
LOCAL DEVELOPMENT PLAN: DEVELOPMENT PLAN SCHEME 2022

Report by Director - Infrastructure & Environment

SCOTTISH BORDERS COUNCIL

24 November 2022

1 PURPOSE AND SUMMARY

- 1.1 This report proposes that Council approves the annual update of the Development Plan Scheme.**
- 1.2 Publishing a Development Plan Scheme annually is a statutory duty and it must include a participation statement setting out how, when and with whom the Council will consult on the various Local Development Plan stages.
- 1.3 The proposed Development Plan Scheme 2022 (Appendix 1) has been prepared to provide information on the development plan process. It sets out the latest position on the Council's development plans.

2 RECOMMENDATIONS

- 2.1 **I recommend that Council:-**
 - (a) approves the proposed Development Plan Scheme 2022, as detailed in Appendix 1, for publication, deposit and copying to Scottish Ministers, and;**
 - (b) authorises the Director to make any necessary minor editing and design changes to the Development Plan Scheme prior to publishing it.**

3 BACKGROUND

- 3.1 The Planning etc. (Scotland) Act 2006 requires a Development Plan Scheme (DPS) to be prepared at least annually for the Local Development Plan (LDP). Its purpose is to set out the Council's programme for preparing, reviewing and consulting on its LDP.
- 3.2 After adopting a DPS, the Act requires the Authority to publish it (including electronically), send two copies to Scottish Ministers and place copies in all Public Libraries. There is currently no requirement to consult on the content of development plan schemes and no provision for Ministers to approve them.
- 3.3 The DPS must include a Participation Statement (PS) which should indicate when, how and with whom consultation on the LDP is likely to take place. It should also set out the Authority's proposals for public involvement in plan-making. Development Planning Regulations (2008) also require the DPS to contain a timetable.
- 3.4 The Scottish Planning Policy (SPP), published June 2014, states that the Planning Service should be plan-led with plans being up-to-date and relevant.
- 3.5 The SPP states that throughout the planning system "*... opportunities are available for everyone to engage in the development decisions which affect them. Such engagement between stakeholders should be early, meaningful and proportionate*".
- 3.6 Best practice in consultation and engagement is set out in Planning Advice Note (PAN) 3/2010 Community Engagement. The aim is to make plan-making more open, inclusive and accessible. People are expected to be engaged early in the LDP process and PAN 3/2010 identifies a number of actions as the means of meeting this requirement.
- 3.7 The formal requirements aside, there is also an expectation in the wider stakeholder community that the DPS should contain the activities for consulting stakeholders, tailored to local circumstances and to the issues being dealt within the plan.
- 3.8 In mid-2016, the Scottish Government commenced the review of the planning system and at the end of 2017 a new Planning Bill was published. The Bill received Royal Assent and became an Act in July 2019.
- 3.9 The Planning (Scotland) Act 2019, when fully implemented through the subsequent regulations, will include a range of changes to the current system of managing development in the Scottish Borders. Under the new legislation, there will be a requirement for a Regional Spatial Strategy to be produced. Whilst the Regional Spatial Strategy will not form part of the Development Plan, there will be a requirement for Scottish Ministers to have regard to adopted Regional Spatial Strategies in the preparation, revision or amendment of the National Planning Framework (NPF), and Planning Authorities must also have regard to them in the preparation of their LDP's.
- 3.10 Local Place Plans (LPPs) were also introduced by the Planning (Scotland) Act 2019, their purpose is to improve community engagement in the development planning process. The LPP will allow communities to have more influence on the production of the LDP and in January 2022, the Scottish Government issued the Planning circular, 1/2022: Local Place Plans, to provide guidance to communities and planning authorities on the

preparation, submission and registration of the LPPs. Once the LPPs are completed and registered by the Council, they will form a material consideration for the preparation of the next LDP.

- 3.11 The draft NPF4 was laid in the Scottish Parliament in November 2021 for Parliamentary scrutiny of the draft. The draft NPF4 was also subjected to a public consultation. The formal consultation on the NPF4 closed on 31 March 2022. The final adoption of the NPF4 will depend on the approval of Scottish Government, and the revised draft version of the NPF4 was laid in Parliament on 8 November. It is anticipated that the NPF4 will be considered by the Local Government, Housing and Planning Committee, debated in the main chamber of the Parliament before being voted on and hopefully approved. Following which Scottish Ministers will then proceed to adoption and publication of the NPF4. With the adoption of the NPF4, the Strategic Development Plan (SESPlan) will cease to be part of the Development Plan for the Scottish Borders, and will replace Scottish Planning Policy 2014.
- 3.12 The Council will continue to prepare LDP's that will guide development for 10 years. A new first stage of the process will be the preparation of the Evidence Report. The Evidence Report will involve gathering a wide range of information which will inform the production of the Plan, and consultation with local communities, key agencies and stakeholders will form part of that work. The Evidence Report will then be submitted to the Scottish Ministers (via the Planning and Environmental Appeals Division (DPEA)), and this part of the process is referred to as the "Gate Check". Once Scottish Ministers have confirmed that they are content with the Evidence Report, the Planning Authority can proceed to preparing the Proposed Plan. Engagement, consultation and Examination of the Plan will then follow as is the case in the current process. Following Examination, the Planning Authority can then proceed to consider the findings and recommendations of the Examination Reporter and undertake any proposed modifications and proceed towards Adoption of the Plan.
- 3.13 It is intended that the new Planning Act will assist in a clearer and more defined focus on delivery and improving performance, as well as a move towards a more proactive approach to masterplanning.
- 3.14 The Proposed LDP was presented to Council in September 2020 and was then placed on deposit. The representation period ran for 12 weeks and ended on 25 January 2021. In excess of 1000 responses were received, this being over double the number received at the same stage during the production of LDP1. This is testament to thorough consultation undertaken despite Covid-19 restrictions in place at that time. On 10 March 2022 a report to Council was presented on the representations to the Proposed LDP. That report advised the Council on the representations to the Proposed Plan and sought agreement to take the representations / issues to Examination for consideration by independent Scottish Government Appointed Persons (Reporters). The representations/issues set out in an appendices to that report, also provided a proposed response as to the Council's view on each of the matters raised. The Council submitted the Proposed LDP 2020 for Examination on 14 July 2022. Scottish Ministers appointed Mr Nick Smith BSc (Hons) MRTPI to carry out the examination of the Plan. Following their appointment, the Reporter examined the Council's conformity with the participation statement and the Examination of the Proposed Plan formally commenced on 26 September 2022. It should be noted that a further three reporters were appointed to assist with the speedy delivery of the

Examination report.

- 3.15 Therefore, it is necessary to review the DPS and the timescale within it on bringing forward the new LDP. The details of the DPS must be reasonable but also sufficiently flexible and deliverable to take account of any material timeline changes from a potential range of sources, including the current Coronavirus crisis.

4 PROPOSED DEVELOPMENT PLAN SCHEME

4.1 The DPS which is attached as Appendix 1 to this report makes reference to the following component parts:

- Confirmation of the purpose of the DPS including reference to relevant national planning legislation.
- Identification of the component parts which make up the development plan including reference to the National Planning Framework for Scotland, Strategic Development Plan and the Local Development Plan.
- The current status of development plan documents. This includes likely dates of adoption where relevant.
- The process for preparing the new LDP including reference to key documents. This includes reference to preparation of the Main Issues Report, the proposed LDP, Examination of the Plan and required neighbour notification and public consultation.
- Confirmation of where SBC is within the new LDP production process.
- A participation statement. This gives an indication as to when and how public engagement will take place at different production stages of the process.
- Confirmation as to how any interested parties can get involved in the process. This includes reference to opportunities available to raise awareness and view relevant documents, attend public events and how representations can be submitted.

5 IMPLICATIONS

5.1 Financial

The programme set out in the Development Plan Scheme 2022 can be funded by the existing budget allocated to cover anticipated costs.

5.2 Risk and Mitigations

The DPS is required under the terms of the Planning Act. The contents of the DPS set out current and potential future activities aimed at keeping the Development Plan for the Borders up to date to mitigate the risk of non compliance with legislation, thus the need to bring this report to Council to approve a DPS at this time. However, it is acknowledged that as a result of the current Covid-19 crisis and the subsequent delay in taking the Proposed LDP forward, the current adopted LDP has now exceeded its five year lifespan. Other Planning Authorities are in a similar position. The Scottish Government has acknowledged this and have stated the pandemic is having an impact on the ability of planning authorities to maintain the review cycle of LDPs within the intended timeframes and consequently expect more Plans will extend beyond 5 years. They have stated they are keen to

support Authorities in adapting to the current circumstances. No risks have been identified.

5.3 **Integrated Impact Assessment**

There are no direct equality implications arising from this report. There will be a requirement for consultation to be accessible by all sections of the community.

5.4 **Sustainable Development Goals**

There are no direct environmental implications arising from this report.

5.5 **Climate Change**

There are no direct environmental implications arising from this report.

5.6 **Rural Proofing**

This report does not affect or amend rural proofing policies.

5.7 **Data Protection Impact Statement**

There are no personal data implications arising from the proposals contained in this report.

5.8 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

6 **CONSULTATION**

- 6.1 The Director - Finance & Corporate Governance, the Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Director – People, Performance & Change, the Clerk to the Council and Corporate Communications have been consulted and comments received have been incorporated into the final report.

Approved by

Name **John Curry** **Title - Director - Infrastructure & Environment**

Author(s)

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Background Papers: Nil

Previous Minute Reference: Scottish Borders Council, 25 November 2021

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jacqueline Whitelaw can also give information on other language translations as well as providing additional copies.

Contact us at Jacqueline Whitelaw, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email eitranslationrequest@scotborders.gov.uk.