



Planning (Scotland) Act 2019

2019 asp 13

PART 1

DEVELOPMENT PLANNING

Development planning

7 Local development plans

- (1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.
- (2) In section 15 (form and content of local development plans)—
 - (a) in subsection (1)(a), after “land” insert “taking account of the matters mentioned in subsection (5)”,
 - (b) after subsection (1) insert—

“(1A) The local development plan must also include targets for meeting the housing needs of people living in the part of the district to which it relates.”.
 - (c) subsection (2) (vision statement) is repealed,
 - (d) after subsection (2) insert—

“(2A) A local development plan is to include a statement of the planning authority’s policies and proposals as to the provision of public conveniences.

“(2B) A local development plan is to include a statement of the planning authority’s policies and proposals as to the provision of water refill locations.”.
 - (e) in subsection (5)—
 - (i) for “(2)” substitute “(1)(a)”,
 - (ii) in paragraph (a), after “physical,” insert “cultural,”,
 - (iii) in paragraph (a), after “social” insert “, built heritage”,
 - (iv) in paragraph (c), after “composition” insert “, health”,
 - (v) after paragraph (c) insert—

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- “(ca) the housing needs of the population of the area, including, in particular, the needs of persons undertaking further and higher education, older people and disabled people,
 - (cb) the availability of land in the district for housing, including for older people and disabled people,
 - (cc) the desirability of allocating land for the purposes of resettlement,
 - (cd) the health needs of the population of the district and the likely effects of development and use of land on those health needs,
 - (ce) the education needs of the population of the district and the likely effects of development and use of land on those education needs,
 - (cf) the extent to which there are rural areas within the district in relation to which there has been a substantial decline in population,
 - (cg) the capacity of education services in the district,
 - (ch) the desirability of maintaining an appropriate number and range of cultural venues and facilities (including in particular, but not limited to, live music venues) in the district,”
 - (vi) in paragraph (d), for “and systems for the supply of water and energy” substitute “, systems for the supply of water and energy, and health care and education facilities”,
 - (vii) the “and” immediately following paragraph (e) is repealed,
 - (viii) in paragraph (f), for “(e)” substitute “(eb)”.
- (3) After subsection (5) insert—
- “(5A) In subsection (5)(d), references to systems for the supply of energy include in particular land available for the development and use of facilities for renewable sources of energy.”.
- (4) In section 16 (preparation and monitoring of local development plans)—
- (a) in subsection (1)(a)(ii), for “five” substitute “10”,
 - (b) in subsection (2)(a)—
 - (i) the words “the National Planning Framework” become sub-paragraph (i),
 - (ii) after sub-paragraph (i) so formed insert “, and
 - (ii) any local outcomes improvement plan (within the meaning of section 6 of the Community Empowerment (Scotland) Act 2015) for the part of their district to which the local development plan relates,”
 - (c) after subsection (2)(a) insert—
 - “(aa) are to have regard to the desirability of preserving disused railway infrastructure for the purpose of ensuring its availability for possible future public transport requirements,

- (ab) are to have regard to the list published under section 16E of persons seeking to acquire land in the authority’s area for self-build housing.”,
 - (d) subsections (9) and (10) are repealed.
- (5) After section 16 insert—

“16A Participation of children and young people in local development plan

- (1) A planning authority must make such arrangements as they consider appropriate to promote and facilitate participation by children and young people (meaning for the purpose of this section a person aged 25 or under) in the preparation of the local development plan.
 - (2) Without prejudice to the generality of subsection (1), planning authorities must first consider discharging their duty under subsection (1) by means of contact with schools, youth councils and youth parliament representatives within their district.
 - (3) A planning authority must—
 - (a) publish information about its arrangements under subsection (1), and
 - (b) keep the information published up to date.”.
- (6) After section 16A insert—

“16B Evidence report for preparation of local development plan

- (1) Before preparing a local development plan, a planning authority are to prepare an evidence report.
- (2) In preparing the evidence report the planning authority are to seek the views of, and have regard to any views expressed by—
 - (a) the key agencies,
 - (b) children and young people, in particular school pupils, youth councillors and youth parliament representatives,
 - (c) such other persons as may be prescribed, and
 - (d) the public at large.
- (3) The evidence report is to—
 - (a) set out the planning authority’s view on the matters listed in section 15(5) for land in the part of the authority’s district to which the local development plan will relate,
 - (b) set out—
 - (i) a summary of the action taken by the planning authority to support and promote the construction and adaptation of housing to meet the housing needs of older people and disabled people in the authority’s area,
 - (ii) an analysis of the extent to which the action has helped to meet those needs,
 - (c) set out—

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- (i) a summary of the action taken by the planning authority to meet the accommodation needs of Gypsies and Travellers in the authority's area,
 - (ii) an analysis of the extent to which the action has helped to meet those needs,
 - (d) set out—
 - (i) how the planning authority have invited local communities in their district to prepare local place plans in accordance with schedule 19,
 - (ii) the assistance provided to local communities to assist them to prepare local place plans,
 - (e) include such other matters as are prescribed.
- (4) The evidence report is also to include a statement on—
 - (a) the steps taken by the planning authority in preparing the report to seek the views of the public at large, including in particular the views of—
 - (i) disabled persons,
 - (ii) Gypsies and Travellers, and
 - (iii) children and young people,
 - (b) the steps taken by the planning authority in preparing the report to seek the views of community councils, and
 - (c) the extent to which the views expressed under paragraphs (a) and (b) have been taken into account in the report.
- (5) Before submitting a proposed evidence report under subsection (7), the planning authority must approve the proposed evidence report.
- (6) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed evidence report.
- (7) The planning authority are to submit the evidence report to the Scottish Ministers.
- (8) On receiving an evidence report submitted under subsection (7), the Scottish Ministers are to appoint a person to assess whether the report contains sufficient information to enable the planning authority to prepare a local development plan.
- (9) If, having completed the assessment, the appointed person is satisfied that the evidence report contains sufficient information to enable the planning authority to prepare a local development plan, the person is to notify the Scottish Ministers and the authority accordingly.
- (10) In any other case, the appointed person is to—
 - (a) prepare a report (an “assessment report”) setting out the reasons for not being so satisfied and recommendations for improving the evidence report received under subsection (7),
 - (b) send a copy of the assessment report to the planning authority and the Scottish Ministers.

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- (11) On receipt of an assessment report the planning authority are to revise the evidence report submitted under subsection (7) and resubmit it to the Scottish Ministers.
- (12) Subsections (8) to (11) apply to an evidence report submitted under subsection (11) as they do to an evidence report submitted under subsection (7).
- (13) The Scottish Ministers may make regulations as to—
- (a) meeting general administrative costs, staff costs and overheads incurred in relation to an assessment under subsection (8),
 - (b) the procedure to be followed in such an assessment (including by making provision that the procedure is to be at the discretion of the appointed person), and
 - (c) what is to be assessed and matters by reference to which the assessment is to be made.
- (14) In this section—
- “accommodation needs” includes, but is not limited to, needs with respect to the provision of sites on which mobile homes may be stationed,
 - “children and young people” mean persons aged 25 or under,
 - “community council” means a community council established by a local authority under Part 4 of the Local Government (Scotland) Act 1973,
 - “disabled person” means a person who is a disabled person for the purposes of the Equality Act 2010,
 - “Gypsies and Travellers” has the meaning specified in regulations made by the Scottish Ministers.
- (15) Before making regulations under subsection (14) specifying the meaning of “Gypsies and Travellers”, the Scottish Ministers must consult such persons as they consider appropriate.

16C Effective community engagement: guidance

- (1) The Scottish Ministers may issue guidance to planning authorities about undertaking effective community engagement in relation to the local development plan.
- (2) Guidance under subsection (1) may include in particular guidance on—
- (a) how, in preparing a local development plan, planning authorities are to undertake effective community engagement,
 - (b) ways in which planning authorities should consult communities and encourage them to contribute to the preparation of a local development plan,
 - (c) any other matters relevant to the functions of planning authorities in relation to community engagement in local development plans.
- (3) Before issuing guidance under this section, the Scottish Ministers must consult such persons as they consider appropriate.

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- (4) The Scottish Ministers must publish in such manner as they consider appropriate any guidance issued under this section.
- (5) A planning authority must have regard to any guidance issued to them under this section.
- (6) The Scottish Ministers may vary or revoke guidance issued under this section.

16D Play sufficiency assessment

- (1) A planning authority must assess the sufficiency of play opportunities in its area for children in preparing an evidence report.
- (2) The Scottish Ministers must by regulations make provisions about—
 - (a) the form and content of the assessment,
 - (b) such persons who must be consulted in relation to the assessment,
 - (c) publication of the assessment.”.
- (7) Section 17 (main issues report for preparation of local development plan) is repealed.
- (8) In section 18 (preparation and publication of proposed local development plan)—
 - (a) in subsection (1), for “the date specified by virtue of subsection (8) of section 17” substitute “being notified under section 16B(9)”,
 - (b) for paragraph (a) of subsection (1) substitute—
 - “(a) having regard to the evidence report in relation to which notification under that section was received, to prepare and publish in such manner as is prescribed a proposed local development plan,
 - (aa) to publish the evidence report at the same time and in the same manner as the proposed local development plan,”
 - (c) in subsection (1)(b), after “plan” insert “and the evidence report”,
 - (d) after subsection (1) insert—
 - “(1A) Without prejudice to the generality of subsection (1)(d), a planning authority for a district all or part of which falls within the boundary identified by the Central Scotland Green Network Partnership are (for so long as such a body is included in the National Planning Framework as a national development) to consult the Network on the proposed local development plan.
 - (1B) Before publishing a proposed local development plan under subsection (1), the planning authority must approve the plan.
 - (1C) Section 56 of the Local Government (Scotland) Act 1973 (arrangements for discharge of functions by local authorities) does not apply to the function of approving a proposed local development plan.”,
 - (e) in subsection (2), for “6” substitute “12”,
 - (f) in subsection (4), the words from “Where” to “(8),” are repealed,
 - (g) in subsection (4)(a)—
 - (i) the word “and” immediately preceding sub-paragraph (ii) is repealed,
 - (ii) at the end of sub-paragraph (ii) insert “and

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- (iii) if modifications have been made to the proposed plan under subsection (3), a report setting out—
 - (A) the modifications made, and
 - (B) the reasons for making them.”,
 - (h) paragraphs (b) and (c) of subsection (4) are repealed,
 - (i) subsections (5) to (9) are repealed.
- (9) In section 19 (examination of proposed local development plan)—
 - (a) after subsection (5) insert—
 - “(5A) When a request is made under subsection (1), or an appointment is made under subsection (3) without a request having been made, the planning authority must publish in the prescribed manner—
 - (a) the proposed plan, and
 - (b) if modifications were made to the proposed plan under section 18(3) or 19A(5)(b)(i), a report setting out—
 - (i) the modifications made, and
 - (ii) the reasons for making them.”,
 - (b) in subsection (8), in the opening words, after “subsection (3)” insert, “, unless section 19ZA applies,”,
 - (c) in subsection (8)(a)(i), the words from “(which” to “plan)” are repealed,
 - (d) after subsection (8), insert—
 - “(8A) Recommendations under subsection (8)(a)(i) may include—
 - (a) recommendations that the planning authority make modifications to the proposed local development plan,
 - (b) in a case where the appointed person considers that a change required is not suitable to be dealt with by such modification, a recommendation that, if adopted, the planning authority should amend the local development plan under section 20AA in relation to such matters as may be specified in the report.
 - (8B) Where a report prepared under subsection (8)(a) includes a recommendation of the type described in subsection (8A)(b), the appointed person must send a copy of the report to the Scottish Ministers.”,
 - (e) in subsection (9), for “subsection” substitute “subsections (5A) and”,
 - (f) in subsection (10), paragraphs (b) to (d) are repealed,
 - (g) subsection (12) is repealed.
- (10) After section 19 insert—

“19ZA Examination under section 19(3): further provision

- (1) This section applies where—
 - (a) a person appointed under subsection (3) of section 19 is conducting an examination of a proposed local development plan under that subsection, and

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- (b) the person is not satisfied that the amount of land allocated for housing in the proposed local development plan is sufficient to meet the targets it includes in relation to the housing needs of people living in the part of the district to which it relates (see section 15(1A)).
- (2) The appointed person may, instead of preparing a report under section 19(8), issue a notice to the planning authority requiring it to prepare another proposed local development plan under section 18(1).
- (3) A notice under subsection (2) must include—
 - (a) a statement that the proposed local development plan is unsatisfactory due to its failure to address the identified housing needs,
 - (b) the appointed person’s reasons for coming to that conclusion.
- (4) The appointed person must—
 - (a) send a copy of a notice issued under subsection (2) to the Scottish Ministers,
 - (b) publish it, and
 - (c) notify the persons mentioned in paragraph (b) of section 19(6), and any person who made representations by virtue of section 19A that a notice has been given under subsection (2) (and its effect).
- (5) A planning authority that receive a notice under subsection (2)—
 - (a) may not take any further action in respect of the unsatisfactory proposed local development plan, and
 - (b) must prepare another proposed local development plan in accordance with section 18.
- (6) The planning authority may use the evidence report prepared and assessed in respect of the unsatisfactory proposed local development plan for the purpose of subsection (5)(b).
- (7) In subsection (4)(b), “publish” includes, without prejudice to that expression’s generality, publish by electronic means (as for example by means of the internet).”.
- (11) In section 19A (further provision as regards examination under section 19(4))—
 - (a) subsections (7) and (8) are repealed,
 - (b) in subsection (9), for “so submitted” substitute “submitted under subsection (5)(b)(ii)”.
- (12) In section 20 (constitution of local development plan), for subsections (2) to (7) substitute—
 - “(1A) A proposed local development plan may not be adopted before the end of the period that—
 - (a) begins on the day it is submitted to the Scottish Ministers under section 18(4)(a) or (as the case may be) 19A(5)(b)(ii), and
 - (b) ends at the end of the day that falls 28 days later.
 - (1B) Where—
 - (a) a request is made under section 19(1) when a proposed local development plan is submitted to the Scottish Ministers, or

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(b) no such request is made but, within the 28 day period described in subsection (1A), the Ministers appoint a person under section 19(3), the proposed local development plan may not be adopted until the planning authority have received a report in relation to the plan submitted under section 19(8)(b).”.

(13) In section 20A (publication of and publicity for local development plan)—

(a) after subsection (1) insert—

“(1A) In addition to taking the steps required by subsection (1), as soon as reasonably practicable after the local development plan is constituted the planning authority must—

- (a) in the circumstances described by subsection (1B), publish in the prescribed manner a recommended-modification statement, and
- (b) in the circumstance described by subsection (1C), publish in the prescribed manner a report on modifications (but this requirement is qualified by subsection (1D)).

(1B) The circumstances referred to in subsection (1A)(a) are—

- (a) a person appointed under section 19(3) recommended a modification to a proposed version of the plan, and
- (b) the modification was not made.

(1C) The circumstance referred to in subsection (1A)(b) is that the constituted plan differs from the proposed plan published under section 18(1)(a) as a result of modifications made under section 18(3), 19(10) or 19A(5)(b)(i).

(1D) In a case where a report in relation to a proposed version of the plan has been published as required by section 19(5A)—

- (a) if no modifications were subsequently made, a report on modifications need not be published,
- (b) if modifications were subsequently made, the report on modifications need only set out those modifications.

(1E) In this section—

- (a) “recommended-modification statement” means a statement that—
 - (i) sets out the modification mentioned in subsection (1B), and
 - (ii) explains, by reference to the grounds prescribed for the purposes of section 19(10)(a)(i), why the modification was not made,
- (b) “report on modifications” means a report that sets out—
 - (i) the modifications mentioned in subsection (1C), and
 - (ii) the reasons for making them.”,

(b) in subsection (2), for “subsection (1)(b)” substitute “this section”.

(14) In section 20B (development plan schemes), after subsection (4) insert—

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“(4A) In preparing the development plan scheme the planning authority are to seek the views of, and have regard to any views expressed by the public at large as to the content of the participation statement.”.