

MAKING PLANS FOR THE FUTURE

Key Question

A: Do you agree that our proposed package of reforms will improve development planning? Please explain your answer.

The CNPA is concerned that some of the proposals may add complexity and bureaucracy, and there is a risk that these might undermine the benefits delivered by other key changes. We can see the benefits of closer alignment of community planning and spatial planning although we note in passing that the National Park covers parts of five different local authorities and community planning areas. We note the proposed changes to regional planning and point to the example of National Parks as examples of Scottish regions where National Park Partnership Plans are delivered through place-based partnerships.

We support proposal to extend the life of LDPs to 10 years, as long as there are simple and effective mechanisms to allow for review and adaptation if circumstances change during the 10-year period. We support measures to simplify and speed up the examination process but have some concerns that proposed changes will change it but not simplify it. We are not convinced by the proposal to remove Main Issues Reports as in our experience, they have increased public awareness of and involvement in the development of plans. We support the proposals to put a focus of delivering the right development through the LDP and on delivery programmes. We consider these proposals need significantly more work to demonstrate that they would be effective.

Optional technical questions:

1. Do you agree that local development plans should be required to take account of community planning?

Yes. However, it should be recognised that community planning does not always identify issues or solutions that the LDP can easily address.

The process is more challenging for National Park Authorities as their boundaries cross multiple Community Planning Partnerships (5 in CNPA's case). Consideration should therefore be given to making this process as simple as possible for National Park Authorities. One option could be by making clearer links between community planning and the National Park Plans required under section 11 of the National Parks (Scotland) Act 2000. As the National Park Plans set the strategic context for the subsequent Local Development Plan (LDP), this may be a simple way of achieving alignment.

The CNPA also considers that there should be a reciprocal requirement for community planning processes to take greater account of local development plans.

2. Do you agree that strategic development plans should be replaced by improved regional partnership working?

No comment.

- 2(a) How can planning add greatest value at a regional scale?**
By co-ordinating the approach to issues that cross local authority boundaries, including regional housing aspirations and strategic infrastructure requirements.
- 2(b) Which activities should be carried out at the national and regional levels?**
As above.
- 2(c) Should regional activities take the form of duties or discretionary powers?**
No comment.
- 2(d) What is your view on the scale and geography of regional partnerships?**
Any arrangements will need to be flexible enough to accommodate needs in different parts of Scotland. National Parks already have National Park Plans and partnerships that support their delivery.
- 2(e) What role and responsibilities should Scottish Government, agencies, partners and stakeholders have within regional partnership working?**
They should be key partners.
- 3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?**
We are not convinced that more weight need be given to the NPF and SPP. LDPs should be able to focus more on local place planning, and policies that are appropriate for different parts and circumstances in Scotland. For example, in the Cairngorms National Park, the National Park Plan provides the strategic context for the LDP and this could lead to distinctively different policy approaches to address local issues than in other parts of Scotland. There is not a one-size fits all approach that makes sense.
- The proposal to enable LDPs to include policies that depart from SPP where justified on the basis of distinctive local circumstances is therefore welcomed. Careful consideration will need to be given to the policy matters that are covered nationally by SPP and those which are a matter for local determination through LDPs.
- 3(a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?**
The process will need to provide appropriate opportunities for engagement to avoid potential concerns around democratic accountability.
- 4. Do you agree with our proposals to simplify the preparation of development plans?**
The CNPA has concerns in relation to certain aspects of the proposals and these are set out below in more detail. We are concerned that any changes need more time for their full implications to be considered carefully.
- 4(a) Should the plan review cycle be lengthened to 10 years?**
Yes in principle. CNPA would support lengthening the plan review cycle to 10 years thereby freeing up officer time to focus efforts on supporting the delivery of the LDP strategy. However, circumstances can change significantly over a 10 year period and, in order for LDPs to remain responsive to any such changes, there must be a mechanism

whereby either a partial update or, if necessary, a full review of the LDP can be triggered within the 10 year cycle.

4(b) Should there be scope to review the plan between review cycles?

Yes. Flexibility to trigger either a partial update or a full review of the LDP must be retained. The system should allow a partial update to be undertaken in a streamlined manner, without re-considering elements of the LDP that remain relevant and appropriate.

4(c) Should we remove supplementary guidance?

The ability to produce SG for key policy matters can be helpful for both planning authorities and users of the system. The flexibility to review such guidance during the lifetime of the LDP is also helpful, and could be even more useful if the LDP review cycle is extended to 10 years.

It is therefore suggested that statutory supplementary guidance be retained, although this could be within a framework which sets out clearer expectations over where it will / will not be appropriate.

5. Do you agree that local development plan examinations should be retained?

Yes. LDPs have to make difficult decisions on matters where it is rarely possible to achieve consensus. The examination process enables outstanding objections to be independently scrutinised and affords the final LDP an additional level of credibility. However, the current system is time and resource intensive and CNPA welcomes efforts to streamline the examination process.

We also consider that the Reporter's recommendations should not be binding on the Planning Authority who prepares the development plan.

5(a) Should an early gatecheck be added to the process?

Yes, but only if it is able to draw conclusions on key matters and avoids the need for these to be re-considered during later stages of the process. Otherwise it could risk adding time and cost to the process for limited additional value.

5(b) Who should be involved?

The process could be led by DPEA Reporters, with involvement from Scottish Government and relevant specialists where appropriate. For example, SEPA, SNH etc. could have a role in verifying technical evidence. There may also be scope for peer review by other local planning authorities at this stage.

5(c) What matters should the gatecheck look at?

Ensuring that appropriate and up-to-date evidence is in place. Ensuring that an appropriate community engagement strategy is in place. Confirming that the proposed housing supply target and housing land requirements are evidence based and appropriate – therefore avoiding the need for further consideration of these issues during later stages of the process.

5(d) What matters should the final examination look at?

Outstanding objections on matters that have not already been addressed. There should not be any requirement for it to re-consider matters that have been 'signed-off' at the gatecheck stage – e.g. housing land requirements.

- 5(e) Could professional mediation support the process of allocating land?**
From our experience, we doubt that professional mediation would be able to achieve a consensus between parties with competing land interests. It is therefore only likely to add significant value if it were used either as an alternative to the current Examination process, or if it made clear recommendations to the Examination on which sites should / should not be allocated (thus potentially speeding up the Examination process).
- 6. Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?**
Yes. However, we consider that sites that are allocated in the LDP should have significant status, and it should not be necessary to re-consider the principle of development on allocated sites through the development management process unless circumstances have changed significantly. SPP could reinforce this.
- 7. Do you agree that plans could be strengthened by the following measures:**
- 7(a) Setting out the information required to accompany proposed allocations**
Yes.
- 7(b) Requiring information on the feasibility of the site to be provided**
Yes. However, a proportionate approach is likely to be required. In rural areas development is often undertaken by smaller-scale builders, who may not be able to supply this information easily. Although detailed feasibility information is likely to be essential for any sites that are critical to the delivery of the overall LDP strategy, the same level of information might not be necessary for other sites that are of only local significance.
- 7(c) Increasing requirements for consultation for applications relating to non-allocated sites**
Yes. However, this requirement should only apply to planning applications that would represent a departure from LDP policy. It should not apply, for example, to non-allocated windfall sites that generally accord with LDP policy, or to 'rural exceptions' sites that are being promoted for affordable housing in line with LDP policy.
- 7(d) Working with the key agencies so that where they agree to a site being included in the plan, they do not object to the principle of an application**
Yes.
- 8. Do you agree that stronger delivery programmes could be used to drive delivery of development?**
Yes.
- 8(a) What should they include?**
More detail on the actions required to deliver development and who will undertake them. Key partners should also be encouraged to take account of delivery programmes and to align their capital plans and asset/investment strategies with these. Delivery programmes could be used as the mechanism to trigger a partial update / review of the LDP in the event that this is required.

PEOPLE MAKE THE SYSTEM WORK

Key Question

B: Do you agree that our proposed package of reforms will increase community involvement in planning? Please explain your answer.

The CNPA supports the desire to increase community involvement in planning. Communities have been actively involved in the planning and management of the national Park since its inception. We have always endeavoured to improve engagement in the planning process through, for example, careful engagement on development plans, providing extended periods for representation on planning applications and facilitating an active network of planning representatives from Community Councils and Associations. During the past year we trialled the Place Standard Tool in engagement with school pupils and began a programme to engage secondary school pupils in Planning Committee meetings. We consider the proposals could make more of the role of Community Councils that already have a formal role in the planning process. Any measure to improve community involvement should incorporate strengthened roles for Community Councils to make them more effective.

However, we are concerned that some of the proposed reforms could make the system of plans more complex and undermine efforts to streamline LDP production. We already encourage communities to produce Community Action Plans and the visions from these plans have been incorporated into the LDPs. All local based planning requires resource, support and knowledge. We are concerned that the proposals could benefit more affluent communities and those members of them with plenty of free time, whilst being too onerous for less well-off communities or younger people with jobs, young families or in education. We consider more thought is needed to make these proposals equitable.

We strongly support the proposals for increased planning fees for retrospective planning applications. We have considerable experience of such applications and the public anger and confusion they can cause. We also support the proposals to increase enforcement penalties. We consider the system of Section 42 applications and associated fees should also be reviewed.

Optional technical questions:

9. Should communities be given an opportunity to prepare their own local place plans?

The CNPA fully supports engagement at the local level and, along with partner organisations, commits significant resources to helping communities play a greater role in shaping their places. Communities within the Cairngorms National Park are already being supported to produce Community Action Plans, and these in turn feed into the LDP process.

However, the addition of a new layer of Local Place Plans (LPPs) could increase complexity and confusion, and the resource demands may be onerous for communities and planning authorities. There is also a risk of disproportionate LPP take-up and

increased inequality, with more affluent and well-resourced communities being more likely to take the opportunity to produce an LPP than less affluent ones.

CNPA would therefore suggest that greater benefit could be delivered by ensuring better links between LDPs and existing community planning work – e.g. between LDPs and existing Community Action Plans, emerging Locality Plans etc.

9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?

If introduced, LPPs should be informed by the development requirements specified in the LDP. Otherwise there is a risk that LPPs may be seen by some as a mechanism to frustrate rather than to enable development.

9(b) Does Figure 1 cover all of the relevant considerations?

Figure 1 refers to ‘local authorities’, whereas the text at paragraph 2.9 refers to ‘planning authorities’. This inconsistency in terminology might lead to confusion in a National Park context, where the National Park Authority is or acts as the ‘planning authority’ but not the ‘local authority’. It is assumed that the correct reference should be to the ‘planning authority’, and this will need to be made clear if LPP proposals are taken forward.

Further consideration will also need to be given to the definition of ‘community bodies’ and the practical implications of this. For example, Figure 1 does not consider what would happen in the event that two or more ‘community bodies’ sought to prepare competing LPPs for the same area.

10. Should local authorities be given a new duty to consult community councils on preparing the statutory development plan?

Yes. This is already established good practice and CNPA consults community councils on a wide range of planning matters, including all planning applications that are called in and as part of LDP preparation. We would like to see more support and responsibility given to Community Councils to ensure they represent the range of views on key issues for the community.

10(a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?

No. Introducing such a requirement is unlikely to add any significant value, and there is a risk it could result in a feeling of consultation fatigue within communities.

11. How can we ensure more people are involved?

Using a range of engagement techniques tailored to local circumstances. Promoting more use of social media and technology which allows planning issues to be presented in engaging and user-friendly ways. We have found that a focus on design, through design awards and similar work, encourages people to take a positive and forwards looking approach to planning. Continuing to recognise and promote good practice at the national level, so that planning authorities can learn from the experiences and successes of others.

11(a) Should planning authorities be required to use methods to support children and young people in planning?

Planning authorities should be encouraged but not required to take such an approach. It should not be at the expense of efforts to engage other hard-to-reach groups.

12. Should requirements for pre-application consultation with communities be enhanced? Please explain your answers.

Yes.

12(a) What would be the most effective means of improving this part of the process?

Pre-application consultation (PAC) is currently a “one size fits all” process for major and national developments. It can be done in a way that influences a development proposal through effective consultation and engagement, or it can be done in a way that minimises public involvement. Effective consultation and engagement can be time and resource intensive and requires knowledge and experience that applicants may not have access to. Clearer plans for approval by the planning authority on how consultation will be carried out, possibly through a third party, could improve the process.

12(b) Are there procedural aspects relating to pre-application consultation (PAC) that should be clarified?

No comment.

12(c) Are the circumstances in which PAC is required still appropriate?

Yes, though significant local developments might also benefit from PAC.

12(d) Should the period from the serving of the Proposal of Application Notice for PAC to the submission of the application have a maximum time-limit?

Yes. This is important to ensure that process is efficiently managed and allows the planning application to be submitted at the earliest possible stage.

13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?

Yes. The cost to planning authorities remains the same for the second application.

14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?

Yes.

We also support an increase in planning fees for retrospective planning applications. The CNPA has considered a number of retrospective planning applications as a result of planning enforcement at relatively high profile locations including Cairngorm Mountain and Badaguish. For some operators, a financial disincentive would help focus their actions. It would also help resource the work that a planning authority does in enforcement time and advice that leads to the retrospective application.

15. Should current appeal and review arrangements be revised:

Although not an issue raised by this consultation, we would point out that in our opinion, the arrangements for PLI for wind farm developments are not conducive to public participation or engagement. The involvement of large legal teams, cross-examinations and court-like sessions cost developers and the public sector a lot of money and time. The general public are more less excluded from active participation because of the costs of legal representation.

15(a) for more decisions to be made by local review bodies?

No comment

15(b) to introduce fees for appeals and reviews?

Yes.

15(c) for training of elected members involved in a planning committee or local review body to be mandatory?

Yes. This CNPA already has Planning Committee members training programme.

15(d) Do you agree that Ministers, rather than reporters, should make decisions more often?

No comment.

16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?

CNPA has no specific comments on this issue.

BUILDING MORE HOMES AND DELIVERING INFRASTRUCTURE

Key Question

- C: Will these proposals help to deliver more homes and the infrastructure we need? Please explain your answer.**

The proposals are likely to go some way towards increasing delivery. The CNPA welcomes the recognition in paragraph 3.1 that whilst many factors are currently limiting the number of homes being built across Scotland, only some of these are within the control of the planning system. We note the importance of National Park Partnership Plans in setting a strategic context for development in National Parks and the link this has to housing land in the Local Development Plan.

The proposals do not address an issue that is a difficult one for some parts of rural Scotland such as the Cairngorms National Park, where permanently occupied housing is migrating to second homes and holiday homes that local workers cannot afford to buy or rent. The visitor economy that these homes support is clearly important, but it contributes to an increasing affordability gap for much of the workforce. We would also like any detailed proposals to consider how the delivery of affordable housing can be sustained with provision of housing that is affordable in perpetuity either through the planning system or other mechanisms. An endless programme of building housing that is only affordable to the first owner/occupier requires an endless supply of housing land to be effective. The environmental constraints and demand for second or holiday homes in the Cairngorms National Park mean that different approaches are needed.

We strongly support the focus on enabling housing through public land assembly as well as targeted and integrated infrastructure planning. We understand the potential of an infrastructure levy but we also have concerns that it may not be viable in rural areas and also that the infrastructure costs in rural areas, with generally smaller development sites mean that there is a risk that these areas miss out on funding or that additional public support may always be required.

Optional technical questions:

- 17. Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?**

We are not convinced that a nationally based allocation of housing delivery targets for regions would be capable of taking account of differences across Scotland.

- 18. Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?**

Yes.

- 19. Do you agree that planning can help to diversify the ways we deliver homes?**

Yes. The delivery of housing that is affordable and meets local needs is one of the most pressing issues in the Cairngorms National Park. The current models of market-led housing delivery do not fully address the lack of affordable and mid-market housing supply in rural areas where demand for housing is high and wages are low. Although

these issues cannot be resolved through the planning system alone, planning should play a key role in supporting alternative delivery models.

19(a) What practical tools can be used to achieve this?

Greater ability for planning authorities to influence the size and tenure of new housing to ensure it meets local need. Infrastructure funding mechanisms which open up sites to incremental development. Enhanced funding support to local authorities and RSLs. Funding and other practical support for communities that want to pursue housing developments themselves. Support and training to enable planning authorities make greater use of land assembly powers. Exploring different delivery models – e.g. CNPA is currently looking at a range of options to deliver affordable housing without public subsidy, including greater use of rural housing burdens, and affordable housing delivered by cross-subsidy from other small open-market sites.

20. What are your views on greater use of zoning to support housing delivery?

We would be interested to explore the potential of simplified planning zones but in the context of the Cairngorms National Park, where around 50% of the Park is designated under the Natura network, we expect that a significant volume of up-front work would be needed to give certainty about what elements could be simplified and what elements required more information for approval.

20(a) How can the procedures for Simplified Planning Zones be improved to allow for their wider use in Scotland?

CNPA has no specific comments on this question.

20(b) What needs to be done to help resource them?

CNPA has no specific comments on this question.

21. Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?

Yes.

22. Would the proposed arrangements for regional partnership working support better infrastructure planning and delivery?

No comment.

22(a) What actions or duties at this scale would help?

Planning for, and co-ordinating the delivery of, infrastructure which is of strategic importance at the regional level and is required to enable development at the local level – e.g. strategic transport interventions etc. Strategic Housing Investment Plans (SHIPs) play a role in this. In the Cairngorms National Park, the National Park Plan provides a strategic context for the LDP and a framework for partnership work and cooperation across administrative boundaries.

23. Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?

Yes.

24. Do you agree that future legislation should include new powers for an infrastructure levy?

Yes, in principle. A mechanism to enable collective/pooled contributions towards strategic infrastructure requirements is likely to enhance delivery in many areas. However, account will need to be taken of the development economics in rural areas where market conditions may not support such a levy, and it should not be mandatory to introduce one. Section 75 agreements should be retained to mitigate and address the impacts of individual developments where these are not covered by any levy.

24(a) If so, at what scale should it be applied?;

The scale should vary according to individual circumstances - one size will not fit all.

24(b) to what type of development should it apply?;

Again, this should vary according to circumstances – it could potentially apply to a range of development types providing they contribute towards the overall need for the infrastructure that the levy will fund.

24(c) who should be responsible for administering it?; and

Regional partnerships are likely to be best placed to administer any such scheme, although flexibility over administration arrangements is likely to be required in practice.

24(d) what type of infrastructure should it be used for?

In principle, any strategic infrastructure that would benefit developments at more than the local level.

24(e) If not, please explain why.

N/A

25. Do you agree that Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009, should be removed?

Yes. The current situation results in duplication, and in some cases inconsistency between LDP policies and the building standards requirements. Removing the Section 3F obligation would avoid this.

Key Question

D: Do you agree the measures set out here will improve the way that the planning service is resourced? Please explain your answer.

We can see that the resourcing of the planning system would be improved by the proposals. The work of the Improvement Service and HoPS has helped move the public sector planning profession system to a place where it is more innovative and able to be more creative and we support the emphasis on schools and young people. The target of full cost recovery is attractive to planning authorities but we can see that there may need to be a phasing of cost increases to allow the private sector to adapt.

The corollary for increased charges is improved performance but it is essential that performance of the planning system is based on a wide range of measures that includes the quality of outcomes and places, not simply the numbers of units or speed of decisions. The culture of improvement that HoPS have been leading creates good foundations for future improvements.

We are generally supportive of the proposals to refine parts of the system to improve efficiency and provide clarity. While we welcome the proposal to amend the duration of planning permission in principle, we consider this needs to be done in light of the S42 application process, its problems and the true cost of processing such planning applications.

We also consider that the review should consider whether some development that can be undertaken through prior notification or approval as agricultural and private roads and ways should simply require planning permission. Many tracks on open moorland and hills have some link to an agricultural purpose, even where the primary use is for sporting activities. These tracks can be contentious, but the public may never know of their approval nor have an opportunity to make representation on them. We suggest that new tracks on open ground that are not in enclosed farmland should simply require planning permission, irrespective of the purpose of the track.

Optional technical questions:

26. What measures can we take to improve leadership of the Scottish planning profession?

The work of HoPS and the interest and support of Scottish Ministers in the effectiveness of the Scottish Planning System has started to raise the profile of planning in a positive way and reinforced its importance in creating successful places. By recognising the positive influence of planning, organisations see the benefits it brings, expect more from it, and resource it more fully. This environment builds skills, confidence and vision in individuals and organisations. The work of HoPS and the Improvement Service over the past few years has helped stimulate positive change in this direction.

27. What are the priorities for developing skills in the planning profession?

Organisations such as the Improvement Service play an important role in co-ordinating and enabling skills development across planning authorities. Training in key areas such as

development viability and land assembly are likely to be required to deliver the benefits being sought through the planning review.

28. Are there ways in which we can support stronger multidisciplinary working between built environment professions?

No comment.

29. How can we better support planning authorities to improve their performance as well as the performance of others involved in the process?

Adequate resourcing is essential. The proposals outlined in the consultation paper, including the move towards full cost recovery for development management and a focus on customer's experiences should help to drive further performance improvements. Continuing to work with HOPS to evolve the PPF reporting system, and using initiatives such as the Scottish Awards for Quality in Planning to recognise high performance and promote this as best practice, will also be beneficial.

30. Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)?

Yes.

30(a) Do you have any ideas on how this could be achieved?

Using tools such as the Place Standard to monitor whether planning outcomes have had a positive impact on the way people view their places over time.

31. Do you have any comments on our early proposals for restructuring of planning fees?

It is important that the fees are restructured to move towards full cost recovery for the work carried out by planning authorities. This should include proportionate charging for S42 applications and pre-application advice.

32. What types of development would be suitable for extended permitted development rights?

We agree that there is scope for some types of development to be given permitted development rights and agree that some changes of use, small scale street-based infrastructure and footpaths or cycle ways are appropriate. However, in a National Park context, the extension of or development of new telecommunications infrastructure can have significant visual impacts on the landscape that need to be addressed.

33. What targeted improvements should be made to further simplify and clarify development management procedures?

The standardisation and tightening up of application validation requirements would help ensure only well-considered and planned applications enter the system and would speed up decision-making processes.

33(a) Should we make provisions on the duration of planning permission in principle more flexible by introducing powers to amend the duration after permission has been granted? How can existing provisions be simplified?

Planning authorities have the flexibility to impose an appropriate duration of a planning permission. An additional provision to change duration of permission needs to be carefully considered. The S42 system is currently misused as cheap way of extending

permission, but creates significant workload for a planning authority where the issue of the new permission must be carefully considered.

33(b) Currently developers can apply for a new planning permission with different conditions to those attached to an existing permission for the same development. Can these procedures be improved?

The current Section 42 application process is complicated and misunderstood by many stakeholders. The procedure is misused as a cheaper way of renewing planning permission with minor changes, or of turning an existing consent into a materially different permission. The rules about when S42 applications are legitimate, and a more appropriate fee structure should be considered to reflect the complexity of applications and work involved in processing them.

33(c) What changes, if any, would you like to see to arrangements for public consultation of applications for approvals of detail required by a condition on a planning permission in principle?

No comment.

33(d) Do you have any views on the requirements for pre-determination hearings and determination of applications by full council?

No comment.

34. What scope is there for digitally enabling the transformation of the planning service around the user need?

It would be possible to make planning services more responsive to the needs of users through digital technology. The ability to create 3 dimensional simulations of development proposals can help a much wider range of stakeholders understand the nature of development a development proposed. However, the development of digital services requires significant investment.