome Improvement Plan. It is recognised that other plans may be high level, aspirational and cover social issues rather than spatial issues, but LPPs may be able to provide a connection to a spatial 'development' solution. Examples of this would include path networks, access and design proposals that would assist with higher level health issues. There needs to be clarity as to whether LPP present proposals or aspirations as this would impact on how LDPs have regard to it.

Being set out in guidance rather than as a legal requirement would allow for the community body to consider the relevance and how recently additional plans have been published. Again, set out in guidance communication could be sought by community bodies from local partners and partnerships that are present in their local area to allow for shared knowledge. There can be issues where community bodies in the same geographical area don't agree on development matters and thought need to be given to this if more than one LPP is produced in the area.

It is, however, worth noting that this will require enough capacity within the community body and that considering other strategies/plans should not outweigh the expression of community aspirations. Additionally, not every community will have a locality planning arrangement as defined by the Community Empowerment (Scotland) Act 2015. Aberdeenshire Council already has Community Action Plans, and organisations supporting communities to develop them, which may offer considerations/be built upon by a community undertaking an LPP.

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

Yes. This should be supported by the provision of a clear statement, key maps etc. A Terms of Reference should also be considered.

Communities may need to be supported to access, resource and produce appropriate maps and supporting information.

Clarification on who sets boundaries would be useful e.g., will the community be able to set this? Will boundaries overlap or create gaps when considered alongside for example community council boundaries, multi-member ward boundaries, etc?

There is concern around managing expectations and undeliverable aspirations e.g., swimming pools.

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

Engagement is fundamental in the process of producing the LPP. It is considered that it would be better set out in guidance rather than regulation, as long as the guidance was clear and provided best examples of what is required. Engagement should be more ambitious than currently set for Community Action Plans in order to think about a collaborative approach with all stakeholders. After the engagement the community body should be able to identify the impact that the consultation has had, akin to a pre-application consultation report. It is thought that if the requirement for engagement was included in regulation it may create a disincentive to community bodies.

However, if it was to be set out in law it would potentially make LPPs more defensible and provide a certain amount of security and benefit to the process, but the law would require to be specific and clear. It would also provide an important level of awareness of its significance as a document in that it goes beyond just aspirations. It could perhaps be akin to the ballot proposal in the Section 3A of the Land Reform Act 2003, showing a majority of support from the community. Additionally, since community bodies extend beyond community councils to organisations where people are not 'elected' into representative seats, it is vital for some form of public engagement be demonstrated.



Concerns have also been raised as to how different Council services will be consulted by the community bodies as even having regard to national policy there may still be conflicts at a local level.

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

This is a complicated issue.

Regulation may create a disincentive to communities. Not all areas have a Community Council/Association, some have conflict, and some groups do not necessarily represent the majority of their community. As these LPPs would affect an entire community there must be a way of engaging with that entire community. The key will be defining who/what is the "Community".

Guidance and best practice examples would be useful as a one size fit all would be difficult to set, like the current approach with Community Action Plans. It would be useful for the guidance, and perhaps a central database, to illustrate examples of consultation proportionate to scale, complexity, sensitivities in different settings. A community looking to bring forward an LPP could seek agreement of their proposed engagement approach - akin to the Proposal of Application Notice (POAN) associated with the major planning application process.

If there is a law, it requires to be specific and be clear. The length of period of public engagement can be specified, the minimum for a published legal notice for instance. Perhaps is it akin to the ballot proposal in the new Section 3A of the Land Reform Act 2003, showing a majority of support from the community?

Consideration must be given to communities of interest and those groups or communities that are hard to reach.

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

It is considered that setting a minimum requirement in legislation may be too onerous on communities as the groups are generally composed of volunteers, and this is supposed to be approached with a light touch. Statutory consultation could hinder preparation timescales and be off-putting to these community bodies undertaking the task of forming the LPP. It could end up being resource intensive for community bodies.

However, a LPP should only progress with the backing of the community and should try to include all of the different groups within a community. A LPP must be taken forward in a positive manner, to ensure successful outcomes. So, it may be more appropriate for information to be set out in guidance with an idea of best practice, as this would provide the best support to community bodies. A sense check exercise is recommended with ongoing collaboration happening throughout

the process. There is also potential to follow the Community Action Place Model for engagement.

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

Consultation period and mechanism for publication.

Consideration to be given to more diverse ways of getting in contact with people – digital platforms etc. Any engagement must be meaningful.

**Question 8: Do you agree with the proposal that the community body should seek the views of ward councillors when preparing the LPP? Please comment on your answer – particularly if you do not agree or have a view as to how ward councillors' views should be taken into account or reported?**

Ward Councillors are aware of issues in their local areas and can be involved in community groups within the area so it wouldn't be onerous for the community to gain their input. There shouldn't be a requirement for community groups to follow the views of the Councillors but when reporting the final LPP the community group should be able to demonstrate where they agreed/disagreed with the Ward Councillors.

However, given the Councillors' role in the later stages of the Development Plan-making process concern is raised that this could result in a conflict of interest. It is recommended that clear guidance is given to community bodies as to what input Ward Members can have to avoid potentially prejudicing their decision-making within the Council Committees.

**Question 9: Do you agree that, alongside the LPP itself, the community body should submit a statement on how it has complied with the legal requirements? Please comment on your answer (particularly if you do not agree).**

Yes, as this strengthens and validates the LPP and benefits the LDP down the line, and it may help provide some consistency.

A standard schedule (such as the validation framework mentioned in the consultation paper) checklist or summary template would be helpful. Additionally, a legal checklist/declaration is a useful tool to aid compliance and therefore avoid potential for challenge later on.

Whilst in agreement that it should be necessary and will be helpful to provide a checklist, statement or similar, this should not be a disincentive to a community developing its aspirations and engaging in local place planning.

**Question 10: Do you agree the requirements planning authorities have to keep the register of local place plans should be aligned to the existing**

**arrangements for registers? Please comment on your answer (particularly if you do not agree).**

Yes, a map and electronic copies only would not be burdensome and if the document is to be a material consideration, it should be stored in the public realm.

**Question 11: Do you agree that the additional information provided by the community body alongside the LPP should be kept on the register of local place plans? Please comment on your answer (particularly if you do not agree).**

Yes, this promotes transparency, avoids freedom of information requests and provides evidence for LDPs. It allows all of the information for each LPP to be kept together. In this digital age – the additional information can be stored easily as supporting data.

There is a concern that depending on the nature of the information there may be some GDPR implications to making the information public.

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

It should only include the agreed documents to avoid any confusion for members of the public. Information could generally be held online in a digital format but should also be able to be viewed in person. It should include the LPP, it's supporting information (whatever it might be), date registered and who prepared it. Information about the boundaries, presented as maps, would also be essential. It may also be useful for the statement of compliance with the legal requirements to be included.

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

An LPP should only be removed when taken into account in its entirety, however this is very unlikely to happen; or when superseded by a new LPP comes forward. Removal should be with the agreement, or at the request, of the community body.

Concerns have been raised about transparency (especially with regard to how an LPP has been taken into consideration with the LDP process) if an LPP is removed.

**Question 14: Do you agree the requirements planning authorities have for making the map of local place plans available should be aligned to the existing arrangements for registers? Please comment on your answer (particularly if you do not agree).**

Yes, but this requirement should consider alignment with digital transformation work.

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

PC of sex – conflation of the word gender for sex in the text, there is a requirement to be specific when assessing the impact on protected characteristics. Gender is not a protected characteristic. No consideration of how women use space differently to men. E.g., women do most of the of caring for young and old people so use space differently and at different times. This should be explored further.

Key issues have been raised around resourcing and funding required for LLPs.

Scottish Government's anticipated number of LPP's seems to be very low and does not reflect the level of interest in local planning matters in the majority of Aberdeenshire communities.

Cost of preparing LPP's could be prohibitive for some community groups and/or burdensome on the Local Authority and partners. Examples exist where funds derived from community payments from wind turbine developers have been used for this purpose but expecting this kind of funding to assist LPP preparation could be discriminatory.

LPPs will need to be adequately resourced to help communities, especially those with less capacity.

If there are resources being allocated to develop LPPs communities should be empowered to decide how they use the resources to meet their needs and the process should not be so prescriptive as to prevent this.

We would caution against requirements on community bodies being unduly onerous and further emphasise community bodies will need to be adequately supported to complete LPPs.

Compliance with Equalities legislation is welcomed.

Additionally, LPP's offer the opportunity for a community to identify what they consider to be key historic and heritage assets within their community. Clarity is required to establish how policies of an LDP would be applied to any assets identified in a LPP that is not already subject to protection via policies of the LDP. For example, buildings, monuments or sites identified as being of significance by a community body but not formally designated through statute or existing planning policy.

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

No comment.

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

Agreed.

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

No comment.