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2013

DEVELOPMENT PLANNING

■ circular

Scottish Planning Series

PLANNING CIRCULAR 6/2013

DEVELOPMENT PLANNING

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Planning Series:

National Planning Framework (NPF) is the Scottish Government's strategy for Scotland's long term spatial development.

Scottish Planning Policy (SPP) is the statement of Scottish Government policy on nationally important land use planning matters.

Creating Places is the statement of Scottish Government policy on architecture and place.

Designing Streets is the statement of Scottish Government planning, transport and architecture policy on street design.

Circulars contain Scottish Government policy on the implementation of legislation or procedures.

Statements of Scottish Government policy in the above documents may be material considerations to be taken into account in development plans and development management decisions.

The West Edinburgh Planning Framework has the same status in decision making as the SPP and NPF.

Planning Advice Notes provide advice and information on technical planning matters.

Further information in the Scottish Government's role in the planning system is available on <http://www.scotland.gov.uk/Topics/Built-Environment/planning>

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INTRODUCTION

1. Development plans are the basis for planning decision making, as decisions are to be made in accordance with the plan unless material considerations indicate otherwise. This Circular describes the development planning system in Scotland, and explains legislative provisions in both the primary legislation and the subsequent Regulations. It replaces Circular 1/2009 and Appendix I: The Habitats Regulations, which are hereby revoked.
2. The Planning etc. (Scotland) Act 2006¹ introduced a new statutory basis for development planning in Scotland. It inserted a new Part 2 into the Town and Country Planning (Scotland) Act 1997² ("the Act") requiring the replacement of structure plans and local plans with strategic development plans (SDPs) and local development plans (LDPs). The development plan comprises a local development plan supported by supplementary guidance. In the four largest city regions, the development plan also includes a strategic development plan, which may also be supported by supplementary guidance. This Circular includes sections on SDPs, LDPs and Supplementary Guidance.
3. The Act includes detailed provisions for many of the procedures to be followed in preparing development plans. It also gives Scottish Ministers powers to prepare regulations concerning a range of detailed aspects of the development planning system, the three principal secondary statutory instruments on development planning are:
 - **The Town and Country Planning (Development Planning) (Scotland) Regulations 2008³** (These are the main development planning regulations. References to 'regulations' in this Circular are to these regulations unless otherwise stated);
 - **The Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009⁴** (These are separate from the main regulations because they were dealt with by the Scottish Parliament under affirmative procedure); and
 - **The Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order 2008⁵.**

Since 2008, a number of statutory instruments have amended the above regulations and Order, including:

- The Planning (Control of Major-Accident Hazards) (Scotland) Regulations 2009⁶; and
- The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2011⁷.

¹ <http://www.legislation.gov.uk/asp/2006/17/contents>

² <http://www.legislation.gov.uk/ukpga/1997/8/contents>

³ <http://www.legislation.gov.uk/ssi/2008/426/contents/made>

⁴ <http://www.legislation.gov.uk/ssi/2009/53/contents/made>

⁵ <http://www.legislation.gov.uk/ssi/2008/427/contents/made>

⁶ <http://www.legislation.gov.uk/ssi/2009/378/contents/made>

⁷ <http://www.legislation.gov.uk/ssi/2011/138/contents/made>

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The Conservation (Natural Habitats, &c.) Regulations 1994⁸, as amended⁹, also have significant implications for development planning.

4. This Circular explains how these various legislative requirements fit together. It is intended to provide a single, straightforward description of the legal requirements and to explain Scottish Ministers' expectations for the key parts of the process in preparing development plans and the Examination procedure where the plan will be scrutinised by an appointed person¹⁰. In this Circular, where legislative provisions apply equally to local development plans as they do to strategic development plans, they are explained more fully in the local development plan section and a cross reference provided.
5. The regulations provide a minimum set of requirements to ensure that the priorities of Scottish Ministers for the operation of the development planning system are achieved. They allow authorities to respond appropriately to the different circumstances in which plans will be prepared over time and across Scotland.

⁸ <http://www.legislation.gov.uk/uksi/1994/2716/contents/made>

⁹ <http://www.legislation.gov.uk/ssi/2004/475/contents/made>
<http://www.legislation.gov.uk/ssi/2007/80/contents/made>
<http://www.legislation.gov.uk/ssi/2007/349/contents/made>
<http://www.legislation.gov.uk/ssi/2008/17/contents/made>
<http://www.legislation.gov.uk/ssi/2008/425/contents/made>
<http://www.legislation.gov.uk/ssi/2011/155/contents/made>
<http://www.legislation.gov.uk/ssi/2012/228/contents/made>

¹⁰ Whilst the legislation uses the term 'appointed person' in this Circular the terms 'appointed person' and 'reporter' are interchangeable.

PRIORITIES FOR DEVELOPMENT PLANS

6. Development plans are spatial, land use plans which are primarily about place. They guide the future use of land in our cities, towns and rural areas, by addressing the spatial implications of economic, social and environmental change. Development plans should be a corporate document for the planning authority and its Community Planning Partners. The plan should apply the land use elements of the Community Plan and other Council and Government strategies into an overall spatial plan for the local area providing a means to join up messages about place and delivery. Development plans should set out ambitious but realistic long-term visions for their areas. They should indicate where development should happen and where it should not, providing confidence to investors and communities alike.
7. Scottish Planning Policy sets the broad principles that should underpin a planned system. Development plans should be kept up-to-date and provide a practical framework within which planning applications can be determined with a high degree of certainty and efficiency.
8. Scottish Ministers want development plans to be succinct and map based, with the emphasis on the written material explaining the spatial strategy and the policies and proposals shown on the map(s). They should be engaging documents setting out what places are like, and the specific vision for them.
9. Development plans should lead to the delivery of high quality outcomes. They should promote good placemaking with policies and proposals that help to achieve distinctive, high quality places and buildings. In this way development plans are of vital importance to the success and sustainability of our cities, towns and rural communities.
10. Whilst the primary responsibility for operating the development planning system lies with local, national park and strategic development planning authorities, all interests should be engaged as early and as fully as possible. Key agencies are under a specific duty to co-operate in the preparation of development plans, (see paragraphs 151-155). Greater integration between land use planning and community planning is crucial and development plans should reflect close working with Community Planning Partnerships¹¹, to deliver the shared vision and desired outcomes for the area. Landowners, developers, investors, communities and interest groups should also engage with the development plan, and provide full information to support their interests at an early stage. The provision of clear and detailed information will support the preparation of the plan through to Examination.

¹¹ <http://www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP>

GENERAL DUTIES

11. There are a number of general duties set out in legislation with which planning authorities must comply when preparing development plans, these include:

Sustainable Development & Climate Change

12. Section 3E of the Act requires planning authorities to carry out their development planning functions with the objective of contributing to sustainable development. In doing so they must have regard to any guidance Scottish Ministers issue for this purpose. This guidance is included within Scottish Planning Policy.
13. Section 44 of the Climate Change (Scotland) Act 2009¹² sets out that public bodies (which includes planning authorities) must, in exercising their functions, act in the way best calculated to contribute to the delivery of the climate change targets set out in that Act. They must also operate in the way best calculated to help deliver any Programme for adaptation to climate change laid before the Scottish Parliament and in a way that they consider is most sustainable.
14. Section 72 of the Climate Change (Scotland) Act 2009 introduced section 3F into the Town and Country Planning (Scotland) Act 1997. Section 3F requires LDPs to include policies requiring all developments in the plan area to be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use. This is calculated on the basis of the approved design and plans for the specific development, through the installation and operation of low and zero-carbon generating technologies.

Equalities

15. The Act requires Scottish Ministers and planning authorities to perform their functions in a manner which encourages equal opportunities. In addition, the Equality Act 2010 introduced the public sector equality duty (often referred to as 'the general duty') requiring Scottish public authorities to have 'due regard' to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. Regulations¹³ place specific duties on Scottish public authorities to enable the better performance of the public sector equality duty. These include a duty to assess¹⁴ and review the impact of policies and a duty to publish in a manner that is accessible.

¹² <http://www.legislation.gov.uk/asp/2009/12/contents>

¹³ The Equality Act 2010 (Specific Duties)(Scotland) Regulations 2012
<http://www.legislation.gov.uk/ssi/2012/162/contents/made>

¹⁴ The Scottish Government has introduced an evidence facility which may assist on demographic and other data. Information and guidance to consider when gathering and using equality evidence can be found at <http://www.scotland.gov.uk/Topics/People/Equality/Equalities> .

TIMING AND DEVELOPMENT PLAN SCHEMES

16. Section 20B of the Act requires each planning authority and strategic development planning authority to prepare a **Development Plan Scheme** (DPS) at least annually. The scheme is to set out the authority's programme for preparing and reviewing their SDP or LDP(s), and what is likely to be involved at each stage.
17. Strategic development planning authorities (SDPAs) are required by section 4(1) of the Act to prepare and review strategic development plans (SDPs), and submit these to Scottish Ministers within four years of the approval of the existing plan (section 10(8)).
18. Section 16 of the Act requires planning authorities to prepare one or more local development plans (LDPs) for their area. Regardless of how many LDPs cover a local authority area, all must be replaced at least every five years. In SDP areas, section 16(6) requires the planning authority in preparing a LDP to ensure that the plan prepared is consistent with the SDP. To ensure SDP strategies are implemented quickly, Scottish Ministers expect LDPs to be adopted within two years of the approval of the SDP. To enable this there may be a degree of twin-tracking of the SDP and LDP preparation. LDP Main Issues Reports (MIR) (see paragraph 65) may be published on the basis of a proposed SDP.
19. The timeous preparation of development plans requires rigorous and carefully planned project management, not least because of the diverse range of issues and interests involved. Planning authorities should use appropriate project management techniques to avoid slippage and ensure the plan is produced on track. The key tasks and milestones should be identified and progress towards them monitored and acted on as necessary. Tasks need to be sequenced around a critical path to prepare the plan in the shortest possible time. Risks to the timetable, such as elections and holiday periods, should be identified and actions taken to reduce the level of risk where necessary.
20. Ministers expect planning authorities to move swiftly from the Main Issues Report stage through to Proposed Plan and Examination. Indicative timings for various stages in the process are provided in Figures 1 and 2. Regulation 24 requires Development Plan Schemes to contain a timetable, specifying the months the authority proposes to publish its next Main Issues Report, to publish its next Proposed Plan and to submit the plan to Scottish Ministers. In setting the timetable and ensuring it can be adhered to planning authorities should consider a range of issues. These will include their own planning and administrative resources as well as the capacity of key agencies and other stakeholders to feed into the process at key stages. The potential need for research and appraisals to be carried out to inform the evidence base should also be factored in. Sound, well-documented evidence to inform the preparation of the plan can also be relied on by the planning authority to support its position at Examination, avoiding the need for reporters to extend the Examination timescale because of a lack of information. It is recommended that planning authorities discuss the timescale for the Examination with the

Directorate for Planning and Environmental Appeals at an early stage, to ensure the timescale set is realistic and that sufficient reporters can be allocated to deal with the Examination.

21. There should be meaningful consultation in the preparation of development plans. The DPS must include a **Participation Statement** stating when, how and with whom consultation on the plan will take place. Scottish Ministers expect Participation Statements to contain a range of innovative techniques and activities for consulting stakeholders, tailored to local circumstances and the issues being dealt with in the plan. There is no requirement to consult on the content of development plan schemes. However, it is good practice for planning authorities to discuss with key agencies how best to engage with them in preparing the plan. Scottish Ministers place importance on all those involved in or affected by development plans co-operating in the preparation process to avoid delays.
22. Authorities may usefully choose to include other information in the scheme, including the current components of the statutory development plan and their programme for preparing and adopting supplementary guidance. Where a mosaic of different plans is involved, a location map may be helpful.
23. After adopting the scheme, the Act requires the authority to publish it (including electronically), send two copies to Scottish Ministers and place copies in public libraries.
24. Planning authorities will be measured on their performance in preparing their development plans against two national headline indicators, as set out in the Planning Performance Framework:
 - The age of the strategic / local development plan(s)
 - requirement to be less than five years old.
 - Whether the programme to replace the plan, as set out in the DPS, is on track
 - planning authorities are expected to move quickly from the MIR through to the Proposed Plan and towards submission to Scottish Ministers and adoption.
25. Scottish Ministers have a power under the Act (section 16(7)) to direct a planning authority to prepare and submit a report as to why it has failed to replace its LDP within five years.

STRATEGIC DEVELOPMENT PLANS

26. In the four largest city region areas, the development plan includes a strategic development plan. These are to address land use issues which cross local authority boundaries or involve strategic infrastructure. The SDPA Designation Orders of 2008 established SDPAs in the Aberdeen, Dundee, Edinburgh and Glasgow city regions. These Orders designate groups of planning authorities to work together to jointly prepare a Strategic Development Plan for the SDP area. Circular 1/2013: Strategic Development Plan Areas¹⁵ shows Scottish Ministers' determination of the boundaries of the four Strategic Development Plan (SDP) areas.
27. Circular 2/2008 Statutory Guidance on Strategic Development Planning Authorities¹⁶ provides guidance on the governance arrangements for SDPs.
28. The normal process for preparing SDPs is set out in Figure 1 alongside the environmental assessment process and indicative timings.

Monitoring and the Evidence Base

29. An early task of the SDPA will be to monitor:
 - changes in the principal physical, economic, social and environmental characteristics of the SDP area; and
 - the impact of the policies and proposals of the existing plan(s).
30. As a product of this exercise, section 4(10) of the Act requires SDPAs to publish a **Monitoring Statement**. The SDPA are to publish the Monitoring Statement, including electronically, alongside the publication of any Main Issues Report. The guidance on monitoring and evidence given at paragraphs 59-64 below applies equally to SDPs.
31. SDPs require both a Strategic Environmental Assessment (SEA)¹⁷ and a Habitats Regulations Appraisal (HRA).

¹⁵ <http://www.scotland.gov.uk/Publications/2013/03/3286>

¹⁶ <http://www.scotland.gov.uk/Publications/2008/04/22133359/0>

¹⁷ As required by The [Environmental Assessment \(Scotland\) Act 2005](#)

Plan Preparation

32. SDPs should be properly integrated with other statutory plans and strategies affecting the development and use of land. In preparing a SDP or Main Issues Report, section 8(1) of the Act requires the SDPA to take into account the National Planning Framework. Regulation 3 (as amended) also requires it to have regard to:

- the resources available for carrying out the policies and proposals in the plan;
- any approved or proposed SDP for a neighbouring SDP area;
- any adopted national marine plan or regional marine plan relating to areas adjoining the plan area
- any regional transport strategy, approved flood risk management plan, finalised local flood risk management plan, river basin management plan or local housing strategy relating to the area;
- the national waste management plan; and
- issues arising out of the European directive on the control of major accident hazards involving dangerous substances.

In addition, section 14 of the National Parks (Scotland) Act 2000, requires local authorities to have regard to the National Park Plan, in exercising functions so far as affecting a National Park.

Main Issues Report

33. With a view to facilitating and informing their work in preparing a SDP, section 9 of the Act first requires the SDPA to compile a **Main Issues Report (MIR)**. This must set out the authority's general proposals for development in the area and in particular proposals as to where development should and should not occur. The report must be sufficiently clear and precise to enable people to understand what is proposed and to make meaningful comments. The report must also contain one or more reasonable alternative sets of proposals. Finally, it must draw attention to the ways in which the favoured and alternative proposals differ from the spatial strategy of the existing approved SDP (if any). The discussion of MIRs and engagement at paragraphs 65-72 below also applies generally to SDP preparation.

34. SDPs should be fully co-ordinated with other important strategies from the earliest stage, with key infrastructure providers signed up to the delivery of the emerging proposals. Therefore, in preparing the Main Issues Report (i.e. before its publication), section 9(4) of the Act and regulation 4 require SDPAs to consult with and have regard to the views of:

- the key agencies (listed in paragraph 152 below);
- neighbouring planning authorities; and
- Scottish Ministers.

Engagement

35. Regulation 5 applies the following minimum publication requirements to the Main Issues Report, Proposed Plan and modified plan stages:
- Publication of a notice in one or more local newspapers circulating in the SDP area and on the internet, setting out:
 - that the document has been prepared, and where and when it may be viewed;
 - a brief description of the content and purpose of the document;
 - details of how further information may be obtained; and
 - a statement that representations may be made, and how, to whom and by when they should be made;
 - Sending this information to:
 - the key agencies;
 - adjoining planning authorities and SDPAs; and
 - community councils within the SDP area;
 - Making a copy of the document available to inspect at an office of each of the constituent planning authorities and in all public libraries in the plan area; and
 - Publication on the internet.
36. The Act also requires authorities to secure that people who may be expected to want to comment on the Main Issues Report are made aware that they can do so, and are given such an opportunity.
37. In publishing the Main Issues Report, the SDPA are to send a copy of the report and the Monitoring Statement to Scottish Ministers.
38. Engagement and publicity in the course of plan preparation is discussed more fully at paragraphs 70-76 below, which also generally applies to SDPs.

Proposed Plan

39. Section 10 of the Act and Regulations 5 and 6 deal with the proposed SDP. The SDPA are to have regard to the representations submitted on the Main Issues Report, and are then to prepare and publish a **proposed SDP**. The Proposed Action Programme should also be published alongside the Proposed Plan (further details on Action Programmes are set out in paragraphs 130-134).
40. Section 7(1) of the Act requires SDPs to contain:
- (1) A **vision statement**. This is a broad statement of how the development of the area could and should occur and the matters that might be expected to affect that development, including:
- the principal physical, economic, social and environmental characteristics of the area;

- the principal land uses in the area;
 - the size, composition and distribution of population in the area;
 - the infrastructure of the area (including communications, transport and drainage systems and systems for the supply of water and energy);
 - how that infrastructure is used; and
 - any anticipated change in these matters.
- (2) A **spatial strategy**. This is a broadly based statement of proposals as to the development and use of land in the area.
- (3) An analysis of the relationship with development and land use proposals in **neighbouring areas** that are likely to affect the SDP area.
- (4) Any other matter the SDPA consider appropriate.
41. Scottish Ministers expect SDPs to be concise visionary documents that set clear parameters for subsequent LDPs and inform decisions about strategic infrastructure investment. While the MIR discusses a range of alternatives, the Proposed Plan sets out the authority's settled view and will therefore be considerably shorter in length than the MIR. Vision statements should provide a realistic expression of what the plan area could be like in 20 years' time and a useful springboard for the spatial strategy of the plan. The spatial strategy should encapsulate the headline changes that the plan seeks to achieve, and provide a locational strategy for new development up to year 12 from plan approval and a broad indication of the scale and direction of growth up to year 20. The spatial strategy should be specific enough to limit the options available for subsequent LDPs to those that would have a broadly similar impact on: (a) other planning authorities in the SDPA; and (b) strategic infrastructure and greenspace networks. The principal topics for SDPs are expected to be land for housing, business, shopping and waste management development, strategic infrastructure (including transport, water supply and waste water) and strategic greenspace networks (including green belts). SDPs may be site specific, especially where there are no realistic alternative sites.
42. Section 7(2) and Regulation 2 require that the SDP contains a **map** or **diagram** describing the spatial strategy. Scottish Ministers also expect SDPs to contain, or be accompanied by, any maps, diagrams, illustrations, aerial photographs or other graphics and descriptive matter the SDPA thinks appropriate.
43. The Proposed Plan is to be published in the same way as the Main Issues Report (see paragraph 35 above), with at least six weeks being given for representations to be made. Copies of the plan are to be sent to the key agencies and neighbouring planning authorities, and people who commented on the Main Issues Report are to be notified of where and when they can inspect the Proposed Plan. The SDPA are also to consult the key agencies and Scottish Ministers. The discussion of Proposed Plans at paragraphs 77-81 below also applies generally to SDPs. This is the formal opportunity for people to make representations to the SDPA. There is no provision for those who have made representations to submit further material to the Examination beyond this, unless invited to do so by the reporter. Therefore people making

representations to the Proposed Plan should be invited to explain precisely what changes should be made to the plan, and to set out clearly their justification for such changes.

Modifications

44. Section 10(3)–(6) of the Act and Regulations 5 and 6 apply to pre-Examination modifications of Strategic Development Plans. Following the close of the period for representations on the Proposed Plan, section 10(3) of the Act allows the SDPA to modify it to take account of representations, matters arising out of consultations or representations, or any minor drafting or technical matters. When modifying, there are two possibilities:
- (1) the SDPA publish the modified plan in the same way as for the Main Issues Report under Regulation 5, and thus offer a further adequate opportunity for representations to be made before the plan is submitted to Ministers (section 10(6) of the Act); or
 - (2) where the modifications are so significant as to change the underlying aims or strategy of the plan, the SDPA must prepare and publish a new Proposed Plan (section 10(4) of the Act).
45. The discussion of modifications at paragraph 87 within the LDP section below also applies generally to SDPs.

Submission to Scottish Ministers

46. Section 10(3) of the Act then requires the SDPA to submit the plan to Scottish Ministers along with:
- a note of the representations made and of whether and how those representations were taken account of in the modified plan. (Note that it would be sensible for the SDPA to prepare this in the same form as the Summary of Unresolved Issues that will be considered at the Examination – see paragraphs 106-107 below);
 - a report as to how far the SDPA, in preparing the plan, has conformed with the commitments made regarding consultation and public involvement in their current Participation Statement; and
 - a copy of their proposed Action Programme.

It would also be sensible for the SDPA to submit the material required under regulation 20 (and set out in paragraph 109 below) at this time.

47. Regulation 7 sets out the following requirements for publicity around the submission of the plan to Ministers:
- publication of a notice in at least one local newspaper and on the internet, stating:
 - that the Proposed Plan has been submitted to Scottish Ministers;
 - the date of the submission; and

- details of when and where the plan may be inspected (including on the internet);
 - sending the notice to the key agencies and people who submitted representations on the plan; and
 - making a copy of the submitted plan available for inspection in planning offices and public libraries and on the internet.
48. In the event that the planning authorities that constitute the SDPA cannot agree on the plan's content, section 11 of the Act allows the submitted plan to contain alternative proposals, together with the reasoning behind them.

Examination

49. On receiving the proposed SDP, section 12(1) of the Act requires the Scottish Ministers to appoint a person to examine the plan where:
- (a) there are unresolved representations;
 - (b) the Proposed Plan contains alternative proposals; or
 - (c) they otherwise consider an Examination to be appropriate.

The Examination process is discussed further from paragraph 105 below.

Approval or Rejection

50. The person(s) appointed to carry out the Examination will prepare a report with recommendations to Scottish Ministers. In practice, Ministers expect to take on board the reporter's recommendations, unless there is a strong justification to depart from them. Given that the Examination process exists to consider the merits of the points included in unresolved representations, there is no further formal opportunity for parties to submit further representations to Scottish Ministers. Ministers do not normally expect to enter into further detailed consideration of the issues considered at the Examination.
51. Once Scottish Ministers have received the Examination Report from the reporter, section 13 of the Act allows them to approve the SDPA in whole or in part (with or without modification), or reject the plan.
52. The procedure for making modifications will vary depending on whether an Examination has been held:
- Where there has been an Examination, Ministers may make modifications in approving the plan, and will set out reasons for these.
 - Where there has not been an Examination, Ministers will publish any modifications, along with their reasons for making them, and consult as they consider appropriate, but including with the key agencies and the SDPA. In these circumstances, there will be an opportunity to make representations on the modifications prior to Ministers approving the plan. Scottish Ministers will notify the SDPA of any such representations, and may make further modifications in the light of these representations.

Where Scottish Ministers propose to modify a SDP, Ministers shall undertake any necessary assessment of the plan as if it were modified, for example in accordance with Part IVA of the Habitats Regulations.

53. In exceptional circumstances, where the reporter has identified a serious deficiency in the plan (see paragraph 122), and has made recommendations as to possible ways to address the deficiency (see paragraph 123), Ministers will carefully consider these recommendations and take appropriate action.

Approved Plan – publication and publicity

54. Section 14 of the Act requires that, as soon as possible after approval, the SDPA are to publish the plan (including electronically) and send two copies to Scottish Ministers. They are also to place copies of the approved plan in local libraries, advertise in a local newspaper and notify people who made representations on the plan that the SDP has been published and where it is available for inspection.

LOCAL DEVELOPMENT PLANS

Preparation

55. LDPs must cover the whole of the authority's area, although one location may be covered by more than one LDP if prepared for different purposes (e.g. minerals), and LDPs may extend across the areas of more than one planning authority.
56. LDPs should be properly integrated with other statutory plans and strategies affecting the development and use of land. In preparing the LDP, section 16 of the Act requires authorities to take into account the National Planning Framework. Section 16 (6) of the Act requires that, where land to which a local development plan relates is within a SDP area, the planning authority preparing the LDP are to ensure the plan prepared is consistent with the SDP.
57. Regulation 10 also requires the planning authority to have regard to a range of matters including:
- the resources available for implementing the plan;
 - any LDPs prepared for other purposes but covering the same area;
 - any neighbouring LDPs, SDPs, or local development frameworks;
 - any adopted national marine plan or regional marine plan relating to areas adjoining the plan area;
 - any regional or local transport strategy, approved flood risk management plan, finalised local flood risk management plan, river basin management plan, or local housing strategy relating to the plan area;
 - the national waste management plan; and
 - issues arising out of the European Directive on the control of major accident hazards involving dangerous substances.

In addition, section 14 of the National Parks (Scotland) Act 2000 requires local authorities to have regard to the National Park Plan in exercising functions so far as affecting a National Park.

58. The normal process for preparing LDPs is set out in Figure 2 alongside the environmental assessment process and indicative timings.

Monitoring and the Evidence Base

59. An early task of planning authorities will be to monitor:
- changes in the principal physical, economic, social and environmental characteristics of the area; and
 - the impact of the policies and proposals of the existing plan(s).
60. Evidence is required to inform plan-making, justify the plan's content, and provide a baseline for later monitoring. Information gathering and analysis should serve efficient high quality plan-making. Certain aspects of the evidence base (such as Housing Need and Demand Assessment, and transport appraisals) are likely to be essential at each plan review. Authorities

should therefore take a proportionate approach and consider what is required, and where scarce resources can best be spent, to inform the particular issues being addressed in the plan. A robust evidence base will also be critical at any subsequent development plan Examination.

61. As a product of this exercise, section 16 of the Act requires the planning authority to publish a **Monitoring Statement**. The Monitoring Statement should summarise the evidence base for the plan and may signpost to other background reports or studies. The Monitoring Statement is likely to focus on the wider impact of the plan on area and population-wide indicators and on how far the objectives and vision of the previous plan have been realised. It will be one way of identifying the issues to discuss in the Main Issues Report. The planning authority is to publish the Monitoring Statement, including electronically, alongside the publication of any Main Issues Report.
62. Evidence should be presented in a form that can be readily understood. Authorities should be conscious that the evidence base is also likely to be used at the Examination. Effective use of resources should therefore avoid having to do work later specifically for the Examination. Planning authorities should keep an audit trail on how the evidence base may have changed between the MIR and Proposed Plan stages.
63. In preparing the evidence base and Main Issues Report, authorities should think ahead to the requirements on form and content of the plan as set out in paragraphs 77-81 below.
64. Many authorities run a 'Call for Sites' prior to preparing the Main Issues Report. This is not a requirement of the legislation, but it can be a useful part of the process. This stage allows landowners and prospective developers to put forward for consideration by the planning authority the sites for which they have an aspiration for development. It is important in meeting the requirements for strategic environmental assessment that full information on sites and alternative options is submitted early and not held back until the later stages of plan preparation or even the Examination. Promoters of sites would be advised to respond positively at this point, and to provide the necessary evidence to justify their site's inclusion as a preferred option at the Main Issues Report stage. Engaging at this early stage is likely to ensure that the planning authority is able to properly assess the merits of the proposal, with it being more likely to be subject to public engagement and strategic environmental assessment at the Main Issues Report stage and to neighbour notification at the Proposed Plan stage (should the planning authority propose that the site be allocated in the plan). Even if a site is not included in the Proposed Plan, evidence of it being subject to community engagement will be useful if the issue is considered at a subsequent Examination, helping ensure that the reporter is furnished with the necessary information to reach a conclusion, and if appropriate to recommend a modification to the plan.

Main Issues Report

65. With a view to facilitating and informing their work in preparing a LDP, Section 17 of the Act requires planning authorities to first compile a **Main Issues Report**. Main Issues Reports are key documents in terms of front-loading effective engagement on the plan, and aligning development planning with Strategic Environmental Assessment (SEA). All LDPs require both a SEA and a Habitats Regulations Appraisal (HRA). The Main Issues Report should be informed by a sound evidence base (as discussed in paragraphs 59-64 above).
66. LDPs should be fully co-ordinated with other key strategies from the earliest stage, with key infrastructure providers signed up to the delivery of the emerging proposals. Therefore, in compiling the Main Issues Report (i.e. before its publication), section 17(4) of the Act and regulation 11 requires the planning authority to consult with and have regard to any views expressed by:
- the key agencies;
 - the Scottish Ministers;
 - any adjoining planning authority (including national park authorities and SDPAs); and
 - any planning authority within the same SDPA as the LDP area.
67. The Main Issues Report is not a draft version of the plan. It will concentrate attention on the key changes that have occurred since the previous plan and on the authority's big ideas for future development. However, it still needs to be site specific and should set out the authority's proposals for development, in particular where these developments should and should not occur. The MIR should identify the planning authority's preferred options but it also needs to consider reasonable alternatives, where these are available. The selection of the preferred sites should be based on a understanding of place, together with consideration of deliverability factors such as site viability and housing land effectiveness. The principles of setting out the preferred option and any reasonable alternatives also apply to policy matters, where a policy issue is a main issue. MIRs should not just ask wholly open questions about a policy area as this will give no indication as to the planning authority's likely position on a policy matter in the Proposed Plan. Instead MIRs should indicate the planning authority's preferred policy approach (without necessarily getting into the detailed wording of a proposed policy), and reasonable alternatives to this where they are thought to exist. This will allow a more informed and early debate on the realistic policy options which exist, and better environmental assessment of these.
68. The report has to draw attention to the ways in which the preferred and alternative proposals differ from the spatial strategy of the existing adopted LDP (if any). There is no legal requirement to draw such a comparison with existing local plans, but it would be good practice to do this within the first generation of Main Issues Reports. It is useful at the outset for planning authorities to think ahead to the type of document they envisage their Proposed Plan being, in terms of style, form and content, as this can help shape thinking on the aspects

to be covered in the MIR and to ensure a consistency in style between the MIR and Proposed Plan. Content that the authority proposes to retain in the Proposed Plan from the existing plan such as particular policies, or which does not have a significant environmental or other effect, should be identified in the MIR but with limited discussion.

69. The Main Issues Report is a key stage for SEA, and has to be accompanied by the Environmental Report during the consultation. The report therefore needs to contain enough detail and consider alternatives sufficiently at the strategic, policy and site-specific level to meet the statutory requirements for environmental assessment. Planning Advice Note 1/2010 provides guidance on how the SEA and development plan processes relate.

Engagement

70. As set out in paragraph 21, Ministers expect authorities to employ a range of innovative methods to meaningfully engage with their stakeholders and communities. The nature of this engagement activity is likely to shift as the plan progresses. In the early stages, the authority should concentrate on involving stakeholders in identifying and assessing issues and options. This could include the use of charettes or other visioning tools to bring interested parties together to focus on an issue or area.
71. When the authority's thinking starts to coalesce around preferred options at the time of the Main Issues Report, the approach should be more consultative: asking people to respond to proposals and potential alternatives. Main Issues Reports are the principal opportunity for consulting stakeholders on the content of the plan and involving the wider public. Consultation on the Main Issues Report should come before the planning authority has reached a firm view as to the strategy. It is important at this stage that the authority be genuinely open, and willing to consider new or different ideas, and not resolved simply to defend their preferred proposals. Main Issues Reports have to be engaging documents that encourage the public and other wider stakeholders to read and respond to them. Main Issues Reports may be viewed as progress reports issued in the course of an ongoing process of engagement that will last throughout the period of the plan's preparation.
72. Following publication of the Proposed Plan the character of engagement will change again: the authority should have now reached a settled view, and the emphasis should be on providing specific information and facilitating representations.

Publicity

73. Regulation 12 requires the following minimum publication requirements to apply at the Main Issues Report, Proposed Plan and modified plan (if any) stages:
- Publishing in a local newspaper circulating in the area and on the internet a notice setting out:
 - that the document has been produced and where and when it may be viewed;
 - a brief description of the content and purpose of the document;
 - details of how further information may be obtained; and
 - a statement that representations may be made, and how, to whom and by when they should be made;
 - Sending this information to:
 - the key agencies;
 - neighbouring planning authorities;
 - planning authorities within the same SDPA; and
 - community councils;
 - Making a copy of the document available to inspect at an office of the planning authority and in public libraries; and
 - Publication on the internet.
74. The Act requires authorities to secure that people who may be expected to want to comment on the Main Issues Report are made aware that they can do so, and are offered such an opportunity. This is the main chance for stakeholders to influence the later Proposed Plan. Therefore, those making representations to the Main Issues Report should at this point provide the authority with all evidence necessary to persuade it. In the event that the planning authority does not agree, then that material can be referred to again in representations made to the Proposed Plan, and as such would subsequently be available to a reporter examining the unresolved issues.
75. In publishing the Main Issues Report, the authority is to send a copy of it to Scottish Ministers, along with the Monitoring Statement.
76. These publication requirements are a statutory minimum. Scottish Ministers' expectation is that authorities will have already carefully considered, through their Participation Statement, the best ways of engaging stakeholders and the wider public at the various stages of plan preparation.

Proposed Plan – Form and Content

77. Having had regard to the representations received on the Main Issues Report, Section 18 of the Act requires the planning authority to prepare and publish a **Proposed Plan**.
78. The Proposed Plan should address the spatial implications of economic, social and environmental change, be clear about the scale of that anticipated change and in particular identify opportunities for development and set out the authority's policies for the development and use of land. Scottish Ministers expect the Proposed Plan to represent the planning authority's settled view as to what the final adopted content of the plan should be. The content of the Proposed Plan should be developed taking account of placemaking principles, environmental impact and deliverability. The planning authority should also at this stage think about the likely timescale and any necessary sequence of development, and any actions required to deliver the plan (see also paragraphs 130-134 on Action Programmes). Further details on the content of LDPs are in Table 1 (opposite).
79. Scottish Ministers expect LDPs to be concise, map-based documents, making use of plain language and a range of graphical techniques to convey the strategy and individual policies and proposals in an accessible way. Ministers expect Proposed Plans to be shorter than the Main Issues Report, as they do not need to set out discussion on alternatives.
80. Planning authorities should be able to demonstrate the underlying reasons for their preferred development locations and policies. This stage should not be used to 'test the water': new or controversial elements of plan content should already have been aired at the Main Issues Report stage (at least as reasonable alternatives). If a particular issue or site arises that was not consulted on in the MIR, the planning authority may need to carry out further consultation on that particular issue before publishing its Proposed Plan, if it wants to include it in the plan. Planning authorities should be prepared to justify their position at any subsequent Examination of the plan.
81. Minor proposals and detailed policies may be removed to Supplementary Guidance, especially if there is no significant change from the previous plan, and provided an appropriate context remains in the plan itself. The plan should however include all the allocated sites and committed sites. Further information on Supplementary Guidance is in paragraphs 135-150.

Table 1: Content of Local Development Plans

LDPs in SDP areas	LDPs outside SDP areas
<p>Do not need to repeat policy material contained in the SDP.</p>	<p>Section 15(2) of the Act says that outside SDP areas, LDPs must contain a vision statement, and section 15(5) sets out what should be included in the vision as described in paragraphs 40-41 above.</p> <p>Ministers expect that, outside SDP areas, LDPs should provide a broad indication of the scale and location of growth up to year 20.</p>
<p>All LDPs</p> <p>Section 15(1)(a) of the Act requires LDPs to contain a spatial strategy, this being a detailed statement of the planning authority's policies and proposals as to the development and use of land.</p> <p>Ministers expect LDPs to focus on their specific main proposals for the period up to year 10 from adoption.</p> <p>Section 15(4) of the Act allows LDPs to contain any maps, diagrams, illustrations and descriptive material the planning authority think appropriate.</p> <p>Regulation 8 requires the inclusion of a proposals map to illustrate the plan's policies and proposals spatially and allow the specific location of proposals to be accurately identified. The proposals map may constitute a number of sheets, thus allowing for the use of insets and the use of different scales for different parts of the plan area. Scottish Ministers also expect LDPs to contain a map (single map or set of maps) which show the policies which have a spatial dimension.</p> <p>Section 15(3) of the Act requires LDPs to contain a schedule of land that is owned by the planning authority (and the local authority in national parks) and affected by any of the policies, proposals or views expressed in the plan. Schedule 1 of the regulations contains a form for this purpose. Scottish Ministers intend this provision to relate to policies, proposals or views relating to specific built developments on specific sites, and not to broad policy designations.</p> <p>Section 15(1)(c) provides that a planning authority may also include any other matters in the plan that it considers appropriate.</p>	

Publication and Notification of Proposed Plan

82. Publication at the Proposed Plan stage is subject to the same minimum requirements as for the Main Issues Report as described at paragraph 73 above, but the authority must allow at least six weeks for representations to be made. The legislation additionally requires the planning authority to:
- send a copy of the Proposed Plan to each key agency;
 - consult the key agencies and Scottish Ministers;
 - notify any person who commented on the Main Issues Report;
 - notify the occupiers and neighbours of some specific proposal sites (see paragraph 83 below); and
 - on the rare occasions that a Proposed Plan is republished following changes to the underlying aims or strategy of an earlier Proposed Plan, consult people who made representations on the original plan.
83. The planning authority must notify the owners, lessees or occupiers of sites which the Proposed Plan specifically proposes to be developed and which would have a significant effect on the use and amenity of the site. It must also notify the owners, lessees or occupiers of land neighbouring (i.e. within 20 metres of) sites which the Proposed Plan specifically proposes to be developed and which would have a significant effect on the use and amenity of the neighbouring land. Notification is only required where there are premises on the site or neighbouring land. In both cases, the authority should use the form included at **Schedule 2** of the regulations, or similar, and enclose a map of the site. The notification is to be addressed to the "owner, lessee or occupier" of the premises, and not to a named individual.
84. Representations by stakeholders and the general public should be concise (Ministers expect representations to be no more than 2,000 words plus any limited supporting productions), but should fully explain the issues wished to be considered at the Examination. It is useful if promoters of alternative sites obtain and provide information on environmental impact and community opinion as part of their representation, if this does not already exist. There is no automatic opportunity for parties to expand on their representation later in the process, so it is important that they provide their full case and evidence, as this will then form part of the material available to the reporter at any subsequent Examination. Authorities may therefore wish to consider offering a longer period, of up to 12 weeks for complex plans, to give parties sufficient time to formulate their case in full.

Modifications

85. Section 18(3) to 18(9) and regulations 12 and 15 deal with pre-Examination modifications. Following the close of the period for representations on the Proposed Plan, planning authorities may make modifications, but only so as to take account of representations, consultation responses or minor drafting and technical matters.
86. There are four possible ways forward:
- (1) Where **no representations** have been received, **or all representations have been withdrawn or fully taken account of by 'non-notifiable modifications'** (i.e. only minor modifications such as minor wording or typographical changes):
- the authority are to publish the plan, submit it to Scottish Ministers and advertise their intention to adopt it.

Where there are **unresolved representations and the authority:**

- (2) **decides not to make 'notifiable modifications'** (i.e. makes no significant modifications):
- they are to publish the plan (they may make non-notifiable modifications such as minor wording or typographical changes), and submit it to Scottish Ministers;
- (3) **decides to make 'notifiable modifications'** (defined in Regulation 15 as those that add, remove or significantly alter any policy or proposal in the plan):
- section 18(5) of the Act sets out that the planning authority are to publish the proposed local development plan as modified – i.e. not just a list of the modifications.
 - The minimum publication requirements are the same as at the Main Issues Report stage, as set out at paragraph 73 above.
 - The making of 'notifiable modifications' brings with it a further opportunity to make representations. The modified version of the whole of the Proposed Plan will be subject to consultation, although the authority may wish to separately highlight the modifications.
 - Where the planning authority proposes notifiable modifications, they are required (under Regulation 15(2)) to give notice to the owner, lessee or occupier of any premises situated on a 'relevant site' or on neighbouring land. Relevant site means land in respect of which a modification removes, alters or introduces a specific proposal for the development of that land which if implemented would be likely to have a significant effect on the use or amenity of that land or neighbouring land (Regulation 15(4)).
 - A form is provided in Schedule 3 to the Regulations for the planning authority to use to as the form of notice for 'Notification of modifications made to the proposed local development plan' when notifying the owner, lessee or occupier of any premises situated on a 'relevant site' or on neighbouring land. It should also be accompanied by a map showing the location of the relevant site in question (Regulation 15(3)).

The authority must specify a date (at least 6 weeks ahead) by which further representations may be made.

- The authority would also have to update the Environmental Report, considering the potential environmental impacts of the modifications.
- Following receipt of any representations on the modified plan, the authority may then further modify the plan or submit it to Ministers.

(4) intends to make modifications that change the underlying aims or strategy of the Proposed Plan:

- they are required to prepare and publish a new proposed LDP.

Following the preparation of a new Proposed Plan, there would be publication and notification requirements, including notifying the owners, lessees and occupiers of all sites specifically proposed in the plan to be developed, and the neighbour notification of the owners, lessees and occupiers of the neighbouring land as set out in paragraphs 82–83 above.

87. From the Proposed Plan stage, Scottish Ministers expect an authority's priority to be to progress to adoption as quickly as possible. Pre-Examination negotiations and notifiable modifications can cause significant delay and so should not be undertaken as a matter of course, but only where the authority is minded to make significant changes to the plan. However, if authorities do wish to support a significant change to the plan, this should be done by pre-Examination modification, as set out in paragraph 86 (3) above. The Examination also provides an opportunity to change the plan, so if authorities see merit in a representation they may say so in their response to the reporter, and leave them to make appropriate recommendations.

Submission to Scottish Ministers

88. On submitting the plan to Scottish Ministers, sections 18(4) and 19(1) of the Act also require authorities to submit:

- their proposed Action Programme;
- a report of conformity with their current Participation Statement; and
- (if there are unresolved representations) a request that Scottish Ministers appoint a person to examine the Proposed Plan.

If possible, it would also be good practice to submit the material required under regulation 20 (and set out in paragraph 109 below) at this time.

89. The planning authority should include a Habitats Regulations Appraisal Record with the submission of their proposed LDP to Scottish Ministers. The HRA record should be a short document setting out in succinct terms:

- how the authority has determined that there is not likely to be a significant effect on a European site (if that is the case); and
- where a likely significant effect has been determined and an Appropriate Assessment has been undertaken, the conclusions reached and what action is proposed or has been taken to comply with the Habitats Regulations;
- a copy of any relevant correspondence from SNH.

Regulation 85B(5) of the Habitat Regulations¹⁸ refers. Failure to provide such information could result in delays to the processing of the plan.

90. The submitted plan must also be publicised (regulation 16) by:
- placing a notice in one or more local newspapers stating that the LDP has been submitted, when this happened, and where and when the plan may be viewed;
 - making copies available in an office of the planning authority and public libraries; and
 - publishing on the internet.

Examination

91. On receiving the proposed LDP, Scottish Ministers will, if there are unresolved representations, appoint a person(s) to examine the plan. The Examination process is discussed further from paragraph 105 below.

Adoption

92. The recommendations contained in Examination Reports are largely binding on planning authorities. Planning authorities may depart from the recommendations only in specific defined circumstances. These are set out in Regulation 2 of the **Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009** and Section 19(11) of the Act. The circumstances where authorities may depart from recommendations are where the recommendation(s):
- (a) would have the effect of making the LDP inconsistent with the National Planning Framework, or with any SDP or national park plan for the same area;
 - (b) is incompatible with Part IVA of the Conservation (Natural Habitats etc) Regulations 1994;
 - (c) would not be acceptable having regard to an environmental assessment carried out by the planning authority on the plan following modification in response to recommendations;
 - (d) are based on conclusions that could not reasonably have been reached based on the evidence considered at the Examination.
93. Where, having considered a proposed recommendation, the authority considers it likely to have a significant effect on a European Site, that authority must undertake an Appropriate Assessment of the plan as if modified by the recommendation. Where that assessment cannot conclude that the plan, were it modified by the recommendation, would not adversely affect the integrity of the site, the recommendation should not usually be adopted – for exceptions see paragraph 104.
94. Criterion (d) above addresses the possibility of clear errors (including factual errors) having been made by the reporter. It does not relate to circumstances

¹⁸ The Conservation (Natural Habitats, &c) Regulations 1994, amended, SI 1994/2716
<http://www.legislation.gov.uk/ukSI/1994/2716/contents/made>

where the planning authority disagrees with the planning judgement reached by the reporter.

95. Subject to these exceptions, section 19(10) of the Act requires authorities to make the modifications recommended in the Examination Report, and any other requisite modifications. The intention is that these other, requisite modifications should be wholly consequent on the reporter's recommendations (e.g. to rectify any factual or terminological inconsistencies created by the reporter's recommended modifications, or any necessary adjustments to tables, maps, schedules and text which are solely required to ensure that the whole of the plan properly reflects the terms of the modification which has been recommended). The planning authority should not make any unconnected modifications.
96. The planning authority are now to publish the modifications (if any) and the plan as they propose to adopt it by (section 19(10) of the Act and regulation 17):
- Publishing a notice in one or more local newspapers stating:
 - that the authority propose to adopt the Proposed Plan;
 - whether the plan has been modified following the Examination; and
 - where and when the plan (as modified if appropriate) and the modifications (if any) may be inspected;
 - Making copies of the Proposed Plan (as modified if appropriate) and the modifications (if any) available to inspect at the planning office and in all public libraries and on the internet; and
 - Notifying people who made representations on the proposed or modified plan prior to the Examination that the Proposed Plan has been published in the form in which the authority propose to adopt it, and where and when it can be viewed.
97. Within three months of receiving the Examination Report, section 19(12) of the Act requires authorities to send to the Scottish Ministers:
- the modifications made following receipt of the Examination Report;
 - a statement setting out any recommended modifications that the authority has not made and the explanation for this (by reference to the grounds listed above);
 - the Proposed Plan they wish to adopt;
 - the Report of the Examination;
 - the advertisement of their intention to adopt the plan; and
 - any environmental assessment carried out into the Proposed Plan as modified.
98. 28 days after this, the authority may adopt the plan unless directed not to by the Scottish Ministers. Scottish Ministers have a default power under the Act (section 20) to direct the planning authority to consider modifying a LDP, or for Scottish Ministers to approve the plan themselves. Ministers expect they will rarely use this power.

99. After the adoption of the plan, section 20A of the Act requires the planning authority to:
- send two copies to Scottish Ministers;
 - publish it, including electronically;
 - place copies in public libraries;
 - notify people who made representations on the proposed or modified plan of its publication and its availability in public libraries; and
 - advertise its publication and availability in a local newspaper.

HABITATS REGULATIONS APPRAISAL

100. All Scottish development plans require a 'Habitats Regulations Appraisal' (HRA) in accordance with Part IVA (regulations 85A - E) of The Conservation (Natural Habitats, &c.) Regulations 1994, as amended¹⁹. Part IVA of those regulations requires that, where a land use plan is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and is not directly connected with, or necessary to the management of, that site, the planning authority or SDPA as the case may be should make an 'Appropriate Assessment' of the implications for the site in view of that site's conservation objectives, before the plan is adopted or submitted to Ministers. The term 'Habitats Regulations Appraisal' is used here to encompass both the 'screening' process for determining whether an 'Appropriate Assessment' is required, as well as any 'Appropriate Assessment' under regulation 85B(1).

Definition of 'Land use Plan' (Regulation 85A)

101. For the purposes of regulation 85A of Part IVA, "land use plan" means:

- Strategic Development Plans, or
- Local Development Plans, or
- Supplementary Guidance as provided for in Part 2 of the 1997 Act. (Paragraphs 135-150 give further information on Supplementary Guidance.)

Undertaking a Habitats Regulations Appraisal

102. Although not expressly required by the regulations, authorities undertaking a Habitats Regulations Appraisal should consult Scottish Natural Heritage (SNH) when determining likely significant effect and before concluding that an Appropriate Assessment is not required. Where an Appropriate Assessment is required, the authority **must** consult SNH and should have regard to any representations they may make. Where, following that assessment, the authority cannot conclude that the plan would not adversely affect the integrity of any European site(s), the plan may not usually be adopted.

103. Further advice on the methodology of carrying out Habitats Regulations Appraisal can be obtained from SNH²⁰.

Considerations of Overriding Public Interest

104. Where it cannot be concluded that a plan will not adversely affect the integrity of a European Site, the Habitats Regulations provide that it may only be adopted or approved where there are no alternative solutions and for imperative reasons of overriding public interest. Regulations 49 and 85C refer. In practice Scottish Ministers consider it unlikely that such circumstances would arise.

¹⁹ SI 1994/2716 <http://www.legislation.gov.uk/uksi/1994/2716/contents/made>

²⁰ Habitats Regulations Appraisal of Plans: Guidance for Plan-Making Bodies in Scotland (First published August 2010); Available on SNH's website at <http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/international-designations/natura-sites/habitats-regulations-appraisal/>

DEVELOPMENT PLAN EXAMINATIONS

105. Sections 12, 12A, 19 and 19A of the Act, and regulations 18 to 23, deal with Examinations. Examinations are intended as the principal means of independently examining any unresolved issues arising from representations on proposed strategic development plans and local development plans. They should:
- ensure the process is understandable and transparent to the public;
 - examine any unresolved issues raised in representations rather than responding to each individual representation;
 - be succinct and proportionate. Scottish Ministers expect the process from appointment to reporting normally to take around 6 months, and rarely to exceed 9 months;
 - be focussed on the reporter seeking out the information they feel they need to reach conclusions on the matters at hand. As the onus is on the planning authority and interested parties providing information in advance, further procedure will rarely be required and will be at the discretion of the reporter; and
 - identify any deficiencies in the plan, arising from the Examination of the unresolved issues, and recommend modifications to rectify these or, where this is not possible within the constraints of the Examination, identify post-adoption actions to rectify the deficiency.

Summary of Unresolved Issues – Schedule 4s

106. The planning authority must prepare a summary of unresolved issues. This summary is to group the representations into a smaller number of issues. It is to:
- number and list all the unresolved representations and name the people making the representations;
 - include a summary* of the issues raised in the representations;
 - include the authority's reasons (generally expressed in less than 800 words per issue) for not modifying the plan in regard to each issue; and
 - be arranged, so far as practicable, so that the issues appear in the same order as they are set out in the plan.

* A form for the summary is included as **Schedule 4** to the regulations. A separate Schedule 4 form should be used for each group of unresolved issues identified by the authority from the representations submitted.

107. The intention of Scottish Ministers is that if any individual policy or proposal in the plan is subject to representations, then this will generally be dealt with as a separate issue. But if multiple representations are made on one policy or proposal, these may be grouped into a single issue. Representations relating to a number of closely related sites, for instance around a particular town, may also be grouped into a single issue, particularly where infrastructure and other matters would clearly benefit from being considered in the round. It would be

wise for the planning authority to engage with the Directorate for Planning and Environmental Appeals before formal submission of the summary of unresolved issues (e.g. by sending draft committee reports), to ensure that it is fit for purpose.

Appointment of a Person to Examine the Plan

108. Scottish Ministers must serve notice of the appointment of the person to examine a SDP or LDP to the SDPA or planning authority respectively. For certain plans, more than one person might be appointed and small teams of reporters will examine the plan. The appointment of the person to examine the plan is to be advertised in a local newspaper, and those who made unresolved representations (i.e. those representations that have not been withdrawn) are to be notified of the appointment, by Scottish Ministers in the case of SDPs, and by the planning authority in the case of LDPs. The SDPA or planning authority are also to advertise the appointment in local libraries. This advert and notice should also include information on where documentation connected to the Examination, including the summary of unresolved issues, can be viewed.
109. A key principle of the Examination procedure is that, as far as possible, the reporter should at the outset be furnished with all the information required to reach conclusions and recommendations. If they have not already done so, regulation 20 therefore requires the planning authority/SDPA to supply the following material to the appointed person within 14 days of being notified of their appointment:
- a summary of unresolved issues;
 - copies of the unresolved representations;
 - the Environmental Report;
 - the proposed Action Programme;
 - the Monitoring Statement; and
 - the Participation Statement current when the Proposed Plan was published.

Any supporting productions should also be submitted at this stage, but these should be concise, proportionate and limited in number.

Examination of Conformity with Participation Statement

110. Before considering the general issues raised in representations on the plan, the reporter is firstly to consider the authority's conformity with the Participation Statement. Sections 12(2) and 19(4) of the Act require examination of whether the authority has consulted on the Proposed Plan and involved the public in the way they said they would in their current Participation Statement. The Act restricts the Examination to the actions of the authority concerning consultation and public engagement in respect of the Proposed Plan, rather than the extended plan preparation process. In carrying out this assessment, Scottish Ministers envisage that the reporter will only refer to existing published documents such as the Participation Statement itself, the authority's statement of conformity with this, and any representations relating to the authority's consultation and public involvement activities. Ministers do not expect any

additional evidence to be routinely invited on these matters, given the potential delay that could ensue.

111. The procedure for when the reporter finds that an authority has not acted in conformity with their Participation Statement is set out at paragraphs 126-129 below.

Examination Procedure and Further Representations

112. Ministers do not want to see lengthy Examinations: their priority is to ensure development plans are up-to-date, deliverable and support place making. In a limited number of cases, the reporter may feel that they do not have all the information they need to make a proper assessment of an issue. Regulation 22 therefore allows them, at any stage, to request further representations or information from any person. Such requests are not therefore limited to the authority and people who made representations, but could be extended e.g. to key agencies.
113. There is no provision, for either those who have made representations or the planning authority/SDPA, to submit any further material to the Examination unless invited and required to do so by the reporter. This reinforces the importance of front-loading the process, ensuring that the reporter, the planning authority and other interested parties have the relevant information from the start of the Examination.
114. There need be no link between the importance of an issue and whether the reporter seeks further representations on it. There may be issues of great significance where the reporter feels they have all the information they need to reach a conclusion without any further input. Conversely, they may feel unable to make a recommendation on a relatively minor issue without further information.
115. As well as determining on which aspects of which issues, and from which parties, further representations are to be received, the Act is clear that it is the appointed person who will determine the form the Examination is to take. The Examination may comprise a range of methods including written submissions, hearings and inquiry sessions. The majority of issues are expected to be dealt with without any need for further information to be submitted, but where further evidence is requested, this will normally be in written form. Where an oral session is required, this will normally follow the hearing format rather than formal inquiry sessions. Different aspects of individual issues may be dealt with using a number of formats.

Scope of Examination

116. Regulation 21 limits the scope of matters to be assessed in an Examination to issues raised in unresolved representations (i.e. where the representations have not been withdrawn). These issues will be set out in the summary of unresolved issues prepared by the local authority/SDPA, described in paragraphs 106-107 above. The reporter has the ultimate ability to add to or

redefine the issues to be assessed, but at all times these must be limited to issues raised in the original representations. As set out in paragraph 113, there is no provision for parties to widen the scope of the examination by introducing new material to the Examination.

117. Regulation 21 is also intended to prevent the scope of the Examination spreading to become a wider test of the soundness of the plan. Scottish Ministers intend the reporter within the bounds of the issues raised in representations, primarily to examine the appropriateness and sufficiency of the content of the Proposed Plan. Only if the Proposed Plan is insufficient or inappropriate should they consider other sites or approaches. They are not tasked with making the plan as good as it can be, but with modifying those parts that are clearly inappropriate or insufficient.
118. Reporters require adequate environmental information to be provided to them, together with evidence arising from public engagement, without this they will be unable to recommend modifications to the plan on particular sites.
119. Regulation 21 also allows Examinations into SDPs to assess:
 - alternative proposals submitted when the planning authorities constituting the SDPA have been unable to agree on its content; or
 - any matters highlighted by the Scottish Ministers in appointing the person to examine the plan.

Recommendations

120. Scottish Ministers expect the reporter to provide conclusions and recommendations for each of the issues identified at the start of the Examination process, but not on every individual representation. The reporter will prepare an Examination Report setting out their conclusions and recommendations and providing reasons for these. The Report will also set out the reporter's assessment of the authority's conformity with their Participation Statement. Ministers do not expect reporters, within the scope of the Examination, to have to consider making wholesale changes to the plan.
121. In cases where reporters identify deficiencies in the plan, if they have enough information to enable a suitable modification to be drafted or if the necessary information can be obtained in time for the examination to be concluded within the six month timescale expected by Ministers, they will recommend appropriate modifications to resolve the deficiency.
122. In limited, exceptional circumstances, the reporter may identify a serious policy omission or deficiency in the plan, such as inconsistency with the National Planning Framework or Scottish Planning Policy. If this deficiency is not capable of being resolved through the Examination process due to a lack of sufficient information, or if the information required could not be provided within the normal timescale for an Examination the reporter will highlight the deficiency in the Examination Report.

123. In such circumstances the reporter will provide recommendation(s) on actions that could be taken to remedy the deficiency such as recommending that an early review of the plan be carried out, or the preparation of statutory Supplementary Guidance. Ministers have powers in section 20 to prevent a plan being adopted (or in the case of an SDP to reject a plan under section 13) and in circumstances where a plan has a serious deficiency may exercise those powers. Where such a serious deficiency was identified, until such time as the deficiency had been resolved, the level of certainty normally provided by a development plan may be greatly reduced, leading to more planning applications for development contrary to the plan and, perhaps, more planning appeals.

124. On completion of the Examination Report, the reporter will then:

- submit the report to the planning authority (in the case of LDPs) or Scottish Ministers (in the case of SDPs);
- publish it (including electronically);
- notify parties who made unresolved representations that the report has been published and submitted; and
- in the case of SDPs, send a copy of the report to the SDPA.

Costs and Administration

125. Scottish Ministers are responsible for the organisation and administration of the Examination. The intention is that a party's individual costs incurred preparing and presenting evidence should be met by that party. Regulation 23 requires the general costs and overheads incurred by Scottish Ministers or the appointed person in connection with Examinations into SDPs (including the costs of the appointed person's remuneration and of the venue) to be met equally by the SDPA and Scottish Ministers, and that these costs associated with Examinations into LDPs to be met by the planning authority alone. The Directorate for Planning and Environmental Appeals will provide further information on costs and will invoice authorities directly.

NON-CONFORMITY WITH THE PARTICIPATION STATEMENT

126. It is incumbent on authorities to ensure that they fulfil the commitments they made in their Participation Statement with regard to consultation and public involvement. In examining SDPs and LDPs, sections 12(2) and 19(4) of the Act require the appointed person firstly to examine how far the authority has conformed with the current Participation Statement.
127. Scottish Ministers expect authorities to comply with the commitments they made in their Participation Statement and that the following procedures will rarely, if ever, be required to be brought into play. However, if the reporter considers there were shortcomings, they are to submit a report to Scottish Ministers setting out their reasons for this conclusion and recommending further steps for the authority to take with regard to consultation or public involvement. The reporter is also to send this report to the authority, which then has four weeks to make representations in response to it to Scottish Ministers. Scottish Ministers may then either require further steps to be taken with regard to consultation or public involvement, or direct the reporter to proceed with the main Examination.
128. After taking these additional steps, the authority may modify the plan, in which case they must also republish it. An SDP is to be republished in the same manner as for the Main Issues Report, as described in paragraph 35 above (i.e. a further opportunity for representations must be given). There is no requirement to re-consult on modifications to LDPs in these circumstances, but this would be good practice if they are notifiable. In any event, the authority are to resubmit the plan to Scottish Ministers together with:
- a note of the representations received and whether (and to what extent) these have been taken account of; and
 - a report of conformity with the further steps required by Scottish Ministers.
129. The resubmission of SDPs is to be advertised in the same manner as when a plan is first submitted to Ministers, as described in paragraph 46 above. LDPs are to be republished and advertised in the same manner as when a plan is first submitted to Ministers, as described in paragraphs 88-90 above. But if the modifications are so significant as to change the underlying aims or strategy of the plan, authorities must prepare and publish a new Proposed Plan.

ACTION PROGRAMMES

130. Section 21 of the Act and regulations 25 and 26 deal with Action Programmes. Action Programmes set out how the authority proposes to implement the plan, and SDPAs and planning authorities are required to prepare them for SDPs and LDPs. They must set out:
- a list of actions required to deliver each of the plan's policies and proposals;
 - the name of the person who is to carry out the action; and
 - the timescale for carrying out each action.
131. As such, the Regulations do not attempt to specify particular types of action that should be included, though these may be expected to include the delivery of key infrastructure and the preparation of supplementary guidance. Actions are not limited to those by the planning authority. Where appropriate similar actions may be grouped together for example where similar actions are to be carried out by the same person. While the Action Programme will reflect progress with particular development proposals Scottish Ministers expect Action Programmes to also be a key tool in instigating action and co-ordinating the activity of a range of agencies and organisations.
132. It would be good practice to consider the scope and style of the Action Programme at an early stage in plan preparation to ensure that deliverability guides the content of the plans themselves.
133. In preparing Action Programmes, authorities are to consult and consider the views of:
- the key agencies;
 - the Scottish Ministers;
 - anyone the authority proposes specifying by name in the Action Programme.
134. Proposed Action Programmes must be published and submitted to Scottish Ministers alongside proposed SDPs and LDPs. Then they are to be adopted and published within three months of the plans to which they relate being approved/adopted. Thereafter, the authority are to keep them under review and update and republish them at least every two years. Whenever an Action Programme is published, the authority are to send two copies to Scottish Ministers, place copies in local libraries and publish it electronically.

SUPPLEMENTARY GUIDANCE

Supplementary Guidance – status

135. Section 22 of the Act and Regulation 27 deal with Supplementary Guidance – often referred to as ‘statutory’ Supplementary Guidance. Scottish Ministers envisage that to allow plans themselves to focus on vision, the spatial strategy, overarching and other key policies and proposals, that much detailed material can be contained in Supplementary Guidance.
136. Supplementary Guidance can be adopted and issued by a strategic development planning authority in connection with a SDP, or by a planning authority in connection with a LDP. Any such guidance will form part of the development plan, and have that status for decision making in line with section 25 of the Planning Act.

Supplementary Guidance – suitable topics / content

137. In deciding whether a policy area or level of detail is appropriate for inclusion in Supplementary Guidance rather the SDP or LDP, planning authorities should consider whether it requires the level of scrutiny associated with the Examination.
138. Regulation 27(2) requires Supplementary Guidance to:
- cover topics specifically identified in the SDP or LDP as being topics for Supplementary Guidance; and
 - be limited to the provision of further information or detail in respect of policies or proposals set out in the SDP or LDP. There must be a sufficient ‘hook’ in the SDP or LDP policies or proposals to hang the Supplementary Guidance on, in order to give it statutory weight.
139. Suitable topics for supplementary guidance and those that should be included in the plan itself include:

Matters that should <u>not</u> be included in Supplementary Guidance, but be within the plan, include:	<u>Suitable topics</u> for Supplementary Guidance, provided there is an appropriate context in the plan, include:
<ul style="list-style-type: none"> • departures from national planning policy • development proposals of more than local impact • green belt boundaries • items for which financial or other contributions, including affordable housing, will be sought, and the circumstances (locations, types of development) where they will be sought. 	<ul style="list-style-type: none"> • detailed policies where the main principles are already established • local policy designations that do not impact on the spatial strategy of the wider plan area • development briefs and masterplans • exact levels of developer contributions or methodologies for their calculation • forestry and woodland strategies • aquaculture framework documents.

Supplementary Guidance – preparation procedures

140. Supplementary Guidance may be prepared and adopted alongside the SDP or LDP, or subsequently.
141. Authorities must publicise the Supplementary Guidance they have drafted, make people who may wish to comment aware of the guidance and give them an opportunity to comment (Section 22(3)-(4)), setting a date before which representations may be made. The authority must then consider any timeous representations made to it on the proposed Supplementary Guidance (Section 22(5)). The content of Supplementary Guidance does not need to be scrutinised at Examination given that the principle of the policy or proposal will already have been scrutinised and subsequently included in the SDP or LDP - the Supplementary Guidance will be limited to providing further detail on that.
142. Section 22 requires the authority to send Scottish Ministers a copy of the guidance they wish to adopt. At that time authorities must also send Ministers a Statement setting out the publicity measures they have undertaken, the comments they received, and an explanation of how these comments were taken into account (Regulation 27(1)).
143. Given that the principle of the policy or proposal will already have been established (see paragraph 141), scrutiny by Scottish Ministers at the pre-adoption stage is likely to focus more on ensuring that the principles of good public involvement and a proper connection with the SDP or LDP have been achieved consistently, rather than on detailed policy content. However, Ministers will not wish to allow supplementary guidance to be adopted which they consider to be significantly contrary to Scottish Planning Policy.
144. After 28 days have elapsed, the authority may adopt the Supplementary Guidance unless Scottish Ministers have directed otherwise (Section 22(6)-(8)).
145. Supplementary Guidance adopted in connection with a plan falls when that plan is replaced. But if it remains up-to-date, authorities may readopt it in connection with the replacement plan after consultation, provided a proper connection with the new plan remains.

Non-Statutory Planning Guidance

146. Authorities may also issue non-statutory planning guidance without going through the procedures for Supplementary Guidance. Scottish Ministers do not expect authorities to promote all of their current non-statutory planning guidance to become Supplementary Guidance - much of this can continue to provide useful interim or long-term guidance.
147. Non-statutory planning guidance may be used to provide detail on a range of subject areas (excluding those set out in the table above which should be included in the plan itself). One of the benefits of non-statutory guidance is that it can be updated quickly as required. It can also be prepared where an issue arises during the lifecycle of the plan, and there is therefore not the appropriate hook in the plan to allow the supporting guidance to form statutory

Supplementary Guidance. It could be used in this way to address various issues, for example in relation to an emerging technology which the authority wants to provide some planning guidance on, or in relation to a windfall site for which the Council wish to provide a design framework or masterplan.

148. This non-statutory guidance should not be termed Supplementary Guidance and will not form part of the development plan. However, the Council's adoption of it will give it a degree of authorisation and it may be a material consideration in decision making.

Environmental Assessment of Supplementary Guidance

149. Supplementary Guidance is subject to SEA, and HRA consideration. Planning authorities should be aware that non-statutory planning guidance, is not a "land use plan" under Part IVA of the Habitats Regulations²¹, but they should have regard to the generality of provisions under regulations 47 and 48 of those Regulations. In determining whether a plan falls within regulation 48, and therefore whether it should be subject to Habitats Regulations Appraisal, authorities will wish to have regard to European Commission guidance on 'Managing Natura 2000 Sites; The Provisions of Article 6 of the 'Habitats' Directive 91/43/EEC'²². Sections 4.3 - 4.3.2 refer. In particular, the guidance notes that:
- "...the Directive does not circumscribe the scope of either 'plan' or 'project' by reference to particular categories of either. Instead, the key limiting factor is whether or not they are likely to have a significant effect on a site".*
150. Authorities should also be aware that a higher tier plan appraisal will not obviate the need for any lower tier plan to also be subject to Habitats Regulations Appraisal. Similarly, a lower tier plan appraisal will not remove the need for the higher tier plan to also be appraised. For example, an appraisal of a Local Development Plan does not itself obviate the need for a masterplan or development brief to be appraised. As the Advocate General concluded in her opinion in the case *Commission v UK*²³, *"adverse effects on areas of conservation must be assessed at every relevant stage of the procedure to the extent possible on the basis of the precision of the plan. This assessment is to be updated with increasing specificity in subsequent stages of the procedure"*.

²¹ Regulation 69A applies the Habitats Regulations to core path plans

²² Available on the European Commission's website at http://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm#art6

²³ Opinion of Advocate General Kokott; European Court Case (Commission v UK, C6/04)

KEY AGENCIES

151. Key agencies are bodies specified by Scottish Ministers who are under a duty to co-operate with SDPAs or planning authorities at the following stages in the development plan process:
- the compilation of the Main Issues Reports (Sections 9(5) & 17(5) of the Act);
 - the preparation of the proposed SDPs and LDPs (Sections 10(9) & 18(10)); and
 - the preparation of Action Programmes and proposed Action Programmes (Section 21(5)).
152. Regulation 28 defines the key agencies as:
- Scottish Natural Heritage;
 - Scottish Environment Protection Agency;
 - Scottish Water;
 - Scottish Enterprise (only in its area of jurisdiction);
 - Highland and Islands Enterprise (only in its area of jurisdiction);
 - Regional Transport Partnerships (only in relevant areas of jurisdiction);
 - Crofters Commission (only in crofting counties); and
 - Health Boards
153. While legislation cannot specify them individually, the following bodies should have the same level of involvement in the development plan process:
- Historic Scotland;
 - Transport Scotland;
 - Forestry Commission Scotland; and
 - Marine Scotland.
154. Once Regional Marine Planning Partnerships are established, and where their area is adjacent to the development plan area, they should also be appropriately involved in the development plan process.
155. The intention is that, through this full and early engagement, plan-making authorities will have early access to much of the key information they need to produce effective plans. The plans themselves will therefore be realistic and deliverable and tie in with the strategic objectives of other agencies, with these agencies 'buying-in' to the strategy and proposals of plans and assisting in their delivery.

TRANSITIONAL ARRANGEMENTS

156. The Planning etc. (Scotland) Act 2006 (Development Planning) (Saving, Transitional and Consequential Provisions) Order ("the Order") covered the transition between the previous legal framework and the current one. It allowed plans (or alterations) that had passed the consultation stage under the outgoing processes to proceed to approval/adoption.
157. Schedule 1 of the Act, allows existing development plans to remain in force on commencement of the new system, until they are replaced by a new SDP or LDP, whichever may be the case. Article 6 of the Order provides that structure plans and local plans that are approved and adopted after the commencement of the new development planning system will also remain part of the development plan until replaced by a new SDP or LDP.
158. Article 7 provides that new-style LDPs can be prepared within SDP areas in the absence of an approved SDP. In these circumstances they must be consistent with the approved old-style structure plan.
159. The Order amends the Conservation (Natural Habitats, &c.) Regulations 1994 and the General Permitted Development Order 1992 to take account of the new terminology employed by the new development planning system.

LEGAL CHALLENGE

160. If any person aggrieved by a strategic or local development plan desires to question the validity of the plan on the ground:

- (a) that it is not within the powers conferred by Part II of the Town and Country Planning Act 1997, as amended, or
- (b) that any relevant requirement of that Part or of any regulations made under that Part have not been complied with;

he may make an application to the Court of Session under section 238 of the Act.

161. Any such application must, under section 238(4) be made within six weeks from the relevant date. The relevant date is the date of the plan's publication, in respect of a:

- SDP, under section 14(1)(b), after approval of the plan – see paragraph 54 above;
- LDP, under section 20A(1)(b), after adoption of the plan– see paragraph 99 above.

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Figure 1 - Normal Strategic Development Plan Process

Key Stage	STRATEGIC DEVELOPMENT PLAN	Environmental Assessment (SEA & HRA)	Typical Timings
Evidence Gathering	<ul style="list-style-type: none"> Publish Development Plan Scheme including Participation Statement 	Collate baseline environmental information including about European Sites	8 months
	<ul style="list-style-type: none"> Engage with key agencies Gather evidence base and Prepare Monitoring Statement Prepare Main Issues Report 	Prepare Scoping Report and Submit to SEA Gateway Consider comments from Consultation Authorities and refine methodology Environmentally appraise Main Issues Report. Screen to identify implications for European Sites and amend options where necessary, in discussion with SNH.	
Main Issues Report	<ul style="list-style-type: none"> Publish Main Issues Report and Monitoring Statement 	Publish Environmental Report and submit via SEA Gateway. Continue to consider implications for European sites for preferred options	
	<ul style="list-style-type: none"> Consult 	Consult on Environmental Report	
Proposed Plan	<ul style="list-style-type: none"> Consider representations 	Consider responses	
	<ul style="list-style-type: none"> Prepare Proposed Plan and Action Programme 	Environmentally appraise Proposed Plan and undertake Appropriate Assessment where required. Amend Environmental Report if necessary (i.e. if there are significant changes between Main Issues Report and Proposed Plan).	
	<ul style="list-style-type: none"> Committee(s) Publish Proposed Plan and Proposed Action Programme 	Publish revised Environmental Report if necessary and submit via SEA Gateway. Prepare HRA Record to include screening (determination of likely significant effects) and if necessary, Appropriate Assessment.	
	<ul style="list-style-type: none"> Period for representations (6 weeks minimum) 	Consult where required	
Submission to Ministers	<ul style="list-style-type: none"> Prepare Note of representations, Summary of unresolved issues and Report of Conformity with Participation Statement 	Consider responses	5 months
	<ul style="list-style-type: none"> Committee(s) Submit to Scottish Ministers <ul style="list-style-type: none"> Proposed Plan Proposed Action Programme, Report of Conformity with Participation Statement, and Note of Representations and how taken account Publicise submission of Plan 	Submit <ul style="list-style-type: none"> HRA record to Ministers 	
Examination	<ul style="list-style-type: none"> Examination of Proposed Plan 	Reporter refers to Environmental Report	6 months
	<ul style="list-style-type: none"> Examination Report published and submitted to Ministers and SDPA 		
Approval, modification or rejection	<ul style="list-style-type: none"> Minsters consider Examination Report 	Scottish Government appraises modifications	2 months
	<ul style="list-style-type: none"> Ministers approve, modify or reject the plan 	Ministers publish revised Environmental Report (and revised HRA Record) if required	
Publish Plan and Action Programme	<ul style="list-style-type: none"> SDPA publish plan 	Publish Post-Adoption SEA Statement and submit to SEA Gateway	3 months
	<ul style="list-style-type: none"> Publish Action Programme 		
			TOTAL=30 months

PLANNING CIRCULAR 6/2013: Development Planning

Figure 2 - Normal Local Development Plan Process

Key Stage	LOCAL DEVELOPMENT PLAN	Environmental Assessment (SEA & HRA)	Typical Timings
Evidence Gathering	<ul style="list-style-type: none"> Publish Development Plan Scheme including Participation Statement 	Collate baseline environmental information including about European Sites	8 months
	<ul style="list-style-type: none"> Engage with key agencies Gather evidence base and Prepare Monitoring Statement Prepare Main Issues Report 	Prepare Scoping Report and Submit to SEA Gateway	
		Consider comments from Consultation Authorities and refine methodology	
		Environmentally appraise Main Issues Report. Screen to identify implications for European Sites and amend options where necessary in discussion with SNH.	
Main Issues Report	<ul style="list-style-type: none"> Publish Main Issues Report and Monitoring Statement 	Publish Environmental Report and submit via SEA Gateway. Continue to consider implications for European sites for preferred options	6 months
	<ul style="list-style-type: none"> Consult 	Consult on Environmental Report	
Proposed Plan	<ul style="list-style-type: none"> Consider representations 	Consider responses	6 months
	<ul style="list-style-type: none"> Prepare Proposed Plan and Action Programme 	Environmentally appraise Proposed Plan and undertake Appropriate Assessment where required. Amend Environmental Report if necessary (i.e. if there are significant changes between Main Issues Report and Proposed Plan).	
	<ul style="list-style-type: none"> Committee(s) 		
	<ul style="list-style-type: none"> Publish Proposed Plan and Proposed Action Programme 	Publish revised Environmental Report if necessary and submit via SEA Gateway. Prepare HRA Record to include screening (determination of likely significant effects) and if necessary, Appropriate Assessment.	
Submission to Ministers	<ul style="list-style-type: none"> Consider representations Prepare Summary of unresolved issues Prepare Report of Conformity with Participation Statement 	Consider responses	5 months
	<ul style="list-style-type: none"> Committee(s) 		
	<ul style="list-style-type: none"> Submit to Scottish Ministers <ul style="list-style-type: none"> Proposed Plan Proposed Action Programme, Report of Conformity with Participation Statement, and Note of Representations and how taken account Publicise submission of Plan 	Submit <ul style="list-style-type: none"> HRA record to Ministers 	
	<ul style="list-style-type: none"> Examination of Proposed Plan 	Reporter refers to Environmental Report	
Examination	<ul style="list-style-type: none"> Examination Report published and submitted to planning authority. 		6 months

PLANNING CIRCULAR 6/2013: Development Planning

Figure 2 - Normal Local Development Plan Process

PA Considers Representations	<ul style="list-style-type: none"> • Planning authority considers recommendations and prepares Modifications, Proposed Plan as modified and Statement of Explanation for not accepting any recommendations. (* 3 months max) 	Environmentally appraise modified Plan. Carry out Appropriate Assessment of modified Plan if required.	3 months
	<ul style="list-style-type: none"> • Publish Modifications and Proposed Plan as modified. • Advertise intention to adopt Plan. • Send Ministers the Proposed Plan as modified etc. 	Ministers publish revised Environmental Report (and revised HRA Record) if required	
Adoption	<ul style="list-style-type: none"> • Planning authority adopts plan 	Publish Post-Adoption SEA Statement and submit to SEA Gateway	
Publish Action Programme	<ul style="list-style-type: none"> • Publish Action Programme 		3 Months max*
			TOTAL=31 months



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