



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 7 November 2024  
SP Paper 680  
6th report, 2024 (Session 6)

## Local Government, Housing and Planning Committee

# Report on planning regulations considered on 29 October 2024.



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

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# Contents

<b>Introduction</b>	<b>1</b>
<b>Background</b>	<b>2</b>
<b>The regulations</b>	<b>3</b>
Town and Country Planning (Amendment of National Planning Framework) (Scotland) Regulations 2024 [draft]	3
Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 [draft]	4
Town and Country Planning (Amendment of Local Development Plan) (Scotland) Regulations 2024 (SSI 2024/250)	5
Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024 (SSI 2024/253)	5
<b>Committee consideration</b>	<b>7</b>
<b>Conclusion</b>	<b>8</b>

# Local Government, Housing and Planning Committee

To consider and report on matters relating to local government and planning falling within the responsibility of the Cabinet Secretary for Finance and Local Government, matters relating to housing and tenants' rights within the responsibility of the Cabinet Secretary for Social Justice, and matters relating to local government boundaries, local governance review and democratic renewal.



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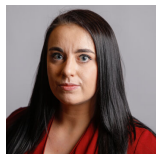
# Committee Membership



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**Ariane Burgess**  
Scottish Green Party



**Deputy Convener**  
**Willie Coffey**  
Scottish National Party



**Meghan Gallacher**  
Scottish Conservative  
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**Mark Griffin**  
Scottish Labour



**Fulton MacGregor**  
Scottish National Party



**Emma Roddick**  
Scottish National Party



**Alexander Stewart**  
Scottish Conservative  
and Unionist Party

# Introduction

1. At its meeting on 29 October 2024, the Local Government, Housing and Planning Committee considered the following affirmative instruments:
  - [Town and Country Planning \(Amendment of National Planning Framework\) \(Scotland\) Regulations 2024 \[draft\]](#)
  - [Masterplan Consent Area Scheme \(Environmental Impact Assessment\) \(Scotland\) Regulations 2024 \[draft\]](#)

# Background

2. The Scottish planning system is described as ‘plan-led’, with development plans guiding the future use of land in our cities, towns, and rural areas. Planning authorities, and Scottish Ministers, are required to make decisions on applications for planning permission in accordance with the development plan unless there are compelling reasons, known as material considerations, which indicate that the decision should be otherwise.
3. A material consideration is any issue that can be legitimately considered by a planning authority in reaching a decision on a planning application. In practice, any proposed development that meets the requirements of the development plan will normally be approved, unless there are material considerations which indicate that permission should be refused.
4. Local development plans (LDPs) are drafted and adopted by each of Scotland’s 34 planning authorities (32 local authorities and two national park authorities). From 13 February 2023, [National Planning Framework 4 \(NPF4\)](#) became a formal part of every development plan in Scotland.
5. LDPs cover the whole of Scotland; they identify sites for new developments and set out policies that guide decision making on planning applications. Each planning authority (i.e. local authority or national park authority) is required to publish and then update local development plan(s) covering their area at least once every 10 years.
6. The Planning (Scotland) Act 2019 increased the timescale for the review of LDPs from at least every five years to at least every 10 years. Given this increase in timescale, the Act allows Minister to establish for a process for planning authorities to amend a LDP between reviews. This process is set out in these Regulations.

# The regulations

7. On 23 September 2024, the following package of planning-related Scottish Statutory Instruments was laid in the Scottish Parliament:

## Affirmative instruments

- [Town and Country Planning \(Amendment of National Planning Framework\) \(Scotland\) Regulations 2024 \[draft\]](#)
- [Masterplan Consent Area Scheme \(Environmental Impact Assessment\) \(Scotland\) Regulations 2024 \[draft\]](#)

## Negative instruments

- [Town and Country Planning \(Amendment of Local Development Plan\) \(Scotland\) Regulations 2024 \(SSI 2024/250\)](#)
- [Town and Country Planning \(Masterplan Consent Areas\) \(Scotland\) Regulations 2024 \(SSI 2024/253\)](#)

8. All four sets of regulations were laid under powers conferred by the Town and Country Planning (Scotland) Act 1997. Both the Amendment of National Planning Framework and the Amendment of Local Development Plan Regulations were also laid under section 59 of the Planning (Scotland) Act 2019. The Environmental Impact Assessment Regulations were also laid under section 1(1) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.
9. The Minister for Housing explained in oral evidence that "they are technical procedural regulations that deliver principles that are already established in the Planning (Scotland) Act 2019 ... [which] provide further procedural information regarding amending the development plan and developing masterplan consent areas."
10. All four sets of regulations were subject to a public consultation on proposals for regulations to set forth the amendment procedure for both the NPF and Local Development Plans (LDPs) which ran from 28 February 2024 to 22 May 2024. Several impact assessment documents were also published alongside each set of regulations. A summary of issues raised in consultation responses along with the Scottish Government's responses to them, and a summary of outputs arising from the impact assessments is included in each individual Policy Note.
11. The stated policy objectives of each instrument are summarised below.

## **Town and Country Planning (Amendment of National Planning Framework) (Scotland) Regulations 2024 [draft]**

12. The [Policy Note](#) states that the purpose of this instrument is to—



” “...set out further detailed provisions around procedures for amending the National Planning Framework, following on from the commencement in full of various provisions in the Planning (Scotland) Act 2019 (“the 2019 Act”), which amended the provisions of the Town and Country Planning (Scotland) Act 1997 (“the Act”) relating to amendment of the National Planning Framework.”

13. The Policy Note then sets out individual requirements that Ministers must adhere to when seeking to make changes to the NPF, including in respect of—
- Relevant policies and strategies that Scottish Ministers must have regard to, where relevant, when considering amendments to the NPF;
  - Specific publication, notification and consultation requirements that any proposed amendment must adhere to;
  - The need for parliamentary approval of any proposed amendments, including laying requirements for accompanying documents;
  - Publication requirements for any amendment following adoption; and
  - The circumstances in which an amendment to the NPF would result in a significant change such that would necessitate a review of the NPF as a whole.

## Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 [draft]

14. The [Policy Note](#) states that the purpose of this instrument is to—

” “Ensure the planning authority granting development consent for a particular project within a Masterplan Consent Area (MCA) scheme makes its decision in full knowledge of any likely significant effects on the environment.”

15. The Policy Note then sets out the Environmental Impact Assessment (EIA) requirements which are relevant when preparing an MCA scheme, including in relation to—
- Determining whether an EIA is required;
  - Specific requirements relating to screening opinions<sup>i</sup> or to Scottish Ministers making a screening direction; and
  - Specific requirements relating to the preparation of EIA reports along with consultation, publication and notification requirements for environmental impact assessments.

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<sup>i</sup> A screening decision, also known as a screening opinion, is a technical process that determines if a proposed development requires an environmental impact assessment (EIA) as part of a planning application. It's usually done early in the design phase of a project, but it can also be done after a planning application or appeal.

## Town and Country Planning (Amendment of Local Development Plan) (Scotland) Regulations 2024 (SSI 2024/250)

16. The [Policy Note](#) states that the purpose of the instrument is to—
- ” “Set out further detailed provisions around procedures for amending Local Development Plans, supporting the commencement in full of various provisions in the Planning (Scotland) Act 2019, which amended the provisions of the Town and Country Planning (Scotland) Act 1997 relating to amendment of National Planning Framework and Local Development Plans.”
17. The Policy Note further explains that the NPF and the LDP for each planning authority comprise the “development plan”. Decisions on planning applications are legally required to be made in accordance with the development plan unless there are material considerations that indicate otherwise.
18. The Policy Note then sets out in detail the individual requirements that Ministers must adhere to when seeking to make changes to an LDP, including in respect of—
- information and considerations to which the planning authority is to have regard to when preparing an amendment to an LDP;
  - Specific requirements relating to effective community engagement and consultation on proposed amendments to an LDP;
  - Requirements relating to the notification of publication of draft proposed amendments and the modification of proposed amendments and submission to the Scottish Ministers; and
  - Procedures relating to the examination and adoption of amendments to an LDP.

## Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024 (SSI 2024/253)

19. The [Policy Note](#) explains that the instrument “provides detailed provisions relating to the preparation of MCA Schemes under Part 3 of the Town and Country (Scotland) Act 1997 (“the Act”), as amended.”
20. The Policy Note further explains that The Planning (Scotland) 2019 Act introduced Masterplan Consent Areas (MCAs) as a new upfront consenting mechanism for development proposals. Planning authorities will be able to prepare an MCA “Scheme” setting out the detail of what they are giving consent for, through the MCA scheme. MCA schemes can give several types of consent, including planning permission, roads construction consent, listed building consent and conservation area consent, where provided for in the particular MCA scheme. The MCA scheme can include conditions, limitations and exceptions which may cover aspects such as development parameters, design and environmental matters.

21. The Policy Note then explains that within adopted MCA areas, development could be brought forward without the need for an application as long as it is in line with the agreed scheme.
22. The Policy Note then sets out individual requirements that apply when making proposals or possible proposals for an MCA scheme including in relation to—
  - Consultation;
  - The consideration of representations from interested parties to planning authorities;
  - Information to be included in an MCA scheme;
  - The publication of an MCA scheme and notification of decision;
  - The alteration of an MCA scheme; and
  - Excluded development which is likely to have an adverse effect on a European site in Great Britain or a European offshore marine site.

## Committee consideration

23. The Delegated Powers and Law Reform Committee [considered the instruments on 1 October](#) and agreed not to draw them to the attention of the Parliament on any grounds within its remit. The DPLR Committee welcomed that the Town and Country Planning (Amendment of Local Development Plan) (Scotland) Regulations 2024 fulfils a previous commitment by the Scottish Government to correct a cross-referencing error in regulation 25 of the Town and Country Planning (Development Planning) (Scotland) Regulations 2023 (SSI 2023/101).
24. On 29 October the Local Government, Housing and Planning Committee [took evidence on the draft Regulations](#) from the Minister for Public Finance.

# Conclusion

25. After taking evidence, the Committee was invited to consider the following motions:

**S6M-14644:** That the Local Government, Housing and Planning Committee recommends that the Town and Country Planning (Amendment of National Planning Framework) (Scotland) Regulations 2024 [draft] be approved.

**S6M-14815:** That the Local Government, Housing and Planning Committee recommends that the Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 [draft] be approved.

**In both cases the Committee agreed to recommend approval of the draft Regulations without division.**

26. However, in respect of the negative instruments, the Committee noted the following points:

Town and Country Planning (Amendment of Local Development Plan) (Scotland) Regulations 2024 (SSI 2024/250)

27. The Committee welcomes the flexibility to amend LDPs when necessary, including to reflect local place plans which are still being developed, as confirmed by the Minister in evidence.

Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024 (SSI 2024/253)

28. The Committee welcomes the provisions relating to the development of MCAs but emphasises the importance of ensuring that this does not override or otherwise impact on requirements designed to protect and enhance biodiversity as set out in the National Planning Framework (NPF4).

