

Heads of Planning Scotland (HoPS) Response to consultative draft Scottish Planning Policy

Introduction

In making this submission, Heads of Planning (HoPS) recognises the good work carried out by Scottish Government colleagues in producing both the review of Scottish Planning Policy (SPP) and the National Planning Framework (NPF3) papers within a short timescale. We also welcome the simultaneous publication of consultative draft SPP and NPF3 Main Issue Report (MIR)/draft Framework to give a rounded picture of the Government's vision of where development will happen and how it will be delivered.

This response does not attempt to address every question set in the draft SPP and so is not comprehensive; it does put forward HoPS' views on those areas which are seen as relevant to the HoPS membership. Member planning authorities will be able to submit more detailed comments on those issues relevant to their respective areas. The response follows the relevant questions set in the draft SPP.

Consultation Question 1 –

Policy principles

HoPS note there is a better balance between the environment and economy in the draft SPP. Paragraph 17, as drafted, is understandably swayed towards economic growth. Some further explanation could usefully be provided to set out the principles by which decisions are expected to be taken in cases where economic arguments in favour of development are likely to be set against the environmental impact. HoPS also believe there is a need to explain if there is a difference in what is intended between the terms "sustainable economic growth" and "sustainable development" (paragraphs 15-23 and 24-7, respectively).

The use of "significant" in the context of assessing these considerations does not take us closer to establishing where the balance will lie between economic benefit and environmental impact. This would be better worded as "appropriate". HoPS recognises that individual circumstances of each case will vary; we suggest some thought be given to adding another bullet in paragraph 17 stating that weight should be given to the net economic benefit of a development proposal to demonstrate long term, sustainable benefit. For example, the text within the second bullet point "*while protecting and enhancing the quality of the natural and built environments as assets of national importance*" relates not just to fostering a business environment but to all development.

In addition, the third bullet point states economic benefit is a material consideration which implies that it is given material weight in assessing the planning application. How does this sit with the Government's strong commitment to a plan-led planning system?

The policy principles set out in Paragraph 17 are likely to require the submission of additional information/assessment by applicants to allow planning authorities to assess fully the economic benefit of a

proposed development. We would suggest further thought is given to whether this applies to all planning applications, regardless of scale or development proposed; this could be onerous on applicants.

Town centres

In responding to *Priorities for Change*, HoPS suggested that a bold and ambitious approach to town centres should be considered. It is disappointing that the draft SPP could not be informed by the *Town Centres Review* but we remain of the view that town centres should be assessed for being fit for function, rather than fit for purpose: they should be seen as hubs of a range of activities instead of simply retail hubs; they matter because of the value of investment in them; their potential as attractive places to live; and because of their continued accessibility at the centre of transport networks. HoPS believes SPP should give greater attention to sub-national/regional centres such as the cities given their value and importance to the wider region through economic activity, including attracting visitors.

Given the importance of town centres, we are surprised that the draft SPP does not provide a national policy on town centres. Paragraph 55 reads as though it is drawn from earlier Scottish Planning Policy on town centres and retailing. Similarly, we wonder if the development management reference to retail impact analysis on development over 2,500 sq. m. is based on a recent assessment of retail impact given changes in retail formats over the years. We suggest that Paragraphs 55 and 56 are too detailed and if this is considered required could sit within an appendix.

The sequential approach under Development management should sit within Development Plans to support a plan-led system.

HoPS would like to reserve its final position on town centres until the *Town Centres Review* is published.

Consultation Question 2 –

HoPS believe that regular town centre health checks, although worthwhile in themselves, could be a resource burden on those councils with many town centres as they are defined in paragraph 60 when measured against the value of the information they would provide.

Consultation Question 4 –

Paragraph 66 refers to a “*broadly based retail impact analysis*” but the draft SPP does not define what “broadly based” means. With regards to the question posed, recognition needs to be made that applying this test within urban and rural and island areas to all retail and leisure is different, for example where it relates to the environmental asset like mountain biking. As such, HoPS has not provided an answer to this question and individual Member Authorities may choose to respond separately.

Housing

Much of what is said in the draft SPP for housing land is based on existing policy advice. However, the draft does not offer solutions for delivering the houses we all recognise are needed. We accept that this is because the funding constraints in the housing market and construction sector are outwith the scope of the planning system. SPP should consider the role of brownfield sites and regeneration on housing supply and the importance of such sites within the context of delivering great places.

Consultation Question 5 –

Much of the content in the draft SPP is more relevant to urban areas than to the more remote and island planning authorities. For example, a network of town centres is unlikely to be relevant to island authorities; similarly, housing policy does not reflect the reliance on public sector grant-funded housing in some areas. There is, therefore scope to consider where rural and island areas can be removed from some policy requirements such as affordable housing thresholds and town centre health checks.

HoPS' member authorities operating in rural and island areas would welcome dialogue with the Government on rural circumstances can be better reflected in the SPP. Paragraphs 68-78 could be the basis of a rural and island section in the document.

Consultation Question 6 –

Paragraph 85 explains what is meant by a “generous” housing land supply; that clarification is welcomed although HoPS takes the view that the upper limit of 20% is too high. The text in the draft SPP remains open to interpretation by planning authorities, developers, and communities.

The definition of “effectiveness” and how the term is used has a profound effect on housing land supply calculations and the scale and timing of development plan land allocations. It is also a regular topic at development plan examinations and appeal hearings. HoPS considers that the current approach lacks flexibility and is no longer fit for purpose.

PAN 2/2010 in Paragraphs 54 to 57 provides sensible advice for a healthy housing market where builders and buyers can access credit, creating effective demand. It seeks to prevent housing on the ground being constrained by a slow and unresponsive planning system. However it clearly does not anticipate today's very different housing market where new homes are not being built because of the economic conditions that resulted from the banking crisis.

The SPP and PAN together create the situation where, if a site's developer advises that there is no *commercial* prospect of an otherwise unconstrained site yielding completions in the 5-year horizon, that site drops out of the five-year effective supply. It then contributes to a shortfall. In many areas, the default solution to bridging that shortfall is to allocate more land, which in all probability has no better economic prospects of being developed than the site it replaces and simply generates additional concerns amongst local communities.

HoPS asks that the new SPP and a revised PAN should take the opportunity to remove this unhelpful paradox.

One solution could be to amend the PAN and its references to programming to allow planning authorities to take account of wider economic factors and the health of the housing finance market. In other words, to tailor the response to the business cycle and promote a different approach to different stages of that cycle.

We suggest that a constructive way forward would be for the Scottish Government to hold a workshop with the commercial house-builders, housing associations and HoPS to explore the scope for establishing a new approach that reflects the changed economic climate to help inform a finalised SPP.

Consultation Question 7 –

HoPS welcome the inclusion of windfall sites to provide flexibility; this is particularly important to rural planning authorities.

Consultation Question 8 –

Our response to Consultation Question 8 is that (d), a combination of methods should be used in strategic development plans in setting out the housing supply target but with an emphasis on (b) and (c); that is, by local authority areas and housing market areas, respectively.

Consultation Question 10 –

HoPS are unclear on the alternative approach to identifying the 5-year effective housing land supply as described in Consultation Question 10. If this is an attempt to move away from a simple numerical exercise to one more rooted in place making, we would welcome the opportunity to discuss it further.

There is still scope to improve the presentation of development plans' housing supply roles and the associated timescales by using graphic devices to explain them and the relationship between strategic and local development plans.

In relation to housing sites and action programmes, we feel it is onerous and potentially undeliverable with current resources to seek planning authorities to identify how each individual site within the programme will be delivered.

Supporting Business and Employment

HoPS welcome increased emphasis on supporting business and employment. To assist taking forward the policy principles it would be helpful if clarity is provided on some of the terminology. Paragraph 105, 1st bullet refers to 'take full account' – what is the difference between taking account of and taking *full* account of? Paragraph 106, 2nd sentence, refers to meeting the 'needs and opportunities of indigenous firms and inward investors' – is it reasonable to expect a Planning Authority to undertake research and fully understand what the *needs* are of such firms and investors?

Paragraph 108 refers to the need for 'nationally important clusters of industries handling hazardous substances' to be identified within Strategic Development Plans. If such areas are of national importance should these not be identified within NPF3?

Consultation Question 13 –

Employment Land Audits are undertaken within most, if not all, Planning Authorities to inform Development Plans in particular. HoPS do not consider that SPP needs to set this out within national policy, but rather focus on the need to best ensure that land is made available for a supply of business land.

Natural resources

It should be recognised that European legislation/Directive places obligations on planning authorities over and above the SPP. The current tone both in the SPP (and NFP3's Main Issues Report) is that 'local assets' which do not benefit from national protection are somehow less valued; this is clearly not the case. HoPS believe that local diversity is a significant contributor to the national economy and the planning system has a duty to protect locally valued assets for their tourism value, for example.

Paragraph 132 refers explicitly to sites protected by statutory natural heritage designations. Reference only to these protected sites undermines the importance of non-statutory local designations; further consideration should be given to whether sites designated locally in the development plan should have similar status.

Paragraph 133 gives a mixed message on the application of the precautionary principle: first, by saying when it should be applied; then advising that it should not be used unnecessarily. Related to this, the phrase "*impede development unnecessarily*" is vague.

Consultation Question 14 –

Green infrastructure should in new and existing settlements is best regarded as an integral part of place making rather than as a separate element. This is preferred to a standards-based approach.

Extraction of resources

Paragraph 175 refers to "significant impact" without explaining what that means; this ought to be tied to PAN 50 and its annexes. The need to protect individual dwellings is important and should be reflected in this section of SPP. Guidance is also needed on what is an "adequate buffer zone" and, again, reference made to individual residential properties. The reference to borrow pits in the context of this paragraph is unclear to us.

In paragraph 176, there is another example of where reference should be made to individual residential properties; as drafted, they have no protection in SPP. (A reference to individual dwellings as a sensitive receptor, as set out in paragraph 262 could help.)

The reference to restoration guarantees in paragraph 177 is welcome; the current issues arising from the state of the coal industry in Scotland and related bond issues nevertheless suggest that this paragraph should be reviewed to determine whether it is sufficiently robust.

Movement

HoPS commented earlier on the use of undefined terminology which could be open to interpretation. Paragraphs 202 and 203 are cited as examples of where better definition would help the development management process; for example, what is a "significant" increase in the number of new trips, and what are "significant travel generating uses"?

Onshore wind energy generation

Consultation Question 17 –

Member authorities see energy policy as an ongoing subject for discussion with stakeholders, particularly with the public in respect of onshore wind. The inclusion of the Chief Planner's letter on including spatial frameworks for onshore wind in local development plans is acknowledged and gives the advice clearer status. The proposed groupings for onshore wind spatial frameworks, if applied consistently across the country, should offer all interested parties a clearer picture of where onshore wind development are more likely to be acceptable in planning terms. We are unsure, though, why a sequential approach to the use of these groupings appears to be dismissed in paragraph 219. The March 2013 COSLA /HoPS joint paper on onshore wind suggested amendment to SPP to include a presumption against sites outwith identified preferred areas in LDPs; this suggestion is again commended to the Government.

HoPS suggest that the Government could lead on gathering data to inform a national view on Scotland's capacity to generate renewable energy from wind within its landscape limits. The evidence for this should be available from the number of onshore wind developments existing and committed, and from information held by separate planning authorities. This would also help monitor wind energy developments against national targets. Furthermore, the debate over wind energy and other energy sources, including alternative renewables, would be helped by the development of a national energy strategy to inform NFP, SPP, and development plans.

SPP could be improved further by dealing with the relationship between onshore and offshore wind development. This also relates to NPF3 and the need to set out grid connections, and assess cumulative visual and landscape impact.

Clarity on what constitutes a wind farm is required. In addition, paragraph 216 identifies "strategic onshore wind farm developments"; but what constitutes strategic?

In paragraph 218, there is no reference to individual turbines although the separate and cumulative impact of single turbines generates concerns in communities. HoPS is concerned at the emphasis in the third sentence in this paragraph (areas designated for their landscape or heritage value) as setting is clearly important and will be taken into account by planning authorities in setting their planning policies for onshore wind energy. HoPS would also like clarity on what is meant by 'up to 2.5km'.

The last sentence in the third bullet in Group 2 (areas where the cumulative impact of existing or consented wind farms limits further development) could be improved by re-writing to make clear what the Government means; as written it does not read clearly.

Consultation Question 18 –

Paragraph 223 refers to community benefits as material considerations. This would be improved if it is aligned to the circular on planning obligations and the fact that benefits not related for a planning purpose are not material considerations.

Paragraph 262 refers to “sensitive receptors”. In addition to our earlier suggestion that individual dwellings should be included in this definition, the SPP could assist consistency across the country by summarising what the Government expects to be included within this category.

Consultation Question 23 –

Format

HoPS recognise the improvements made from the 2010 SPP in terms of setting overarching policy principles and placing the policy headings in a better structure, and we are pleased to see a link made with national outcomes. We nevertheless believe there is still scope for the Government to examine how to further reduce the length of the SPP and provide a sharper focus on those matters which are really important to planning at the national scale; this could be achieved by removing guidance/background text and other matters, such as operational advice, better left to planning authorities to deal with through strategic or local development planning. For example, paragraphs 43-4 read as policy rather than delivery and could be made much more concise so it reads clearly as policy.

The use of colour coding and the relationship to a similar code in NFP3’s Main Issues Report is helpful and could provide a template for use in development plans thereby providing a thematic ‘thread’ running through planning policy documents. But the code needs to be explained to make it more readily understood to the lay reader than it is.

The inclusion of sections dealing with delivery helps to explain the roles of the development planning and management functions of the planning system. HoPS suggest that this would be complete if the role of the private and development sectors were also explained; doing so would help the reader to understand the collaborative nature of planning. This may also be helpful to the development industry in terms of securing investment for development by letting funding agencies understand what planning authorities expect from new development.

Finally in terms of the format and presentation, care should be taken in the use of the terms “planning authorities” and “local authorities” so that responsibilities are not attributed to planning where they more properly lie with the corporate or community planning roles of councils. For example, paragraph 42 suggests development plans should deliver a form of growth that depends on factors beyond the sphere of development plans alone. This distinction would also acknowledge that planning authorities also include National Parks and Strategic Development Planning Authorities.

Consultation Question 25 –

It is noted that there has been a significant structural change to the document and it now reads more as a policy document. SPP should clearly distinguish core national planning policies; this would assist the development management function in particular and reduce the scope for interpretation at appeals and plan examinations. HoPS commends to Government to consider the suggestion we made to the Priorities for Change consultation that policies are framed in a similar style to that used in development plans. Consideration should also be given to structuring SPP aligned with the key headings of NPF3 MIR (a low carbon place, a natural place to invest etc.). This would provide an easy read across from the spatial strategy (where and what) to the policy (how).

Consultation Question 29 –

Delivery and infrastructure

HoPS have already welcomed the inclusion of sections dealing with delivery in making this response. HoPS nevertheless believe that so much of the proposed sustainable economic development relies on that development being supported by necessary infrastructure that more should be said in SPP on the subject.

The Government should consider a national infrastructure funding model or infrastructure investment bank to assist the development sector and planning authorities to work together to unlock development. Much good practice already exists across the country but necessary funding is currently unavailable. HoPS ask the Government to investigate the potential to create a national infrastructure body to lead, advise on, and fund infrastructure aligned with plans. NPF3's Main Issues Report outlines the investment the Government is making across Scotland but some thought needs to be given to a mechanism that can draw down funds at a more local level to fund major developments and which can be repaid once that development generates revenue.