



APRS
The Association for the
Protection of Rural Scotland

**Scottish Planning Policy and Housing:
Proposed Policy Amendments consultation**

Response submitted online 7 October 2020

Question 1: What is your view on our proposal to remove 'the presumption' from the SPP, through the changes set out?

We strongly support the changes proposed to remove 'the presumption' from the SPP in order to achieve the policy objectives set out in section 7 of the consultation.

'The presumption' in practice has sometimes resulted in development at any cost or in the wrong places rather than the right development in the right place.

The presumption has been brought into play in assessments of planning applications for housing on unallocated land, often in conjunction with challenges over housing land supply figures. In these cases, decisions are being made in isolation about a single site rather than assessing sustainability over the whole Local Development Plan (LDP) area. Decisions seem to be weighted to address perceived or real shortages in effective land supply (even though there has been much confusion and debate over what those figures should be) over other aspects of sustainable development (for example net-zero, biodiversity, landscape, fairness or well-being), resulting in approval for development that is contrary to other planning policies in the relevant LDP. This undermines the plan-led system and is unfair to local communities. APRS has a particular interest in promoting stronger protection for Green Belt land, and finds that permission for housing development on designated Green Belt land, which should have had strong presumption against development, has been granted by this undemocratic means numerous times in recent years.

Many community groups (and others) called for an equal right of appeal on planning decisions during the development of the Planning (Scotland) Act 2019. These calls were rebutted by the Scottish Government, mainly on the grounds that the plan-led system would allow for communities to have meaningful input on proposals at an early stage of the LDP process, so that equal rights of appeal were said to be unnecessary. That argument is clearly worthless if 'the presumption' continues to be used to undermine the plan-led system and to allow decisions counter to democratically agreed LDPs.

Whilst we favour the removal of 'the presumption' as soon as possible, we would also like to see the environmental sustainability principles of the SPP strengthened to ensure that National Planning Framework 4 (NPF4) not only encourages development that supports mitigation and adaptation to climate change but also places strong requirements on all developments to contribute to net-zero and biodiversity net-gain targets, or at the very least not to have a negative impact on meeting them. We

would like to see NPF4 better recognise the wider value of Green Belts in meeting environmental and well-being policy aims.

We appreciate the importance of improving and upgrading Scotland's housing infrastructure and welcome the Scottish Government's focus on the most needed types of housing – social and affordable housing. Any necessary housing development must happen in the places that are most sustainable and which help meet Scotland's net-zero targets, not make them harder to achieve. This should be delivered via the LDP process rather than by speculative development proposals. The interim arrangements proposed are needed **as soon as possible**, particularly as the timeframe for producing NPF4 has been extended significantly already and it is entirely possible that it could be further delayed.

The 'reasons for the proposed change' given at the end of section 11 of the consultation are all valid. APRS raised its concerns over the potential impact of increasing delays in the renewal of LDPs in a letter to the Chief Planner earlier this year. Transparency of the system has been badly damaged. Local communities that have engaged with the planning system have had their trust in the system destroyed by appeals and legal proceedings with which they can have little involvement. That trust needs to be rebuilt and the effort and resources that are required to deal with speculative applications, appeals and court proceedings would be better spent in properly resourcing the planning system and LDPs.

Green Belt designation should bestow a strong presumption against development. We recognise that Green Belt can be reallocated during review of the LDP if that is considered unavoidable and democratically agreed. However, the piecemeal erosion of Green Belt land by large scale speculative housing developments should not be happening. We are pleased therefore that the Scottish Government has reiterated its commitment to a plan-led system and hope that the forthcoming review of the entire SPP will strengthen Green Belt protection and remove the threat of its development when contrary to Development Plans.

Question 2: What is your view on the proposed changes set out and our aim of clarifying the definition of the 5 year effective housing land supply to reflect the currently exceptional market circumstances?

We strongly welcome the proposed changes which clarify the definition of the 5 year effective housing land supply and which are urgently needed. The changes have been needed for some time, and certainly prior to what the consultation calls 'the currently exceptional market circumstances', although these do give added urgency to making the changes.

We support the changes to paragraph 123 as we do not believe that parts of the effective land supply should be excluded solely due to programming assumptions.

We agree with the consultation that the availability of land should not be conflated with the relevant, but separate, matter of site programming and build-out rates. The latter is based on business decisions related to changes in the market and wider economic circumstances.

Question 3: What is your view on the proposed changes to paragraph 125, including (a) the proposed calculation to establish the scale of the 5 year effective land supply in relation to alternatives and (b) the proposed approach to assessing proposals where a shortfall emerges?

We support the proposed changes to paragraph 125 which give much greater clarity to the process. We very much agree that the disputed matter of plans becoming 'out-of-date' should be removed for the reasons given (related to changes in plan timescales).

a) The housing supply target (the total number of homes that will be delivered) is a better basis for establishing the scale of the forward 5 year effective housing supply. We believe that the alternative use of the housing supply requirement (HSR) adds another layer of uncertainty and potential challenge to the system given the range of the generosity allowance the HSR includes. The proposed calculation should reduce debate around different methodologies which is welcome. We agree that using an averaged rate of delivery over the life of the plan is more appropriate than the residual/compound approach as it is simpler and does not rely on past completion figures that are often of uncertain accuracy.

b) We agree that a shortfall should be considered a material consideration amongst several others but should not be determinative (or even the only or most important consideration) when deciding whether or not to approve a planning application. We suggest that the text in paragraph 125 should say that a shortfall is "not determinative". We also support the part of the new para 125 that says "the contribution of the proposal to addressing the shortfall (in both scale and kind)" in that it is important to ensure that the right housing is built in the right place and that it is not only the absolute number of dwellings that needs to be addressed.

The consultation paper says "A shortfall in the supply of effective housing land may be addressed by exceptional releases of unallocated land but only if such proposals are appropriate and will meaningfully address any identified shortfall. The proposed text makes it clear that a shortfall will be a relevant material consideration. Scottish Ministers are of the view that this should now be explicitly referenced in relevant decisions." However, the word "appropriate" is not in the text of the proposals and is not defined. Scotland should be ensuring that all new developments and infrastructure meet a test or benchmark of appropriateness in terms of not making the climate crisis worse and assisting Scotland's efforts to meet its net-zero targets (rather than inappropriately leaving a legacy of making it harder to meet net-zero targets). Speculative developments outwith the LDP process are unlikely to be appropriate in this sense.

We agree that "Aspects of the existing guidance on this as set out in Planning Advice Note 2/2010 are out-of-date", and that Section 2 – Housing Land Audits (HLAs) should be withdrawn. However, Ministers should provide further clarification and guidance on this aspect as the SPP itself makes little mention of HLAs.

The consultation says that "despite current unprecedented circumstances, authorities should still be implementing the provisions of the development plan for new housing and working with stakeholders to make sure there is an adequate forward supply of effective land to help deliver new housing." We agree that Scotland needs to work to provide new housing and address the estimated 65% or more of housing need that is for social or affordable housing (Shelter, 2020¹). Especially given the developing

¹ Dunning, R., Ferrari, E., Hoolachan, J., Keskin, B., Moore, T., O'Brien, P. & Powell, R. (2020) Affordable Housing Need in Scotland, Report for SFHA, CIH Scotland and Shelter Scotland, accessed at:

impacts of Brexit and Covid-19, it would seem that predicted housing need based on population projections from the last decade should be treated as likely to be on the high side.

Given the environmental and wellbeing crises that local authorities are having to plan to address, there is a need to develop a mechanism for when a housing land shortfall arises that allows local authorities to bring forward the 'next best option' in terms of housing land (ie that meets net-zero and other targets as well as housing). This could avoid the worst aspects of speculative development proposals that may deliver some housing but fit less well with local authorities' climate, infrastructure, environmental and well-being strategies and therefore have long-lasting detrimental consequences for the community and the environment. This would require a mechanism to allow the planning authority and local community to work together (with input from potential developers) to consider and identify the most appropriate sites to meet any shortfall in a set period before the shortfall becomes a material consideration.

Question 4: Do you agree that the proposed amendments will not directly impact on other (non-housing) types of development? If not, please provide evidence to support your view.

Yes. We agree that the proposed amendments will not directly impact on non-housing types of development as the principles will still operate, and their application should ensure this.

Question 5: Do you agree that fuller impact assessments are not required? If not, please provide evidence to support your view.

Yes. We agree that fuller impact assessments are not required.