

Local Government, Housing and Planning Committee

9th Meeting, 2021 (Session 6)

2 November 2021

SSI cover note for: Town and Country Planning (Local Place Plans) (Scotland) Regulations 2021

[The Town and Country Planning \(Local Place Plans\) \(Scotland\) Regulations 2021 \(SSI 2021/353\)](#)

Title of Instrument: Town and Country Planning (Local Place Plans) (Scotland) Regulations 2021

Type of Instrument: Negative

Laid Date: 7 October 2021

Circulated to Members: 12 October 2021

Meeting Date: 2 November 2021

Minister to attend meeting: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? No

Reporting deadline: 29 November 2021

Recommendation

1. The Committee is invited to consider any issues which it wishes to raise on this instrument.

Background

2. The Planning (Scotland) Act 2019 provided for the creation of Local Place Plans (LPPs), which allow for communities to create plans for the use and development of land in their areas. The regulations specify the way in which LPPs can be made and by whom.

3. A copy of the Scottish Government's Explanatory and Policy Notes are included in **Annexe A**.

Purpose

4. Provisions for the development of Local Place Plans were introduced by section 14 of the Planning (Scotland) Act 2019 amending the Town and Country Planning (Scotland) Act 1997. The instrument brings into effect statutory requirements for the preparation, submission and registration of Local Place Plans.

Delegated Powers and Law Reform Committee consideration

5. At its meeting on 26 October 2021, the Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Procedure for Negative Instruments

6. Negative instruments are instruments that are "subject to annulment" by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

7. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Clerks

Local Government, Housing and Planning Committee

Annexe A

Scottish Government Explanatory Note

As per purpose above and including:

Regulation 2 provides that a community body in preparing a local place plan must have regard to any locality plan published for the area to which the local place plan is to relate. Regulation 3 sets out matters, including a map or maps, which a local place plan is to contain.

Regulation 4 sets out steps that must be taken by the community body preparing a local place plan before the local place plan is submitted to the planning authority. Regulation 5 sets out the information which must be submitted to the planning authority with the local place plan.

Regulation 6 makes provisions for the manner in which the register of local place plans is to be kept and made available for inspection. Regulation 7 sets out the circumstances when a local place plan must be removed from the register.

Regulation 8 sets out how the planning authority are to make available for

Scottish Government Policy Note

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (LOCAL PLACE PLANS) (SCOTLAND) REGULATIONS 2021 SSI 2021/353

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraphs 1(4), 2(1), 5(5) and 4 of schedule 19 and section 275 of the Town and Country Planning (Scotland) Act 1997¹ and all other powers enabling them to do so. Town and Country Planning is a devolved matter. The instrument is subject to the negative procedure.

Purpose of the instrument.

Provisions for the development of Local Place Plans were introduced by section 14 of the Planning (Scotland) Act 2019 amending the Town and Country Planning (Scotland) Act 1997. The instrument brings into effect statutory requirements for the preparation, submission and registration of Local Place Plans.

Policy Objectives

¹ 1997 c.8. Schedule 19 was inserted by section 14 of the Planning (Scotland) Act 2019 (asp 13).

Local Place Plans (LPPs) offer the opportunity for a community led, but collaborative, approach to creating great local places. LPPs can support community aspirations on the big challenges for a future Scotland such as responding to the global climate emergency and tackling inequalities. It is vital that local people have the opportunity to engage meaningfully and have a positive influence in the future planning of development in their areas. The aim of the provisions is to significantly enhance engagement in development planning, effectively empowering communities to play a proactive role in defining the future of their places.

LPPs will be community led plans setting out proposals for the development and use of land. Introduced by the Planning (Scotland) Act 2019, these plans will set out a community's aspirations for its future development. Once registered by the planning authority, they are to be taken into account in the preparation of the relevant local development plan.

Whilst the majority of provisions for LPPs are to be found within the Planning (Scotland) Act 2019 which amended the Town and Country Planning (Scotland) Act 1997 (the 1997 Act), a number of matters require to be prescribed in regulations.

The 1997 Act provides that LPPs may be prepared by a community body². It should be recognised that the provisions are permissive and do not place a duty on community bodies to prepare an LPP. It is for communities themselves to consider whether the development of an LPP is something they want to produce. These regulations will be supported by guidance to planning authorities and communities.

The LPP regulations form part of a wider package of measures on improving community engagement in planning matters and building public trust in the planning system.

These are standalone regulations for the purposes of the preparation, submission and registration of LPPs. There are no transitional arrangements required.

Preparation of Local Place Plans

In order for the LPP to be valid, the 1997 Act requires that the community body must comply with the requirements set out in paragraphs 1(4) and 2(1) of schedule 19 to the 1997 Act.

Matters to which a community body must have regard to in preparing a Local Place Plan

The 1997 Act requires that a community body must have regard to the Local Development Plan for the area plus the National Planning Framework when preparing its LPP. Regulation 2 provides for the community body to additionally have regard to any applicable Locality Plan prepared under section 10 of the Community Empowerment (Scotland) Act 2015³ which is published for the LPP area. The

² A community body is defined in Schedule 19, paragraph 5 of the 1997 Act.

³ Community Empowerment (Scotland) Act 2015 (asp 6).

Scottish Government will consider what role guidance may have in supporting community bodies in considering what matters are relevant when having regard to these and other documents.

Form and Content of a Local Place Plan

Regulation 3 provides for the form and content of an LPP. Regulation 3(1)(a) sets out that the community body preparing the LPP should be identified on the plan. Regulation 3(1)(b) sets out that the LPP is to contain a map that shows the land to which the LPP relates, and at regulation 3(1)(c) that the LPP is to contain a statement of the community body's proposals as to the development or use of land within the LPP area.

At regulation 3(2) where the statement at regulation 3(1)(c) contains a proposal as to the development or use of land which relates to a specific area of land or particular building, or the LPP identifies land or building that the community body considers to be of particular significance to the local area (see paragraph 1(3) of schedule 19), the LPP is to contain a map or maps which identify the location of the land or building.

Regulation 3(3) sets out that the map showing the LPP area is to be sufficiently detailed so as to enable the boundaries of the LPP area to be identified.

In producing the regulations, the Scottish Government has sought not to be overly prescriptive on the requirements to be placed on community bodies, but through guidance will build on what is seen as good practice in the development of community led plans. The regulations provide for a focus on a clearly expressed statement combined with a spatial representation of the community's proposals for the area contained in a map which shows the community's boundary of its LPP. The map is also to include any land or buildings that the community body considers to be of particular significance to the local area. An LPP which is clear and visual, using graphics, photographs, and maps is envisaged. This will be the minimum required to allow for the community body to express to the wider community and the planning authority what is being proposed in the plan.

Steps required to be taken before submission of a Local Place Plan

Paragraph 2(1) of schedule 19 to the 1997 Act requires that a community body must comply with any prescribed requirements as to: (a) steps which must be taken before submitting an LPP; (b) how the views of councillors for the area to which the LPP relates are to be taken into account in its preparation; and (c) information which must be submitted alongside an LPP.

Having complied with these requirements, a community body may submit the LPP to the planning authority for the district to which it relates.

The requirements at paragraph 2(1)(a) and (b) of schedule 19 to the 1997 Act are set out in regulation 4. Before submitting an LPP, the community body is to send a copy of the proposed LPP and an information notice to each councillor for the LPP area, and any community council, any part of whose area is within, or adjoins, the

LPP area. These provisions will provide a minimum requirement for community bodies. Any additional matters will be for the community body to consider in light of local circumstances.

Matters to be contained in the information notice at regulation 4(2) comprise: a) a brief description of the content and purpose of the proposed LPP, and b) information as to how and to whom any representations on the content of the proposed LPP should be made and the date by which they should be made. Regulation 4(3) requires that the at least 28 days is given to make any representations.

Information to be submitted with a Local Place Plan

The requirement at paragraph 2(1)(c) of schedule 19 of the 1997 Act to set out the additional information which should be included with the LPP when it is submitted to the planning authority are included at regulation 5. The provisions at regulation 5(1)(a), (c), (d) and (e) require the community body to provide information which confirms that it has complied with the legal requirements in the 1997 Act and these regulations for the document submitted to be considered a valid LPP. Information at regulation 5(1)(b) linked with regulation 5(2) provide for the contact details for the community body.

Regulation 5(1)(f) requires the community body to provide a statement setting out its view of the level and nature of support for the LPP, and the basis on which the community body has reached that view. This is to include a description of any consultation by the community body in respect of the proposed LPP. The Scottish Government will provide guidance to community bodies on issues around consultation, including with both communities of geography and interest/identity.

Under regulation 5(1)(g) the community body is to provide a copy of any document which is referred to in the LPP (other than a document which is prepared or published by the planning authority to whom the LPP is submitted). Such documents may include evidence and data referred to in the development of the LPP, and include, where a community body has prepared a document setting out how it considers the proposals in the LPP are to be delivered, such a document.

Register of Local Place Plans

Under paragraph 3(5) of Schedule 19 of the 1997 Act, Scottish Ministers may by regulations make provision about (a) the manner in which a register must be (i) kept, and (ii) made available to the public, (b) the information about an LPP that must be included in a register, and (c) when a planning authority may, or must, remove an LPP from their register, causing it to cease to be a registered LPP. Regulation 6 prescribes how the register of LPPs is to be kept under paragraph 3 of schedule 19. Regulation 6(1) sets out that the register of LPPs, to be kept under paragraph 3 of schedule 19, must be kept in the manner specified in regulation 6(2) and be made available to the public in accordance with Regulation 6(3).

Regulation 6(2) sets out that the register must, in respect of each registered LPP contain a copy of the LPP, and a copy of the information submitted alongside the LPP in accordance with regulation 5(1)(c) to (f).

Regulation 6(3) requires that the register must be available for inspection by the public free of charge at all reasonable hours at an office of the planning authority, and on a website maintained for that purpose.

Removal of Local Place Plans from the Register

Regulation 7(1) sets out that the planning authority must remove an LPP from the register in the circumstances specified in regulation 7(2).

The circumstances set out in regulation 7(2) are if the community body which prepared the LPP: a) requests that the LPP is removed from the register; or b) submits a subsequent LPP which the community body state is to replace or supersede the LPP.

Map of registered Local Place Plans

Every planning authority must also, under provisions in paragraph 4 of schedule 19, make publicly available, in the manner prescribed, a map of their district that shows the land to which the LPPs in their register of LPPs relate.

The manner prescribed for the purposes of paragraph 4 of schedule 19 are as specified in paragraph (2) of regulation 8. Regulation 8(2) sets out that the register, and therefore the map must be available for inspection by the public free of charge at all reasonable hours at an office of the planning authority, and on a website maintained for that purpose.

Consultation

In March 2021, the Scottish Government published a consultation paper⁴ on proposals for the framework of regulations and promoted the consultation through a range of methods to encourage participation, along with supporting a series of five online events for community members and other interested stakeholders.

Responses to the consultation

Consultation responses – in line with respondents' preferences - have been published on the Scottish Government's Citizen Space web site⁵. In addition, the Scottish Government has published an independent analysis⁶ of the 202 responses to the consultation which were received timeously.

Consultees were invited to respond to 18 questions on proposals for the development of secondary legislation plus the accompanying impact assessments. Generally respondents were supportive of the direction of travel that the Scottish Government was proposing. There were some nuances and qualifications in the responses with a number of respondents providing caveats to their positions.

⁴ Local place plans - proposals for regulations: consultation - gov.scot (www.gov.scot)

⁵ Published responses for Local Place Plan Regulations consultation - Scottish Government - Citizen Space

⁶ Local Place Plans - proposals for regulations: consultation analysis - gov.scot (www.gov.scot)

Throughout the responses there was a balance being struck between placing statutory requirements in legislation, or given the likely voluntary nature of the members of community bodies, promoting options and good practice in guidance. A further consideration being that the nature and scale of LPPs is such that the framework is seeking to encourage and provide for a broad range of potential LPPs and community bodies.

In response to the consultation the Scottish Government has reflected on its proposals in the consultation paper in finalising the regulations.

Matters to which a community body must have regard to in preparing a Local Place Plan

There was general agreement that community bodies should have regard to any locality plan for the area when developing their LPP, which is required by regulation 2.

Due to potential issues around defining a wide range of other potentially relevant statutory and non-statutory public and third sector plans, the regulations do not prescribe such additional matters. The Scottish Government will, however, consider how community bodies can be encouraged, through guidance, to reflect wider spatial and other relevant plans as they prepare their LPPs.

Form and Content of a Local Place Plan

Schedule 19 of the 1997 Act defines an LPP as “a proposal as to the development or use of land”. Following the consultation, the Scottish Government remains of the view that the LPP should contain a statement setting out the community body’s proposals for the development and use of land in the area of the LPP. In practice, LPPs may contain a variety of proposals, from physical proposals with a specific spatial dimension but possibly also less tangible proposals, for example action to support mental and physical health, tourism, economic opportunity or community activities.

The Scottish Government also remains of the view that it is important that the community body clearly identifies the land covered / encompassed by the LPP. A map not only sets out the boundary of the plan, but its contents can convey proposals for the development and use of land, including connectivity, and identify land and buildings that the community body considers to be of particular significance to the local area.

Steps to be taken before preparing the Local Place Plan

Paragraph 1(4)(c)(ii) of schedule 19 requires the community body to comply with any prescribed requirements as to steps which must be taken before preparing the plan.

A majority of respondents – 80% of those answering the question – thought a requirement for the community body to engage and seek the views of people to assist in the preparation of an LPP should be set out in law. In light of the responses, the Scottish Government considers that there is a fine balance between requiring

specified engagement in legislation in preparing the LPP, or something that should be explained and encouraged through guidance. The regulations include a provision that requires the community body to provide a statement setting out its view of the level and nature of support for the LPP, and the basis on which the community body has reached that view. This is to include a description of any consultation by the community body in respect of the proposed LPP. The Scottish Government will provide guidance to community bodies on issues around consultation, including with both communities of geography and interest.

Steps required to be taken before submission of a Local Place Plan

As this is a key stage in the development of an LPP, the Scottish Government considered that some form of consultation should be carried out on the proposals that have been worked up into a proposed LPP, and therefore considered the form of any such requirement. It may be difficult to reasonably prescribe in legislation exactly how any consultation should be undertaken on the ground in a way that can account for the circumstances and contexts of different communities, retaining flexibility for community bodies.

A large majority of those who answered the question - 87% - agreed that there should be a minimum statutory requirement to consult the community once a proposed LPP has been prepared. A statutory approach was argued to make clear the responsibility of the community body to ensure the consultation process is robust. Those who did not agree suggested imposing such a requirement would not be appropriate for a volunteer body and that it would be preferable to set out best practice for engagement with the community in guidance. The importance of a light touch approach was again emphasised.

Register of Local Place Plans

Whilst respondents were generally supportive of the manner in which the register was to be kept, concern was expressed about the manner in which LPPs could be subsequently removed from the register. Whilst provisions have been introduced which will allow a community body to remove an LPP in certain circumstances, this has not been extended to allow planning authorities to remove LPPs at this stage.

Impact Assessments

The consultation paper contained a Partial Business and Regulatory Impact Assessment (BRIA), Partial Equality Impact Assessment (combining Child Rights and Wellbeing Impact Assessment), Partial Island Communities Impact Assessment, Fairer Scotland Duty Assessment plus a Strategic Environmental Assessment – Pre-screening Notification.

Outputs from the Assessments

The Equality Impact Assessment (EQIA) and Child Rights and Wellbeing Impact Assessment (CRWIA) both recognised that people wished to be engaged in the planning their areas but that barriers were in place which prevented participation. It is

considered that the scope for ensuring that participation formed an important element of the package.

While maintaining a light-touch approach to regulations, associated guidance can provide a clear steer to a need to engage with the wider community, including with communities of identity. The Scottish Government will produce appropriate guidance. Copies of both the EQIA and CRWIA accompany this policy note.

The Scottish Government issued a screening paper with the consultation as regards an Island Communities Impact Assessment (ICIA). Following consultation, the Scottish Government's conclusion is that the regulations do not have significantly different effects in island communities compared to other communities in Scotland. Therefore no full assessment was required. A copy of the ICIA Screening document accompanies this policy note.

Requirements under the Environmental Assessment (Scotland) Act 2005 have been met, via a pre-screening notification, which can be viewed on the Strategic Environmental Assessment Database⁷.

The Scottish Government screened out the requirement to undertake a Fairer Scotland Duty Assessment. The Fairer Scotland Duty applies to 'decisions of a strategic nature' – these are the key, high-level choices or plans that the Scottish Government makes. Having considered the Fairer Scotland Duty Interim Guidance⁸, the Scottish Government can confirm that the secondary legislation on LPPs does not constitute a strategic decision and therefore an assessment is not required. The Screening Assessment is available online⁹.

A Data Protection Impact Assessment was not considered relevant to the regulations.

Financial Effects

It has been difficult to gauge with certainty as to the overall financial effects of the regulations. While it can be assumed that some additional costs are likely to fall on both planning authorities and community bodies, it should be recognised that the permissive nature of LPP preparation plus the light-touch legislation means that the number of LPPs likely to be prepared cannot be estimated. In addition, many of the costs will be dependent on local circumstances, the resources gathered by community bodies and the manner in which any LPP is produced.

However, taking into account the comments received, the Scottish Government has updated the estimated overall cost of preparing an LPP to £17,000 giving a total estimated cost of around £1.6M per year for communities. Some of these costs are intrinsic to the requirements in the Act and not to these regulations. The estimate of this figure could be in the region of £970,000.

Planning authorities and the Royal Town Planning Institute provided additional

⁷ Scottish Environment Assessment Gateway - Search (strategicenvironmentalassessment.gov.scot)

⁸ Fairer Scotland Duty: interim guidance for public bodies - gov.scot (www.gov.scot)

⁹ Local place plans - proposals for regulations: consultation - gov.scot (www.gov.scot)

information on the impact of the LPP package. Support on the development and maintenance of the register will be provided centrally. However, additional costs on validating an LPP and maintaining such a register have been estimated at around £150,000 per annum.

A number of developers responded that businesses may have an interest in the proposals contained in LPPs. They noted that it was not possible to pinpoint or assume any positive or negative financial implications at this stage. On the Scottish Firms Impact Test, a number agreed in principle that this legislation should not significantly affect the overall costs for individual businesses of engaging in the planning system and that local businesses may see value in engaging voluntarily in the preparation of LPPs.

Section 15B of the 1997 Act provides for a review of LPPs. Scottish Ministers are to prepare a report on the review and lay it in the Scottish Parliament. The provisions also require Ministers to undertake the review as soon as practicable after a period of 7 years following Royal Assent, namely July 2026. This review would provide an opportunity to consider any appropriate changes to these LPP regulations. A copy of the BRIA accompanies this policy note.

Scottish Government Directorate for Local Government and Communities
October 2021

Scottish Government - Other documents

- [Policy Note](#)
- [Child Rights and Wellbeing Impact Assessment](#)
- [Island Communities Impact Assessment](#)
- [Equality Impact Assessment](#)
- [Final Impact Assessment](#)