

## **HOPS Response to LDP Regulations & Guidance Consultation (31<sup>st</sup> March 2022)**

### **Information Note**

Heads of Planning Scotland (HOPS) is the representative organisation for senior planning officers from Scotland's local authorities, national park authorities and strategic development planning authorities.

The purpose of HOPS is to:

- Promote the profile of public sector land use planning
- Support and promote excellence in planning leadership
- Ensure the delivery of a culture of continuous improvement in planning authorities
- Provide advocacy and coordination to ensure that planning authorities are properly resourced to deliver quality outcomes.

This consultation response to the Local Development Plan Regulations and Guidance should be read in conjunction with our consultation response to the Draft National Planning Framework 4.

HOPS would like to thank all planning authorities for their contribution to this consultation response.

### Key Messages

HOPS are generally supportive of the principle that regulations be kept to the minimum necessary and that more detail is provided in guidance which can be kept updated. However, HOPS consider that there are some areas of the LDP process that need to be set out in regulation. Those areas are listed below:

- Policies – HOPS consider that further regulation is required to provide a legal framework for the policies that will be contained in LDPs, whether that is for policies not included in NPF4 or where the local authority is of the view that the national policy does not reflect local circumstances and local variation is therefore needed or the national policy is not clear, deliverable or enforceable. Further regulation is also required to provide legal definition on the statutory weight to be applied to older plans where NPF4 is the newer plan and vice versa.
- Evidence Report – HOPS consider that the draft guidance is introducing a number of additional requirements over and above those listed at Section 15(5) of the Planning (Scotland) Act 2019. To provide clarity to the planning authority, the appointed Reporter and stakeholders, HOPS are requesting that further regulation is required on what the minimum data requirements are for the Evidence Report, specify those stakeholders who should be consulted, and a definition of what is considered sufficient information in relation to the Evidence Report.
- Gate Check – HOPS consider that for this stage of the process to be clear and transparent, further regulation is needed on the scope of the Gate Check and what the Reporter’s powers are in that, what the parameters of further information request are, how disputes will be treated going forward, and what can and cannot be re-opened or re-examined at the Examination of the Proposed Plan.
- Delivery Programme – HOPS consider that many of the aspects of delivering the plan are out with the control of the planning authority. Guidance suggesting that the delivery programme becomes a central part of how Council’s financial plan are not considered to be realistic.

## PART A – Introduction

### **1. Do you agree with the principle that regulations be kept to the minimum necessary and that more detail be provided in guidance and kept updated?**

Yes

HOPS generally support the principle that regulations be kept to the minimum necessary and that more detail be provided in guidance and kept updated. HOPS have previously fed into Scottish Government working groups on the preparation of the guidance along with other stakeholders. We are aware this stance is not taken by all planning authorities and would refer to their individual responses.

Having details in guidance will allow flexibility and frequent updates amending potential problem issues. We note there is concern over the legal status and potential challenge if certain issues are not included in regulations, these particular issues which we feel need to have a stronger position are noted in the questions below.

If the Scottish Government decide not to make changes to the proposed draft regulations, the guidance must be clear on its status for the Evidence Report, Gate Check and Examination stages of the LDP process.

HOPS are however concerned that in addition to the 49 unfunded duties placed upon Local Authorities that many aspects of the LDP Regulations and Guidance will amount to approximately a further 75 new requirements that will require additional resources to undertake.

### **2. i). Do you have any views on the content of the interim assessments?**

No further comment

### **2. ii). Do you have or can you direct us to any information that would assist in finalising these assessments?**

No further comment

### File upload?

N/A

### **3. i). Do you have any views on the Fairer Scotland Duty and Strategic Environmental Assessment screening documents?**

No further comment

### **3. ii). If you consider that full assessments are required, please suggest any information sources that could help inform these assessments.**

No further comment

## PART B – Proposals for Development Planning Regulations

### 4. Do you agree with the proposals for regulations relating to the form and content of Local Development Plans?

Yes. In principle HOPS agree with these proposals though we note the following points.

We appreciate moves to achieve consistency of content throughout Scotland’s LDPs, especially in relation to the new matters and duties introduced for planning authorities through the 2019 Act. However, it is also acknowledged that whilst there is an additional substantial list of matters listed at section 15(5) of the Act which planning authorities should take into account for its spatial strategy, there is a recognition that not all the matters listed will necessarily be appropriate for inclusion by every planning authority.

Paragraph 7 of the draft guidance states that *“The statutory Development Plan for any place in Scotland consists of the National Planning Framework (NPF), which covers all of the country, and the Local Development Plan (LDP) for the local authority area where the place is.”*. There is reference throughout the draft guidance to policies, it therefore makes sense that the regulations provide a legal framework for policies that will be contained in LDPs. HOPS also note concern in cases where a local authority may wish to in the case of policy wording, focus on adding value to their LDP by providing necessary detail not provided by the NPF or where national policy does not reflect local circumstances and local variation is therefore considered appropriate (paragraph 153) or if they are of the view that the NPF4 policy is not clear, deliverable or enforceable. There requires to be provision(s) in the regulations should any of those situations arise. The same applies to policies not in NPF4 that need to be included in the LDP. This section requires a legal definition on the statutory weight to be applied to older plans where NPF4 is the newer plan and vice versa. We suggest that a simple paragraph is added to the Regulations which states that the ‘older plan’ in areas where there is conflict, is a significant material consideration in the determination of planning applications, but the actual weight to be applied is a matter for the decision maker to address at the time of making that decision. This HOPS feel would adequately cover the gap in legislation on this matter. In terms of a legal framework for the variation of NPF 4 policies in LDP’s, HOPS feel the following needs to be added to Regulations as follows to close off any potential legal challenge:

*“Where Local Authorities have justification in terms of local need and circumstances, they can vary the appropriate policies from NPF 4 to suit local circumstances or where there is a policy gap in NPF 4, can add new policies to cover these circumstances. In order to do this, the Local Authority must provide written justification of why the variation or new policy is needed within the Local Development Plan itself and what the consequences of not undertaking the variation of introduction of the new policy would be. The varied policy or new policy, after being examined at the Proposed Local Development Plan Examination, would then outweigh the equivalent policy in NPF 4 or take precedence over NPF 4 where there is a policy gap for the purposes of development management decisions”*

HOPS welcome the move for LDPs to be more map based. Whilst it is acknowledged that the Scottish Government does not want to be prescriptive as to what further mapping should be included to enable content to reflect the planning authority's local area and specific characteristics, it would be helpful if the Scottish Government could outline any additional mapping requirements which are required irrespective of geography and local circumstances. We also note that regulations should require and set out appropriate digital and data standards for this mapping. This would help maintain consistency throughout Scotland's LDPs and assist how LDPs can be read and interpreted across planning authority boundaries.

**5. Do you agree with the proposals for regulations relating to the preparation and monitoring of LDPs?**

Yes

In general HOPS support this proposal. Clarity is required with regard to policies. HOPS are of the view that section should set out itself, or cross-reference to another regulation, what the legal framework is for altering the NPF 4 policies for local circumstances or including policies not in NPF 4.

**6. Do you have views on additional information and considerations to have regard to when preparing and monitoring LDPs?**

HOPS agree with the list of considerations included within regulation 8, however the list requires to be expanded. Whilst the list should not be exhaustive, and there is a role for the guidance to supplement and expand on the content of the regulations. The clear links that land use planning has to influence climate change, community planning, and health must be reflected with explicit references within the regulations.

Whilst it is acknowledged that these areas have become increasingly prominent since the publication of the 2008 Regulations, the important role planning can, and should, play in these areas must be highlighted as considerations for the preparation of an LDP. Including these within the regulations will ensure there is a statutory requirement to consider these issues. Whilst river basin management plans are already highlighted, consideration should also be given to wider flood data produced by Scottish Environment Protection Agency (SEPA) and the respective individual planning authorities within the regulations. Consideration should also be given to Local Output Improvement Plans (LOIPs) and any planning authority strategies relating to climate change. Whilst it is acknowledged that LOIPs are identified within the guidance, this requirement should be given statutory weight in the regulations.

**7. Do you agree with the proposals for regulations relating to the Evidence Report?**

Yes

HOPS in principle agree with the proposals for regulations relating to the Evidence Report, we however note the following points.

Various authorities through HOPS supported the Evidence Report and Gate Check subgroup that fed into the preparation of the draft regulations. The subgroup considered that regulations should specify the stakeholders with whom consultation should take place as a minimum. Whilst Section 16B(2) of the Act sets out at a very high level those whose views a planning authority should seek in preparing an Evidence Report, it is the view that the

regulations should set out the minimum consultation requirement expected as per the subgroup's recommendations.

HOPS do not support the Scottish Government proposition that this should be addressed in guidance to allow greater flexibility to reflect local situations. The identification of minimum consultation requirements within the regulations would not prohibit wider consultation with stakeholders in the preparation of the Evidence Report to reflect local issues and situations. Containing minimum consultation requirements would help inform the new Gate Check process, give consistency to the responsible persons appointed to conduct the Gate Checks, and allow for a clear and transparent assessment at the Gate Check stage using the specified consultation criteria contained within the regulations.

HOPS also note concern that the Thematic Guidance section of the draft guidance is introducing a number of additional requirements over and above those listed at Section 15(5) of the Act.

HOPS support the position of the Evidence Report and Gate Check Subgroup which indicated the need for the regulations to set out the minimum data requirements for the Evidence Report. The subgroup considered this should make it easier for planning authorities to move beyond the Gate Check stage. This is an important element that should not be left to the guidance to address. Providing a clear and transparent position on the minimum evidence base required would give all planning authorities (and the appointed person(s) undertaking the Gate Check) a clear direction on what minimum evidence is expected to meet the requirements of the new Gate Check. This would not hamper planning authorities having the flexibility to provide additional appropriate evidence for their own geographical area. There is a risk that a lack of clear guidance on the expected evidence base is likely to result in inconsistencies in Evidence Reports throughout Scotland, delays to the Gate Check process and therefore additional costs as planning authorities are requested to provide additional information once the Gate Check process has commenced.

HOPS view is that setting out minimum data requirements would not create a 'tick-box' exercise as the Scottish Government fears. A minimum evidence base would help establish an efficient Gate Check process for all parties involved - where there is a clear and transparent process where everyone understands the minimum requirements. Individual planning authorities can supplement this minimum evidence base with additional evidence which is relevant to their local geography and local circumstances as set out in Paragraph 3 of the Draft Guidance. This approach would support the emphasis of 'place' within the regulations and other national planning guidance.

Further clarification is also needed on:

- what the parameters of the Gate Check are and what is to be examined;
- what the parameters of further information requests are;
- what the scope of the Reporter's powers are in interrogating and requesting further information on documentation used to underpin the evidence base of the LDP, and in relation other documents which are required by different legislation;

- what the nature of disputes are and how they will be treated going forward; and what can and cannot be re-opened or re-examined at the Examination of the proposed LDP.
- the term 'sufficient information' to ensure that there is legally understood definition of this in relation to the evidence report; and
- What is meant by 'conclusively evidenced' that Local Development Plans can be delivered? This needs to be legally defined.

In relation to bullet point 3, HOPS suggest that the following wording is added into regulations: *"The scope of the Gate Check is to check the sufficiency of the information provided in the Evidence Report in line with Section 15(5) of the Act."* The Reporter does not have the powers to interrogate documents used to support the information contained in the Evidence Report nor is the Reporter allowed to seek additional information on those supporting evidence documents which would lead to them being examined by proxy for sufficiency of information.

HOPS suggest in order to move through the development plan process as smoothly and timeously as possible it is considered that mediation should be an option during the Evidence Report and Gate Check stage. Should fundamental issues of principle, such as land supply be contested these issues should be open to a mediation format between stakeholders. The ultimate aim of this should be to reach an in principle resolution at this point and for these issues to not be revisited at Proposed Plan or Examination. It must be considered as to what mediation means in the context of the planning system. The concept should be solving a dispute on a 'without prejudice' basis and facilitated by a mediator thus returning goodwill to the planning system and reducing the adversarial nature of what should be a collaborative process. It is proposed that there could be two mediation roles, one provided by the DPEA to consider the relevance of points raised with planning expertise and another from the Scottish Mediation Service. These mediators will facilitate all parties and enable them to come to a resolution as opposed to a ruling or modifications to documentation. Mediators would decide nothing and facilitate solutions being arrived at by the parties to the dispute. The form of mediation could commence with a request for written statements and then decanted to pivotal issues which would be aimed to be resolved at any mediation session. The mediator can use expertise to guide parties, offer neutral views (where requested). The mediator(s) would guide the process with the ultimate aim of a written statement from the parties that the issue(s) have been resolved. The benefit of mediation is that it is the parties who are in control of the process and should reduce the cost and time delays of the production of a development with fair and positive results.

HOPS support the new regulations for the Gate Check stage being, where possible, consistent with the equivalent regulations found within Part 4 of the 2008 Regulations. The requirement to submit documents referred to in the Evidence Report electronically to the appointed person is welcomed. However, this requirement for electronic submission of documentation should be extended to Part 4 of the regulations which concern the examination process.

HOPS welcome the proposed targeted consultation with the gypsies and traveller's community to inform a gypsies and travellers definition within the regulations as no such definition exists in Scots Law.

**8. Do you agree with the proposals for regulations relating to the preparation and publication of the LDP?**

Yes

HOPS agree in principle with the proposals for regulations relating to the preparation and publication of the LDP. We would like to highlight the following points.

With regard to the Call for Ideas stage, we note that section 2 of the guidance and Annex C sets this out as a stage the local authority may wish to undertake when preparing the Proposed Plan. If the Call for Ideas is not just about sites it should maybe be undertaken at the Evidence Report Stage and a Call for Sites stage undertaken at the Proposed Plan stage. Section 2 of the guidance gives the impression that its optional whereas Annex C gives the impression it is a formal stage. That potential contradiction needs to be sorted out. Should this stage remain, then the process for this stage needs to be clearly set out in Regulations so that no Local Authority is penalised for not undertaking this stage. Furthermore, if this stage is to be used to allow developers to submit development sites for inclusion in the Plan, then it needs to be set out in Regulations that the developers must provide all the information necessary to demonstrate the site can be delivered and all necessary assessments of that site. This should not be the responsibility of Local Authorities to ensure that sites suggested to it are deliverable and to obtain the information to justify this.

With regard to section 18 paragraph 21, HOPS have raised concerns in the past about the need for newspaper advertisements. With the reasoning being the intent to make this accessible to older people and disabled people, we would note accessibility of advertisements in newspapers needs to be considered as these may not meet current and developing visual accessibility standards. HOPS would request that appropriate alternative methods for advertisement are looked into further.

**9. Do you agree with the proposals for regulations relating to the examination of the LDP?**

Yes.

HOPS in principle agree with the proposals for regulations relating to the examination of the LDP noting the following points.

HOPS agree with proposals to remove text on SDPs.

HOPS suggest regulations are amended to clearly state what can be re-examined and when. We expected within the regulations of the Gate Check process to clearly set out scope of what may be or may not be re-examined or re-opened between stages, the LDP guidance points to issues in the Gate Check being re-opened at Examination. Amendment of the regulations would provide a clear legal framework and create certainty. This cannot be left to non-statutory guidance to define.

HOPS request that there should be certainty provided within regulations of the purpose and remit of the Gate Check and Examination.

HOPS note that Examination administration costs will fall to the planning authority. HOPS note the significant cost examinations can accrue and suggest supporting guidance can state expected timescales and tariffs for this to assist in budget planning.

HOPS note the requirement for electronic submission of documentation should be extended to Part 4 of the regulations which concern the examination process.

**10. Are there matters you wish to highlight relating to amendment of the LDP which may have bearing on the proposals for regulations being consulted on in this document?**

Yes

HOPS support in the provision in the Act for the amendment of the LDP. However, we await further consultation, it is unclear why this is being addressed at a later date once the new development planning system is in place and not as part of this consultation.

**11. Do you agree with the proposals for regulations relating to Development Plan Schemes?**

Yes

HOPS generally agree with proposals for regulations relating to Development Plan Schemes, though wish to note the following points.

The requirement to set out in the Development Plan Scheme timetable the proposed month when the Evidence Report and proposed LDP will be published, when the Proposed Plan will be submitted to Scottish Ministers and the anticipated month when the plan will be adopted is considered unreasonable especially for the later stages of the plan preparation process. It is considered more reasonable and realistic for the later stages to indicate a quarter or season when that stage in the process will be reached. If this change was made it is likely to reduce the need for the Development Plan Scheme to identify changes to the timetable and set out the reasons why. The current proposed lack of regulations for the Evidence Report and Gate Check stage mean this first stage of the process could take much longer than set out in the Development Plan Scheme thereby introducing uncertainty at the outset.

**12. Do you agree with the proposals for regulations relating to Delivery Programmes?**

Yes

HOPS agree in principle with the proposals for regulations relating to Delivery Programmes. We however note the requirement for the Delivery Programme to be reported to full Council does not guarantee that the actions in the LDP will be assigned resources.

HOPS, however, do have concerns with the Regulations specifying a person against each action and feels that there seems to be a failure to take account the turnover of staff/retirements and the relevance of a named officer being held responsible long after he/she has left the Local Authority. Also, there is an equal failure to acknowledge in any way that persons and organisations out with the Council have a huge part to play in determining and executing actual delivery. Furthermore, the Council questions if this requirement meets GDPR legislation.

HOPS are also concerned that the Delivery Programme will require fundamental organisational changes to Local Authorities in order to incorporate the delivery of a Local

Development Plan within their financial planning, where much of the delivery of the Local Development Plan is outwith the control and powers of a Local Authority. Should this be the intention then Regulations will need to clarify the roles and responsibilities in this regard and will need to strengthen the duty to co-operation and the responsibilities within that to all stakeholders and developers.

**13. Do you agree with the proposals for regulations relating to the meaning of ‘key agency’?**

Yes

HOPS agree with the proposals for regulations relating to the meaning of ‘key agency’.

**14. Do you agree with the proposals for regulations relating to transitional provisions?**

Yes

HOPS agree in principle with the proposals for regulations relating to transitional provisions, however we await further consultation on transitional arrangements to be published. However, HOPS would like to make the point that these should have been included alongside the Regulations themselves and not after the fact.

## PART C – Draft Guidance on Local Development Planning

### 15. Do you agree with the general guidance on Local Development Plans?

Yes,

HOPS agree with the general guidance on Local Development Plans in principle, however we note the following points.

HOPS have proposed in their answer to Q4 that the regulations should be amended to provide a legal framework for policies that will be contained in LDPs. Should this proposal be accepted further clarity is needed in the guidance should a Planning Authority want or need to alter a national policy in NPF4 to suit their local circumstances or if they consider the NPF4 policy is not clear, deliverable or enforceable.

Paragraph 5 – Definition required for “*long-term interest*” and how is it balanced with competing demands from present issues?

Paragraph 8 – Reference should be made here to regional economic strategies and related progression alongside that of existing reference to RSSs. These can inform the LDP strategy but also its Delivery Programme. Similarly, reference should be given to the forthcoming National Economic Transformation Strategy.

Paragraph 10 - Although development planning may contribute to all of the National Outcomes, this paragraph needs to be altered to make it clear that planning is not the delivery mechanism for the majority of these Outcomes. Other plans, strategies and agencies are more responsible than a local development plan will be for delivering these outcomes.

Paragraph 11 - With regard to the point that local development plans are expected to have conclusive evidence that they can be delivered is going to be difficult to achieve. This guidance document does not recognise that much of the deliverability of sites and other development is within the hands of private landowners and developers, who have their own commercial interests and are only interested in developing in certain areas. Further clarity is required on what is meant by conclusive evidence and these needs to be reflected in the Guidance as well as Regulations

Paragraph 21 is missing a reference to the Historic Environment in the bulleted list of interests. Representatives from the Historic Environment sector will be integral to the creation of place based LDPs as so much of a Place’s identity and future revolves around its past history.

Paragraph 22 - This paragraph could raise the expectations of communities that their LPP’s will be incorporated within the local development plan. The legislative framework does not say that they are ‘able to be incorporated into the LDP’; it merely says that it must be given due consideration in the formation of a local development plan where one has been prepared. This paragraph needs to be reworded to accurately reflect the legislation.

HOPS request a timescale for each stage in the Local Development Plan Process is added to Annex C, that would show how a new style LDP can be prepared within the 3-4 year timescale set out in paragraph 42 of the guidance. Planning authorities have noted that this will also need to take into account local authority committee timeframes which may extend the process.

**16. Do you agree with the guidance on Development Plan Schemes?**

Yes

HOPS agree with the guidance on Development Plan Schemes. However, HOPS would request that prescribing the month for adoption of the Plan is removed as this is quite difficult to predict years in advance.

**17. Do you agree with the guidance on the Delivery Programme?**

Yes

HOPS agree with the guidance on the Delivery Programme in principle, however we would like to note the following points.

The requirement for the Delivery Programme to link closely with the Housing Land Audit to monitor the deliverable housing land pipeline is noted. It is also noted that a common approach to monitoring housing land is to be established through national planning guidance. It is hoped that piece of guidance will be produced in a timely manner and with the collaboration of planning authorities.

The requirement for the Delivery Programme to be reported to full Council does not guarantee that the actions in the LDP will be assigned resources. The approach outlined in paragraphs 86 and 470 for the Delivery Programme to have costings next to every action and to be closely aligned with wider local authority budgets is considerably more detailed than authorities have been able to achieve with Action Programmes to date. HOPS are concerned by the contents of paragraph 80 of the Guidance which states that the delivery programme is to be *“a corporate document which project manages the timing of the authority’s financial investment for the delivery of the plan, and any coordination with private or other funding identified as being required to deliver intended plan outcomes”*. This has a huge financial and resource burden to effectively project manage the delivery of a whole plan, with the vast majority of its delivery and implementation being in the hands of landowners, private developers as well as infrastructure providers. HOPS have fundamental concerns, if this is the intended outcome, about Local Authorities essentially project managing the delivery of private sites and infrastructure as the majority of this is out with the scope of planning and the powers and responsibilities of Local Authorities

The Delivery Programme is being required to address the infrastructure requirements for each allocation. Are the infrastructure providers (who local authority’s will be reliant on for the information) aware of the information asks coming their way and will they be able to respond to those requests in a timely manner?

While the need to produce the Delivery Programme in parallel with the LDP and ensuring that the plan is realistic and deliverable (para 87) is commendable, there may be circumstances

where authorities will have to produce LDPs for their areas that some will regard as unambitious if resources are not available. The ambition set out in the guidance for the role the Delivery Programme is to play in delivering the LDP will take some time, officer resource and knowledge for the planning authority to achieve.

Paragraph 82 - Although the intention of prioritising sites is acknowledged, in practice this will be difficult to reconcile against private commercial interests. It will be difficult to agree robust actions and timescales to deliver sites as these can change frequently for commercial interests and it will be difficult to determine what actions are required to bring them forward as many sites will be subject to commercial sensitivities that the developer/landowner may not share with the Council. The guidance therefore needs to recognise that many of these elements are out with the control of the Council and in the hands of the landowners and private developers. What happens if the requisite developer refuses to comply? What are the Local Authorities options in that regard as there is no mention of enforcement in legislation, regulations or guidance, but the Local Authority is ultimately responsible for everything? HOPS have significant concerns if this is meant to be the case and would welcome the Scottish Government clarifying this further.

#### **18. Do you agree with the guidance on Local Place Plans?**

Yes

HOPS agree in principle with the guidance on Local Place Plans. We note however the guidance does not contain reference to the Regulations and Circular and any other resource the Scottish Government have produced such as the "*Local Place Plans: How to Guide*".

Paragraph 92 - Again, the guidance does not reflect the correct wording in legislation. The Town and Country Planning (Scotland) Act 1997 (as amended) does not say that Local Authorities 'must take account' of any registered local place plan. The correct wording is 'are to take into account'. This guidance therefore elevates the weight above what legislation states. The guidance therefore must use the same terminology as legislation. Furthermore, the guidance fails to mention the recent circular on local place plans.

#### **19. Do you agree with the guidance on the Evidence Report?**

Yes

HOPS in principle agree with the guidance on the Evidence Report, however we note the following points.

The draft guidance states that the Evidence Report is to contain sufficient information to enable the planning authority to prepare an LDP and that it must set out the authority's views on the matters listed at annex B (section 15(5) matters). We note concern that there is no definition of what is considered sufficient information in either the draft guidance or the proposed regulations. HOPS are concerned that the Thematic Guidance section of the draft guidance is introducing a number of additional requirements over and above those listed at annex B. Without regulations on the process for preparing an Evidence Report or the Gate Check process, there is concern that this stage in the plan making process could become very onerous and time consuming without actually contributing a lot to the plan making process.

It should also be noted that these additional requirements will have resource implications for Local Authorities.

It is therefore requested that the guidance or regulations make it clear that the Evidence Report must address the matters set out in section 15(5) of the Act. It is then up to the individual authority to determine whether the additional requirements set out in the thematic guidance are relevant to them, but the guidance should make it clear that they are not mandatory for inclusion in the Evidence Report. Clarity on what is considered sufficient information on section 15(5) matters would still be required both for the planning authority and the appointed person.

Paragraph 104 – While the draft guidance states that the Evidence Report should not include site specific matters this may be unavoidable in some circumstances. For instance, it is difficult to look at wind farm capacity without some reference to the spatial characteristics of an area. Furthermore, it is hard to see how the Evidence Report can effectively take account of Local Place Plans in accordance with Section 16B of the Planning Acts if the former document has no spatial element while the latter has a focus on place. Without reference to site specific matters, it will be difficult to seek the views of the particular groups of people set out in the Act. It will also be difficult to engage effectively with infrastructure providers. To make this stage more meaningful, it is suggested that the Evidence Report should consider a draft spatial strategy.

Paragraphs 104, 106 and 116 - There is an inconsistency between the guidance and the primary legislation. Reference is given to the Evidence Report not containing site specific matters. Whilst this is welcomed in principle there is an apparent inconsistency with s15(5)(b) of the Act as the Evidence Report cannot set out a position on the availability of land in the district for housing, including for older people and disabled people if there is no reference to the availability of sites in the Evidence Report. Furthermore, how can the evidence report demonstrate that there is sufficient infrastructure available to deliver the plan if it is not allowed to look, plan, assess etc. sites or broad locations for development, especially as the delivery programme is to be an essential part and be considered alongside the evidence report at this juncture. HOPS suggest that broad locations for development should be included within the evidence report in these instances.

Paragraph 105 – Clarity is required on the Scoping stage. Is there a requirement or expectation that a scoping report will be produced? If all the information and evidence requirements set out in section 3 of the draft guidance remain in the final version and no regulations are introduced on what the Evidence Report should contain, the scoping process could set out why the Planning Authority not included them in their Evidence Report and that would then be a key consideration at the Gate Check.

Paragraph 109 - The reference to specific evidence required to support the NPF4 could be considerable. Figure 6 of the Thematic Guidance alone may include information that is not readily available.

Paragraphs 112, 113 and Figure 5 - set out a suggested structure for the Evidence Report that differs in approach to that proposed for the Proposed Plan. It would make more sense and be easier for communities to understand if the Evidence Report and the Proposed Plan are structured in similar ways. If the Proposed Plan is to be set out by place as a place-based plan, then so should the Evidence Report.

Paragraph 123 - Notes that there is a statutory requirement to seek particular views in preparing the Evidence Report but not a requirement to consult on the Evidence Report. In practice the only way to highlight where stakeholders are in agreement or in dispute (as set out in paragraph 125) would be to consult on a draft Evidence Report. Ongoing engagement in the preparation of the draft Evidence Report, whilst important, will not identify all the areas of agreement or dispute. This needs to be clarified.

Paragraph 125 – HOPS has concerns about the introduction of disputes at this stage. If disputes are to remain then the process for dealing within them must be clearly set out in the Regulations to ensure that there is a legislative background to their consideration at this stage in the local development plan process. Please also see HOPS answer to Q7 where mediation is suggested as a course of action to resolve disputes.

The suggested Schedule 4 format may be useful for presenting the Evidence Report in a way that can be easily processed at the Gate Check stage, however it is unlikely to make for an engaging document for public participation. It is also unclear what happens if an authority chose not to use the template. The suggested format also ignores the how digital platforms could be used to present the information in a more meaningful, interesting and engaging way. The schedule 4 format also has the potential to silo issues instead of taking a comprehensive place based approach to the Evidence Report.

## **20. Do you agree with the guidance on the Gate Check?**

Yes

HOPS agree in principle with the guidance on the Gate Check but wish to note the following points.

HOPS request that there should be certainty provided within regulations of the purpose and remit of the Gate Check and Examination.

HOPS seek clarity over what is meant by ‘sufficient information to prepare an LDP’. It is unclear whether Reporters are to assess whether the planning authority has gathered the information outlined in the guidance or is the focus on whether there is adequate information for the authority to reasonably come to the conclusions outlined in the Evidence Report.

HOPS suggest regulations are amended to clearly state what can be re-examined and when. We expected within the regulations of the Gate Check process to clearly set out scope of what may be or may not be re-examined or re-opened between stages, the LDP guidance points to issues in the Gate Check being re-opened at Examination.

## **21. Do you agree with the guidance on the Proposed Plan?**

Yes

HOPS in principle agree with the guidance on the Proposed Plan, however we note the following points.

Section 16(2) of the Act also sets out matters which are to be taken into account and had regard to when preparing LDPs. This includes the National Planning Framework. It would be helpful to have clarity on what guidance is intended to sit with NPF4, for example technical guidance, so there is a clear understanding and technical justification to flow into LDPs.

The lack of any reference to supplementary guidance (statutory or otherwise) is unhelpful given that it is very likely that planning authorities are going to need to produce it to effectively deliver their responsibilities. The removal of Supplementary Guidance for new plans will leave a void.

Paragraph 140 – The focus on place-based LDPs with a greater emphasis on maps may be difficult to implement given that statutory supplementary guidance is being withdrawn. Much of the detail in this guidance is considered essential for the determination of planning applications. Furthermore, the lack of detail in some of the draft NPF4 policies will increase the need for more detailed policy which is contrary to the wish that LDP be focussed on places and locations. Also, the term ‘*minimal policies*’ needs to be clarified as this is not in line with legislation as legislation relates to policies being able to be included in local development plans.

Paragraph 148 – While the aims of the 20-minute neighbourhood are commendable, the lack of clarity over how this is to be interpreted in rural areas is a concern.

Paragraph 151 – The need for a Transport Appraisal at the proposed plan stage makes sense from a timetabling point of view since it closely relates to the spatial strategy. Should the guidance be amended to allow for the inclusion of a draft spatial strategy at the Evidence Report stage then this may need to change.

Paragraph 152 – Given the enhanced status that development briefs and masterplans receive in the draft guidance, some clarity over the weight it should be given in determining planning applications would be welcome.

Paragraph 153 - States that policy wording included in the local development plan should focus on adding value by providing any necessary detail not provided by the NPF or where national policy does not reflect local circumstances and local variation is therefore considered appropriate. We welcome this and believe it is important that the Scottish Government works closely with the Planning and Environmental Appeals Division (DPEA) so that all decision makers have an agreed understanding of what is expected from the LDP.

Paragraph 154 – The clarity over the Call for Sites stage is welcome.

Paragraph 156 – When discussing the deliverability of sites, the guidance should be clear on the potential role of market conditions. The constraints on a site are not always physical in nature and we note concern if the text in the draft guidance is proposed as a replacement for PAN 2/2010. However, HOPS have concerns that the Guidance notes that additional infrastructure studies may be required. It should be noted that these are quite costly to undertaken and HoPS has raised its concerns about the additional unfunded requirements placed on Local Authorities by NPF 4, these regulations and guidance above and in our response to NPF 4.

Paragraph 160 – HOPS welcome the statement where stakeholders are promoting alternatives to the content of the Proposed Plan, they should provide information on environmental impact as well as community opinion as part of their representation

Paragraph 161 – HOPS would welcome putting the LDPs on a corporate footing by requiring full council approval for the Proposed Plan and Delivery Programme, it is unlikely that this in itself would result in an increase in delivery. The focus on delivery of the plan should not limit the ability for LDPs to be ambitious for their areas.

Paragraph 168 – The clarification notes it is unnecessary to make up alternatives if none exist and responsible authorities should take care to avoid constructing less preferred alternatives to justify their approach is welcomed.

## **22. Do you agree with the guidance on Local Development Plan Examinations?**

Yes

HOPS agree in principle with the guidance on Local Development Plan Examinations we note however the following points.

Further clarity is required on the scope of the examination, there has been concern noted that paragraphs 210 and 211 are expanding the scope of examination beyond matters raised in representation.

As the development plan will comprise NPF4 and the LDP, further clarification is also requested on what role the Scottish Government will play in the Examination process if it is a national policy that is being discussed.

## **23. Do you agree with the guidance on Adoption and Delivery?**

Yes

HOPS in principle agree with the guidance on Adoption and Delivery.

## **24. Do you agree with the proposed guidance on the Evidence Report in relation to the section on Sustainable Places (paragraphs 240–247)?**

Yes

HOPS in principle agree with the proposed guidance on the Evidence Report in relation to the section on Sustainable Places (paragraphs 240–247), however we wish to raise the following points.

Figure 6 – Requires revision, information within the figure does not match up with the text in paragraphs 240-247.

Paragraph 240 & 242 – It is unclear how the Evidence Report can cover details on the implications of national developments (240) and strategic land use tensions (242), if they are not to cover site specific matters.

Paragraph 243 – It would be helpful to also have some understanding of targets and requirements for reducing emissions (linked to the scope and role of LDPs) rather than just considering the existing sources of emissions. It would also be useful to have a list of emissions sources that need to be considered in the guidance.

Paragraph 244 – Risks should include all risks linked to unavoidable climate change (potentially considering scenarios where global targets are not met). It is unclear why heat-related climate risks appear to be highlighted specifically but not other kinds of climate risks. It would be better to provide a short list of all relevant areas of climate risk that need to be addressed. We also note that information may not be readily available to planning authorities. It is requested the guidance specifies sources otherwise it is likely that authorities will need to undertake original work, which will have cost implications.

Paragraph 245 & 246 - The Evidence Report could usefully include understanding of issues and threats facing existing natural assets and networks, including those arising from the impacts of forecast climate change. In relation to the up-to-date audits on biodiversity (246) it should be borne in mind that authorities are often reliant on the efforts of volunteers for this information and so flexibility should be expected.

Paragraph 247 - The guidance does not mention consideration of the character or understanding of the urban form of the place, or consideration of the relationship between the physical attributes and qualities of the place and the health and wellbeing, or socio-economic status of those who live and work there. The six qualities of successful places list distinctiveness as a key quality, there needs to be an acknowledgement that distinctiveness comes from more than the historic environment and local architectural styles, it should encompass layout, the particular quality of the spaces and the relationship of the buildings to the spaces around them

There is no specific community wealth building section, but as a general comment, given the weight given to community wealth building objectives in the draft NPF4, further guidance from the Scottish Government would be welcome.

**25. Do you agree with the proposed guidance on the Evidence Report in relation to the section on Liveable Places (paragraphs 248 – 283)?**

Yes

HOPS agree with the proposed guidance on the Evidence Report in relation to the section on Liveable Places (paragraphs 248 – 283) but wish to note the following points.

Paragraph 248 – NPF4 states that 20-minute neighbourhoods are a method of achieving connected and compact neighbourhoods designed in such a way that all people can meet the majority of their daily needs within a reasonable walk, wheel, or cycle (within approx. 800m) of their home’, and that this will apply differently in different parts of the country and at different geographic scales. It would be useful for the guidance to include a diagram/explanation to demonstrate how the principle might be applied in different environments. Clarity will be required in the guidance on how rural areas are to implement this policy.

Paragraph 250 - States that Evidence Report should not just look at the existence of features (services, facilities, assets) but consider the quality of those features, how the community experiences these features, and the communities wants and needs. Whilst some of this information is available (such as in the open space quality audit), the quality of other features will be more difficult and could be very time consuming to determine. This paragraph also states that the Evidence Report should be informed by information on where networks of 20-minute neighbourhoods already exist and where there are gaps, is that not starting to move into place-based information which the guidance says the Evidence Report should not be including.

Paragraphs 252 to 257 – HOPS agree that this is the best approach to inform the baseline for the Evidence Report and early engagement with service providers and other partners will bring potential benefits for all involved. HOPS would like to note there is potential to provide clarity in the guidance what level of information the planning authority will need in the event that the wider evidence points to existing infrastructure not meeting the needs of future growth. We also note that there will be additional requests to infrastructure providers on the timely supply of information. It is suggested that a draft spatial strategy could also be considered at the Evidence Report stage as that will make engagement on this stage of the process with the public more meaningful.

Paragraphs 266 & 267 – Provide clarity on housing land situation in the guidance. However, given potential issues with housing land numbers at the Proposed Plan Examination stage of the process, it is suggested that at the Gate Check stage the proposed Housing Land Requirement set out in the Evidence Report is agreed and therefore not open to re-examination by the Reporter at the Proposed Plan Examination. Such an approach would give certainty and allow that Proposed Plan to focus on place making which is one of the main outcomes from changing the Development Planning process.

Paragraph 269 – Transport stakeholders should include energy network providers. These are mentioned elsewhere but it is worth highlighting specifically with respect to transport.

Paragraph 270 – As well as infrastructure capacity, the infrastructure audit could usefully consider associated carbon emissions.

Paragraph 274 – Will be useful as evidence to inform co-location of development. However, this could be more about ensuring opportunities for utilising available heat. Something that

says: siting of developments should consider opportunities for available low- and high-grade heat. For example, this might use bodies of water including tidal. Then the co-locating of high heat demand with high heat supply. Heat mapping will also support others in energy supply management choices, that will in turn impact development options.

Paragraphs 275 & 276 – HOPS request further guidance or clarification on blue and green infrastructure audits. We also note community food growing is mentioned in the health section but there is also scope to include this (allotments) in blue & green infrastructure. Sport is used in the heading but is not referenced in the text.

Paragraph 277 - There is no reference to the Local Flood Risk Management Plans, which follow the creation of the SEPA produced Flood Risk Management Plans. The lack of reference to Local Flood Risk Management Plans is a conspicuous omission and one which could have serious consequences. Clarification is needed within this paragraph.

Paragraph 278 – River basin management plans are predominantly concerned with water quality and river status under the Water Framework Directive rather consider flood risk which comes under the Floods Directive, so it is not clear if the paragraph is complete.

Paragraphs 279 to 283 – HOPS welcome the clarity provided by the draft guidance in respect of health issues. It should be recognised that identifying a direct connection between planning decisions and health outcomes may be difficult and costly to measure.

## **26. Do you agree with the proposed guidance on the Evidence Report in relation to the section on Productive Places (paragraphs 284 – 296)?**

Yes

HOPS agree with the proposed guidance on the Evidence Report in relation to the section on Productive Places (paragraphs 284 – 296), however we wish to raise the following points.

Paragraph 284 to 286 – The requirements set out in these paragraphs may require significant additional resources. Making a connection between employment needs and a land requirement has proven very difficult in the past. The reference to Business Land Audits in paragraphs 284 and 285 suggests a narrow use class definition. Reference should be made more generically to employment or commercial requirements to reflect the broad economic sector activity likely to apply.

Paragraph 288 – Clarity is required on what constitutes an appropriate number and range of cultural venues and facilities.

Paragraph 289 – Clarity is required on what information could be gathered at the Evidence Report stage in relation to considering potential within LDP plan areas for new green energy provision. It is suggested that reference to Landscape Capacity Studies could also be included in this paragraph. It is also expected that this is a part of the Evidence Report that cannot avoid using some spatial analysis.

Paragraph 293 – HOPS note there will be significant differences in the existing reserves and supply chains of local authorities and defer to their comments on this issue. We however note there is scope within this paragraph to provide detail and identified in the Evidence Report, on the protection of existing reserves and future expansions of existing quarries can be planned for.

Paragraph 294 – HOPS note that gaps in digital coverage may be commercially confidential so it may not be possible to produce these gaps in the Evidence Report. Ofcom produce publicly available information in the Connected Nations reports and updated on an annual basis. The evidence is not static but continually changing as the commercial and public sector investment is delivered.

Paragraph 296 – HOPS feel that the planning system is a narrow tool by which this can be delivered, this is due to the service being provided by private companies over which authorities only have so much influence over. We suggest a revision of this paragraph to take into account the need for a national approach to be developed alongside providers.

**27. Do you agree with the proposed guidance on the Evidence Report in relation to the section on Distinctive Places (paragraphs 297 – 310)?**

Yes

HOPS in principle agree with the proposed guidance on the Evidence Report in relation to the section on Distinctive Places (paragraphs 297 – 310) but wish to note the following points.

Paragraphs 297 to 299 – The requirement to prepare town centre audits and strategies for each town centre is a potentially very onerous task depending on the number of town centres within a local authority area. HOPS would request Scottish Government provide further guidance on town centre audits. It is suggested that the Evidence Report should consider how different retail centres relate to one another and the role they play in the wider area. This information is necessary should retail centres be prioritised in the LDP in a way that is envisioned in Policy 26. Although this matter is covered in the section on the Proposed Plan, it is likely that this will need to be considered at an earlier stage. In addition, in paragraph 299, it needs to be ensured that the diminishing importance of retail in town centres is recognised so that planning policy can pivot to allow an expansion of uses which support resident populations such as leisure, entertainment, and health and wellbeing.

Paragraph 300 - With regard to the historic environment the guidance has a very out-dated, site-specific approach to the interpretation of heritage. The historic environment is exactly that, an environment, a seamlessly integrated landscape of historic cultural significance and not just a series of sites that exist in isolation. This point needs to be better made throughout the document to recognise that the historic environment is often much more than simply the sum of its parts. Scotland's medieval towns need to be singled out as sensitive historic urban landscapes, not simply modern towns with a sprinkling of historic buildings within them. Paragraph 300 should also make reference to Scottish Burgh Surveys and Local and National Historic Environment Records. Consideration should also be given to intangible historic assets including such things as historically significant place names, vistas, views, skylines, and

traditions dependent on the historic built environment. The paragraph should also make reference to how local Historic Environment Record data could be expanded or improved.

Paragraph 302 – Confirmation required that the annual Vacant and Derelict Land Survey that the local authorities complete for the Scottish Government will fulfil this requirement. We would also note it will often be the case that some buildings will not feature on a local authority's Vacant and Derelict Land Register. This will most often be due to a building falling below the minimum size threshold for inclusion (i.e. the site will be less than 0.1 hectares) and this particularly applies in city, town, and neighbourhood centre settings. This means that such sites are not then eligible for investment from relevant funding streams such as the Vacant and Derelict Land Fund. Such small sites in built-up areas can have a significant impact on the overall aesthetic and amenity of the area.

Cost is a key issue as this is often increased due to restrictions applied to the refurbishment or redevelopment of such sites/buildings if, as is often the case, they are listed or sit within a Conservation Area. The issue can have a particular impact on the viability of sites in city/town/neighbourhood centres earmarked for conversion to residential. This will be a key element of the repurposing and re-imagining of these areas and pragmatism will be required to ensure that built heritage is not seen simply as a 'blocker' to development which should set the template for the future but respects the past through sensitive design. In addition to those sources already listed, the Evidence Report should also be informed by Scottish Burgh Survey, and local and national Historic Environment Record data. Further, Historic Environment Records as well as the Buildings at Risk Register also include properties which are not necessarily in poor condition, but which may simply be standing empty with no clear future use or be threatened with demolition. The reference to buildings which are simply empty is welcome, as buildings do not have to be empty for long before their condition deteriorates.

Paragraph 307 – Clarity required on what information would be useful to form an evidence base for LDPs.

Paragraph 309 - Should be linked back to other priorities such as potential for sequestration. The paragraph should also refer to historically and culturally significant trees, considered to be '*green monuments*'.

Paragraph 310 – Clarity is required on whether Evidence Reports should identify areas of risk and consideration for protection or managed retreat. The Evidence Report could also link to the coast as an area of potential low-grade heat from tidal waters.

**28. Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Sustainable Places (paragraphs 317 – 328)?**

Yes

HOPS in principle agree with the proposed guidance on the Proposed Plan in relation to the section on Sustainable Places (paragraphs 317 – 328), however we would like to note the following points.

Paragraphs 313 to 314 – The focus on place-based LDPs with a greater emphasis on maps may be difficult to implement given that statutory supplementary guidance is being withdrawn. Much of the detail in this guidance is considered essential for the determination of planning applications. Furthermore, the lack of detail in some of the draft NPF4 policies will increase the need for more detailed local policy which is contrary to the wish that the LDP be focussed on places and locations. As noted before HOPS support appropriate digital and data standards for this mapping. This would help maintain consistency throughout Scotland’s LDPs and assist how LDPs can be read and interpreted across planning authority boundaries.

Paragraph 320 - Raises the question how to measure the emissions that are likely to be generated by the proposals of the plan and any reasonable alternatives planning authorities would want to consider this against. HOPS request guidance or a tool that allows a consistent way to achieve this. The guidance could usefully refer to how LDPs should address energy efficiency (including if relevant in relation to retrofitting existing buildings). This paragraph could also refer to the possible need to consider any managed retreat issues in relation to sea level changes. HOPS agree that LDPs need to consider long term future climate risks, identifying areas where development is unlikely to be supported. However, it also needs to be taken into consideration that estimates of things like sea-level change are likely to be updated more regularly than LDP timescales, so even current long-term climate change predictions could be exceeded.

Paragraph 321 – HOPS agree it will be beneficial for LDP Spatial Strategies to set out the potential for negative emissions technologies and support their deployment through safeguarding land. However, it does raise questions around who is best placed to assess the potential for negative emissions technologies as planning authorities may not be resourced or have the skills to identify opportunities without assistance.

Paragraph 322 – HOPS agree that heat mapping should be used to inform the spatial strategy; however, it may be difficult to ensure take-up of district heating in new development in such locations unless national policies and guidance provide a strong enough framework to make it more enforceable when relevant proposals are considered through development management decisions. We are unsure that heat networks should be prioritised to ‘areas not on the mains gas grid or where the electricity transmission and or distribution network is weak’. The majority of Scotland where heat density might allow a heat network, is likely to be on mains gas. It might be better to link to heat demand. Not all developments might need high demand sources (for example, potential for low grade heat from bodies of water). Reference to medium to large scale heat stores and their potential role in LDP preparation might be worth considering in the guidance.

Paragraph 323 – It is unclear why heat-related climate risks appear to be highlighted specifically but not other kinds of climate risks. In terms of weather alone, extremes of heat, cold, increased, or decreased rainfall, and wind all need to be taken into consideration.

Paragraph 324 – The guidance could say something specifically about integrating habitats as part of new green infrastructure within new development. It will be more difficult for an LDP

to deliver biodiversity enhancements outside proposed development areas, as there is less likely to be a delivery mechanism.

Paragraph 325 – states “Buffer Zones should not be established around areas designated for their natural heritage importance.” Should this be Buffer Zones should be established...? It would be useful for the guidance to highlight or link to advice on appropriate buffer zone distances for different natural heritage designations.

Paragraph 326 – HOPS note basing a spatial strategy on the Place Principle as described in paragraph 326 may require a finer grain spatial strategy than planning authorities describe in their LDPs.

Paragraph 327 – Setting out that new development should be used to improve existing places as a first priority ensuring it aligns to goals for net zero and biodiversity, and the promotion of creativity and innovation is welcomed. The creativity and innovation principle should help in a move away from the uniformity of the suburban environment. Developers should be required to think about places creatively and raise the bar on development quality and design. The emphasis placed on the beauty and essential services provided by the natural environment, and the identity and character of places in the guidance is welcomed.

Paragraph 328 – Design frameworks should be mentioned as well as design briefs and design codes. These are not referred to in the guidance, but they have an important role setting out the key concepts and design principles for a place. LDPs should also allow for the possibility of more detailed design input to be produced beyond the LDP process, for areas which may be subject to unanticipated change in the future.

Given the open wording of Policies 6 and 9 it is likely that most authorities will wish to produce their own design guidance.

**29. Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Liveable Places (paragraphs 329 – 400)?**

Yes

HOPS agree with the proposed guidance on the Proposed Plan in relation to the section on Liveable Places (paragraphs 329 – 400), in principle, however we would like to highlight the following points.

Paragraph 329 – While the 20-minute neighbourhood is commendable, the guidance needs to say more than *‘The concept will apply differently in urban and rural areas and should be guided by the Place Principle and the place-based working that informs the LDP.’* There should be an understanding that planning can only encourage and create a policy framework for the creation of 20-minute neighbourhoods, but it has limited power to deliver them outwith large scale development proposals. Planning can often plan and provide space and buildings for community facilities as part of new development, but there is little appetite by the local authority to adopt and run these given budgetary constraints. Alternative models of delivery/management need to be considered.

Paragraph 331 – There is no mention of the need to prevent the degradation of existing 20-minute neighbourhoods – such as ensuring that key areas of open space and valuable community facilities (including shops and pubs) are not lost where there may be alternatives to how they are managed.

Paragraph 333 - This states that LDPs will need to address the need for public conveniences and will have to include a statement of the planning authorities' policies and proposals re the provision of public conveniences. The guidance should acknowledge that the LDP can only reflect a local authority's policies and proposals regarding public conveniences, it cannot address the need for them.

Paragraph 334 – The Evidence Report baseline data will be a good platform to inform the Proposed Plan's infrastructure requirements for site allocations. Gauging capacity of networks may be a significant additional resource burden to planning authorities.

Paragraph 338 to 340 – If infrastructure costs and contributions are to be included in the proposed plan how do local authorities address windfall site contributions and indeed determine level of impact on infrastructure that is proportionate? Development is likely to be discouraged if infrastructure is insufficient, but it is unlikely that infrastructure will be in place unless there is demand from development. The guidance should outline how this contradiction can be overcome as it is likely to be an issue in many parts of Scotland.

Paragraph 344 – The move to a 10-year land supply is welcome and is considered to be more realistic than the 5-year supply in the existing guidance.

Paragraph 348 – This refers to the need for site briefs or masterplans on medium or longer-term housing land allocations. The guidance could explain if the expectation is that these can be prepared other than by the planning authority given this is another example of an additional resource commitment. In addition, concluding site briefs or masterplans for sites prior to the proposed plan stage is likely to be beyond the resources of many authorities and could be a waste of resources if the site is not included in the adopted LDP.

Paragraphs 349 to 350 – Bringing forward sites for longer term development to compensate for other sites that do not deliver will not address housing land shortfalls in all circumstances. Often wider market forces are responsible for a lack of delivery rather than site specific considerations. The guidance should recognise that housing land releases are not appropriate where the cause of any shortfall is a consequence of conditions in the wider economy.

Paragraphs 353-354 – HOPS welcome the clarification the draft guidance provides on the deallocation of sites as this could assist in avoiding land banking by developers.

Paragraph 355 – While the bullet points increase the focus on delivering adaptable homes for ageing, care homes and supported accommodation, it should be borne in mind that the scope of the planning system can be quite narrow. Examples of what can be delivered in this regard would be welcome.

Paragraph 356 – HOPS support in principle the increase to 25% for affordable homes. In relation to alternative options provided it seems to be serviced land, with no mention of other methods such as commuted payments. While this may be appropriate in pressurised housing areas due to high land values, the Scottish Government should be mindful that national policy and guidance needs to provide the necessary flexibility for the whole of Scotland.

Paragraphs 362 to 366 – Preparation of the Transport Appraisal after the Evidence Report but prior to the Proposed Plan gives very little time for what can be a very technical piece of work. Where existing infrastructure is near capacity the conclusions of an appraisal may conclude that some locations should see no new development. Given how significant this can be the Scottish Government should consider whether the Transport Appraisal should be completed prior to the Evidence Report.

Paragraph 369 – As well as electric bikes, this paragraph should be future proofed to include other lesser used e-mobility technologies such as electric scooters.

Paragraph 377 – The guidance should advise if LDPs will have regard for on-street electric vehicle charging as well as hubs? This will assist in understanding how the LDP will be assessed at Gate Check and Examination stages.

Paragraph 378 - Clarity is required on whether the LDP is likely to be the most appropriate way to identify potential heat networks. It would be useful for the guidance to explore the relationship and roles between the Local Heat and Energy Efficiency Strategy (LHEES) and the LDP, thinking about timescales for each of those documents, which may not be prepared concurrently. Our understanding is the LHEES identifies, but LDP determines. The guidance should consider how this might work if they are not developed concurrently. Clarification is also required if it is intended that Scottish Ministers can also determine heat networks.

Paragraph 379 – A definition is required of “take into account” in planning terminology.

Paragraph 381 – Clearer guidance is required on how LDP allocations should be informed by heat network zones. It could also be stronger by saying “must” rather than “should”.

Paragraph 384 – Whilst inferred in the guidance, it would be beneficial to include that blue and green infrastructure (where appropriate) can be multi-functional spaces that achieve a variety of objectives such as climate change mitigation and informal play.

Paragraph 387 – A definition is required of “Incidental play” the term has never been used before and should be explained.

Paragraph 389 – Care is needed when stating “all sources” of flooding. Reference needs to be made to the Flood Risk Management (Scotland) Act 2009 which defines the sources to consider. Fluvial, coastal, and surface water are likely to be considered, but not groundwater. “Should” has to be replaced with “must” in the context of flood risk. Also, “a cautious approach...”, should be replaced with “a precautionary approach...” to align with Flood Risk

Management terminology. It is no longer the case that flooding "may" be an issue in future years; it is an issue now and will be increasingly so in the future.

Paragraph 391 – The statement referring to Draft NPF4 Policy 14a could be supported further in terms of the Guidance (addressing the provision or funding of health infrastructure). In this section of the guidance, it will be important to consider the following issues, many of which will overlap with other parts of the guidance:

- climate emergency issues which could/will have impacts on mental and physical health;
- potential outcomes on mental health wellbeing from well designed, safe, inclusive places;
- personal and community safety will have an impact on health and wellbeing;
- 20-minute neighbourhoods in terms of the benefits to local communities of social inclusion; contact with neighbours; better local democracy and accountability which can also have an impact on physical and mental health;
- protection of existing community assets, including natural and heritage assets;
- health benefits from access to blue/green infrastructure including tree-planting, and how this should be new such infrastructure should be sought in new development;
- how matters of equality related to accessing and using the physical environment could be addressed by planning (including through design);
- the role for Health Impact Assessments in relation to LDPs.

**30. Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Productive Places (paragraphs 401 – 424)?**

Yes

HOPS agree with the proposed guidance on the Proposed Plan in relation to the section on Productive Places (paragraphs 401 – 424), however we would like to highlight the following points.

Paragraph 405 – Clarity over the circumstances where sites should be deallocated would be welcome.

Paragraph 408 - There is a reference to the Covid-19 Tourism Recovery Programme. Although that programme still exists, the Scottish Government has not allocated any budget to it this year, so there may not be much progress. It may be better to just refer to Scotland Outlook 2030.

Paragraph 410 - A Town Centres First approach to locating the creative sector, culture, heritage, and the arts should be included.

Paragraph 412 – Examples are requested of how an area's full potential for electricity and heat from renewable sources could be achieved, taking into account energy storage availability and potential. It is noted that there will be competing land use demands for a

limited land resource, and it would be useful to have a steer on how LDPs can contribute to wider coordinated land planning or be informed by other land use strategies in this regard.

Paragraph 413 – The statement that plans should identify areas within national designations where wind farms will not be supported contrasts with Policy 19(c) of the NPF4.

Paragraph 422 – The focus on gaps is too narrow and not in keeping with the requirement for Fibre to the Premises and flexible, forward-looking connectivity and technology convergence. Gaps focus on the areas left behind because the cost of deployment is too high for the return on investment. Reducing the cost of deployment would also facilitate improvements in connectivity in those areas. HOPS defer to planning authority examples of work.

Paragraph 423 – HOPS support the aim to improve digital connectivity, as noted previously in this response this cannot be addressed by the planning system alone.

**31. Do you agree with the proposed guidance on the Proposed Plan in relation to the section on Distinctive Places (paragraphs 425 – 466)?**

Yes

HOPS in principle agree with the proposed guidance on the Proposed Plan in relation to the section on Distinctive Places (paragraphs 425 – 466), however we would like to highlight the following points.

Paragraph 433 – The first sentence in this paragraph needs to make it clear that it is talking about town centres, so it relates to the rest of the paragraph.

Paragraph 434 – A definition is required of the “urban heat island effect”.

Paragraph 436 – there is no guidance here other than the statement from NPF4.

Paragraph 439 – It is understood why a plan would identify all historic environment designations together with key issues, it is less clear why the plan would identify heritage projects such as a CARS scheme. That type of detail is perhaps better suited to the Delivery Programme.

Paragraph 447 to 451 – HOPS would defer to some individual planning authority responses on issues raised under Vacant and Derelict Land and Empty Buildings as we are aware of useful examples being raised within these.

Paragraph 449 – There may be a case to consider that buildings at risk are given certain exemptions (for example, on minimum size thresholds) to ensure that they are included in a local authority Vacant and Derelict Land Register and can therefore more easily access related funding streams such as the Vacant and Derelict Land Fund. The additional cost, particularly in city, town, and neighbourhood centre settings, to sensitively deal with buildings of heritage significance (for example, listed buildings or those in a conservation area) should be recognised with additional funding made available to support the so-called 'heritage-deficit' which can, on occasion, result in the non-viability of a development programme.

Paragraph 450 – A definition is required of “end of life buildings and sites” and how they would be identified in the strategy. HOPS broadly support avoiding redundancies such as out of town shopping centres leading to vacancies in town centres, however we defer to individual planning authority responses on the impact this will have within their areas.

Paragraph 452 – The proposed plan needs to identify accessible, intermediate, and remote areas, guidance is required as to what is meant by these classifications. The Scottish Government Urban Rural Classification divides rural Scotland into the three classes of Accessible, Remote, and Very Remote. The guidance should explain how these relate.

Paragraph 453 – There is very little mention of protecting the rural character, landscape assets, and prime agricultural land in the guidance the focus is much more on accommodating development and supporting repopulation. It feels like there is a conflict between the approach between development in rural areas and the 20-minute neighbourhood principle. The relationship should be more clearly defined. The need for rural repopulation is not an issue in many areas of Scotland – the balance to be taken between support for repopulation and countering more long-distance commuting and the suburbanisation of rural areas needs to be more carefully addressed in the guidance.

Paragraph 463 – Guidance of how to use information gathered at the Evidence Report stage to inform Proposed Plan preparation with regard to, for example, the potential to assess sequestration opportunities from soils, and anything else that LDPs might be able address in relation to managing land-use sustainably, such as in relation to flood-risk or renewable energy generation.

Paragraph 464 – Guidance on trees, woodland, and forestry should be linked back to other priorities such as potential for carbon sequestration.

Paragraph 465 – It is not clear if the guidance on coasts should identify communities and areas at risk of coastal flooding and include consideration for protection or managed retreat.

Paragraph 466 – Further clarification wanted on what could substantiate appropriate development in largely unspoiled coastal areas.

**32. Do you agree with the proposed thematic guidance on the Delivery Programme (paragraphs 467 – 482)?**

Yes

HOPS agree with the proposed thematic guidance on the Delivery Programme (paragraphs 467 – 482) in principle, however we would like to highlight the following points.

Paragraph 468 – HOPS note the omission of Masterplans and design frameworks within the text of this paragraph.

Paragraph 469 - There should be a facility for additional detailed design briefs and design codes to be added into the delivery programme where they have been identified as desirable out with the LDP process.

Paragraph 470 – This paragraph should reference other requirements set out within this guidance document. HOPS note that there may be significant resource implications on planning authorities to provide information on development viability. We also suggest a robust and transparent planning obligations and infrastructure process to support this.

Paragraph 474 – HOPS suggest that this paragraph be reviewed in order to provide clarity on potential implications on the pipeline and Housing Land Requirement of bringing sites forward.

Paragraph 475 – HOPS note there is concern by planning authorities about this method of de-allocation of sites and would defer to individual planning authority responses on this matter.

Paragraph 481 & 482 – Every effort must be made to provide an appropriate level of public transport. The public transport network should be designed around the integration of demand responsive transport, mobility hubs and e-mobility.