NPF4 Revised Draft Feedback

Scotland's planning system must deliver for nature

November 2022

Summary

Overall, Scottish Environment LINK welcomes the changes made to significantly improve the Fourth National Planning Framework (NPF4) and appreciates the work the Committee has done to ensure the planning system plays its part in restoring nature, as well as delivering for people and climate.

In the policy section, the clear instruction with each policy for what is expected from Local Development Plans is useful delineation between National Planning Policy and where Local Planning Policy is expected to add value. The separation of this and policy relating to development management decisions has now been made clear. The cross referencing of policies is useful. The inclusion of policy intent and outcomes sections are welcome and help to show the overall aim of the policies, which we hope will help everyone, including decision makers.

The equal weight that is given to climate and nature emergency in Policy 1 is strongly welcomed, this provides clarity for decision makers and recognises the interrelated nature of these issues. This is not to say that there will not be challenges in the implementation of the policies and much will depend on future guidance and decision making.

The strong policy wording on forestry and woodland is very welcome.

It is a strong step in the right direction to include a definition of nature-based solutions in line with the IUCN definition.

It is understood that at this stage there is no room for significant change to the document. With this in mind, there are a limited number of comments we wish to make that are crucial to consider.

National Developments

LINK's Planning Group still has some concerns over some proposed National Developments. These include 18 High Speed Rail and 13 Strategic Renewable Electricity Generation and Transmission Infrastructure. Both of which have already demonstrated the threat they pose to ancient woodland. For High Speed Rail this has been demonstrated by HS2 in England, and the Woodland Trust has already responded to a spate of proposed energy projects in Scotland. Ancient woodland not only stores more carbon per hectare than any other woodland type, but it is also the most biodiverse habitat in Scotland, in particular Scotland's rainforest an internationally important habitat. Despite these merits, this habitat has been reduced to cover 1-2% of Scotland. We must not forget that Scotland is in a climate **and** biodiversity crisis, and developments that result in the removal of irreplaceable habitats may mean an irreversible loss of biodiversity at a time when the Scottish Government has been implicit in its intentions to halt and reverse biodiversity loss.

Woodland Trust Scotland will continue discussions with Transport Scotland and seek opportunities wherever possible to engage early with the renewables industry to minimise as far as possible the impacts on ancient woodland from infrastructure projects across Scotland.

We want to highlight the issue with linear developments, like powerlines, which have major landscape impacts going in as National Developments. The maps include these as National

Developments in the map key, but don't then place them on the map. There is some concern that this allows development anywhere.

LINK's Planning Group is concerned that pumped hydro schemes do not seem to require biodiversity assessments for freshwater invertebrates, this should be explicit in the guidance which we hope will follow through the Delivery Plan.

National Planning Policy

<u>Inconsistent use of 'will/will not be supported'.</u>

Overall, the wording throughout is much improved and clearer.

It is noted that Page 11 of the Explanatory Report states that, '*Changed to consistent use of: 'will be supported'/ 'will only be supported'/'will not be supported'. Further advice added to the Revised NPF4 'How to Use this Document', Annex A.*'

We agree that this wording is appropriate and clear and support this change, however, it has not been used consistently throughout the policies.

In a small number of instances, text on whether certain proposals will be supported or not has been omitted and a statement is merely made about development proposals. For instance, policy 3 a) states that:

> "a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them."

As decision makers cannot control what proposals come forward, this may not always be the case. Such a statement is only appropriate where decision makers have control over what will happen (as in Policy 1.) Although we note the overall policy intent, we think that such wording should be corrected for clarity and consistency. For instance, the following:

> a) Development proposals will not be supported unless they contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible…
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> or
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> Development proposals will only be supported if they contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible…

This same issues applies to the following:

- Policy 2 a)
- Policy 2 b)
- Policy 3 c) and d)
- Policy 12a)
- Policy 14 a)

- Policy 15 a)

This would not be a change to the style or wording used elsewhere, but would simply ensure that what is stated in the explanatory note is applied throughout.

Policy 1. Tackling the climate and nature crises

We strongly welcome Policy 1 which gives the climate and nature crises 'significant weight' in deciding whether proposals are approved or not

Policy 3. Biodiversity

- We strongly welcome the intent of Policy 3, to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks is very welcome. The implementation of the policy will be key.
- We note that the Delivery Plan states that guidance will be issued on biodiversity and implementation on Policy 3. Developing with Nature Guidance will be finalised to support Policy 3c, which relates to local developments and biodiversity conservation, restoration and enhancement. A consultation has taken place on this and there were significant issues with it. Therefore, we hope that this is fit for purpose.
- Although nature networks are mentioned numerous times in this policy, it is not clear whether guidance will follow on this. NatureScot have been commissioned by the Scottish Government to develop and publish a national framework setting a clear vision, principles and approach for local delivery of Nature Networks in Scotland. It is disappointing that this is not mentioned in the Delivery Plan.

Policy 4. Natural Places

- The value of natural beauty is not adequately recognised in the text, especially compared with the equivalent text in the English National Planning Policy Framework. The draft NPF4 text does not mention natural beauty, though this is the basis for National Scenic Areas and National Parks, and states only that developments should not be supported that compromise the objectives of the designation, expect where clearly outweighed by other factors. The NPPF equivalent states that "great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues." Natural beauty is important for our social, economic and environmental activities and should receive recognition in the NPF.
- We are disappointed that Ramsar sites have not been given the same protection as European sites, as is the case in the rest of the UK. We hope that this will be addressed through other mechanisms, such as the Natural Environment Bill and appreciate that Environment Standards Scotland are monitoring this.
- There is significant concern over the exact wording of part 4 b), in that it does not reflect legislation or state in what situation development can be supported. It does not refer to site integrity or when a consent can be issued and seems to unintentionally waterdown the policy from that in SPP. This needs to be corrected to ensure the policy reflects the legislative protection for European sites and ensure there is no confusion for the public or applicants. This is especially important given the current threat to protected sites at a UK level and the Scottish Government's 30 x 30 commitments. Suggested alternative wording (additional wording in blue):

- ○ "Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an "appropriate assessment" of the implications for the site in view of its conservation objectives. Where such an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where there are no alternative solutions, there are imperative reasons of overriding public interest, and compensatory measures are provided to ensure that the overall coherence of the network of European Sites is protected"
- **Policy 4 part g) i)** as drafted is ambiguous, creates legal uncertainty and drafting appears to be at odds with the **policy 4's intent**, which is to 'protect, restore and enhance natural assets making best use of nature-based solutions'. Specific concerns with the current wording, as drafted, it:
  - ○ Presents a false test - the approval of development in Wild Land Areas is conditional on whether it can support meeting renewable energy targets. This is a false test given :
    - ■ All renewable energy development would presumably support renewable energy targets.
    - ■ it is an potentially moving target that fails to anticipate a time when it will be reached.
  - ○ Cannot be implemented due to a lack of information to answer the test at the appropriate level - how are Local Authorities to assess a development proposals' contribution to renewable energy targets when an accurate aggregated data on this is not held at Local Authority level?
  - ○ Conflicts with policy 5 on soil - we need to be confident through carbon assessments and lifecycle greenhouse gas emission assessments that strategic energy proposals on peatlands are not releasing vast amounts of carbon, costing us more carbon emissions overall than the carbon that would be saved. This is going to be an ever more pressing issue as renewables become an ever-increasing share of the UK's National Grid Mix.
    - ■ Policy 4 part g)i) needs to be revised so it is clear and a genuine test.
    - ■ Suggested alternative wording for policy 4)g)i) - John Muir Trust submitted suggestion in a paper to the Committee; they would be happy to discuss and refine with anyone interested in making it into a proper test that planning authorities can apply.

Policy 5. Soils

- We strongly welcome the intent of the Policy 5 to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development and the instruction for LDPs to protect soils.
- We suggest maintaining the language of 'valued soils' throughout the document.
- **Policy 5 Part c)** - There are remaining concerns that Part c) of Policy 5, as development of energy infrastructure and renewables on carbon rich soils could thwart the potential of that development to, through a lifecycle emissions assessment, actually reduce overall emissions. We suggest tighter policy wording is needed so it is harder for renewables to develop on peatlands rather than renewables being an exception.

- Guidance will be needed on how to assess whether a renewables proposal 'optimises the contribution of the area to greenhouse gas emissions reductions targets'. It is noted that the Explanatory Report states that work is underway to 'update or replace' the carbon calculator. Clear policy guidance is required to clarify what is an acceptable carbon payback period for windfarm developments is considered to be.
- We note the extensive time periods involved in 'restoring' peatlands sites which is an issue that affects the achievement of near-term targets of 2030 and 2045.

Policy 6. Forestry, woodland and trees

Policy 6 Forestry, woodland and trees has been strengthened since the last iteration of the Draft NPF4.

- provisions for ancient woodland and ancient and veteran trees have been improved even further, with the use of clearer language describing that developments will not be supported that impact on these habitats.
- Individual trees are highlighted in the document now, which is a positive improvement.
- Any land with existing woodland, or that has been identified as suitable for woodland creation must be enhanced, restored and should have additional trees integrated into development design.

There have been some concerns voiced from the renewables industry on the strength of the above policies. However, as larger renewables projects go through an energy consents process that allows ministers to direct that planning permission for these developments shall be deemed to be granted. These policies should not prevent Scotland from reaching its net zero targets. These policies will in fact support net zero and nature positive ambitions through preservation of a habitat that stores more carbon per hectare than any other woodland type.

Policy 9. Brownfield, vacant and derelict land and empty buildings

It is very good that the policy now mentions biodiversity value. Delivery plans should provide more clarity around identifying and surveying OMHPDL (open mosaic habitat on previously developed land) using the survey techniques provided in the OMH Survey Handbook.

Policy 11. Energy

The intent for this policy is very wide ranging and includes renewables and "emerging low-carbon and zero emissions technologies including hydrogen and carbon capture utilisation and storage".

The Policy does not solely support renewables but 'low carbon and zero emissions' technology. The term "zero emissions technologies" is not in the glossary. Part a) vi refers to support for "proposals associated with negative emissions technologies and carbon capture".

We note that carbon capture and storage is at an early stage of development with viability not yet proven. It must not be used to justify development with high carbon emissions which do not support the Government's climate and nature targets.

Part e) For hydro schemes biodiversity impact for freshwater invertebrates should be specified explicitly or this clarified in guidance.

Whilst ScotLink supports renewable energy development, this must be carefully designed and located to avoid unacceptable impacts on nature. There is a concern that part e) simply requires developers to show how impacts are addressed and does not give clear guidance on where

renewable energy development should be directed to, for instance, away from our most sensitive and protected sites. We appreciate that Policy 11 will need to be considered alongside Policies 3 and 4. Guidance will be critical to ensure that habitats and wildlife are protected.

Policy 12. Zero waste

The content for this policy is welcome.

Under c) there should be an additional point after i and ii that says 'Proposals will only be supported that demonstrate compatibility with circular economy principles, minimising waste and adopting reuse systems where ever possible.'

Policy 16. Quality Homes

Some of the wording in this policy is clearer, for instance part f) iii) (which relates to earlier delivery of sites). We very much agree that the approach to new build housing should be **plan-led and that this is supported by the Green Belt Policy and Policy 9 b) on vacant and derelict land.** Scottish Government must ensure that the amount of land allocated in LDPs is not so generous that the effectiveness of the other plan policies is undermined. We are concerned about some of the wording in the section on deliverable housing land pipeline, preseeding policy 16). We would like it to be clear that additional land will not be added to the pipeline unless it is already identified in the LDP as suitable for housing beyond the 10 year pipeline and the criteria set out in policy 16 f) are all met.

We welcome the fact that the revised draft does not exclude housing developments from consideration of climate impacts. However, it is not clear how overall climate emissions from housing delivery will be assessed.

Part a)[1] reads as unconditional support for homes on allocated land but proposals will need to be assessed against all other policies.

Addressing emissions and climate emergency mean that we have to **provide for housing need in the most carbon efficient manner possible.** Retaining existing buildings and retrofitting and refurbishing and upgrading homes seems to be supported elsewhere in NPF4 but meeting housing need (ie meeting the MATHLR and LHLR) is all about allocating land to build new homes. It should be clearer in Policy 16 that contributions to meeting housing needs from existing buildings is a priority.

Policy 18. Infrastructure First

Policy 18 sets out the test of planning obligations, which is currently within Planning Circular 3/2012. However, the tests are not quoted accurately but are shortened versions of those in the circular. The Explanatory Note states that a review of developer contributions will be undertaken as part of wider planning reform and circular 3/2012 will remain in place and NPF4 does not replace it. However, NPF4 is part of the Development Plan and Circular 3/2012 is not, therefore NPF4 policy has greater weight. The discrepancy between the wording of the tests is likely to be confusing and it would be easier to just refer to the Circular. Further clarification would be welcomed.

Policies 20. Blue and Green Infrastructure

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[1] 16a) "Development proposals for new homes on land allocated for housing in LDPs will be supported"

We welcome the separation of this policy from Play, Sport and Recreation Policy. However, there is a big missed opportunity to include Nature networks here - which we are extremely disappointed by. Nature Networks represent the best tool to strategically plan out blue and green infrastructure at landscape scale.

Annex A. How to use this document

We note that NPF4 should be read as a whole and that applications for National Development must take account of all relevant policies.

The Annex makes no reference to planning circulars or to National Planning Advice Notes (https://www.gov.scot/policies/planning-architecture/planning-guidance/) which presumably still remain in effect and should be consulted alongside NPF4.

We note that Statutory guidance will guide the preparation of Regional Spatial Strategies. This will be another opportunity to set out how these documents can play their part in the delivery of nature networks.

There will be a transitional period while 'old style' LDPs will be in place alongside NPF4. Inevitably there will be some challenges in working with policies in this period, and the transitional guidance referred to in the Delivery Plan will hopefully assist in decision making.

Delivery Plan

Planning, Infrastructure and Place Advisory Group

The Delivery Plan introduces the establishment of a new Planning, Infrastructure and Place Advisory Group. Scotlink requests reassurances that relevant environmental experts, charities and NGOs will be included in this group.

Scottish Biodiversity Strategy and Environment Strategy omission

Page 13 of the Delivery Plan lists a number of 'key plans and strategies' which NPF4 will be delivered in parallel with. Unfortunately, the Scottish Biodiversity Strategy and Environment Strategy have been omitted from this table. They have also been omitted from the 'Cross cutting policies' on Table 1 of NPF4 (which is replicated in p7 of the Delivery Plan.) Given the importance of NPF4 in delivering for nature and climate we hope that this is just an error which can be corrected. We believe it is key to ensure that the targets and ambition for nature can be realised.

Historic environment omission

Page 13 "key plans and strategies" also omits relevant government policies and strategies on the historic environment, specifically the Historic Environment Policy for Scotland, and the Our Place in Time historic environment strategy.

Policy 32 Aquaculture

Delivery plans should detail the importance of not allowing a banned neonicotinoid insecticide we know has had devastating impacts on non-target invertebrate populations (including bees and other pollinators) for use in Scottish salmon farms. Insecticides/chemical use should be considered as part of the cumulative impact assessment.

Guidance

It is noted that guidance on topics including 'Guidance to support Biodiversity policies' and 'Developing with Nature' are planned. These will be crucial in the delivery of NPF4 and it is essential that there is further engagement on these.

There were major issues with the draft 'Developing with Nature' guidance and further information on the progress of this consultation would be welcomed.

Planning Advice Note and Circulars

The Explanatory Report states that "Naming of PANs/Circulars not included to avoid dating the document." Although it is appreciated that it would not be practical to refer to specific circulars, the fact that further details can be found in circulars and Planning Advice Notes would be useful. Hopefully this is something that can be addressed through the Delivery Plan.

Nature Networks

There is no mention of nature networks in the Delivery Plan. There is no mention that guidance will follow on this topic. We are aware that NatureScot are undertaking a programme to inform a Framework, but it would have been useful to refer to this. This can hopefully be reviewed at the 6 month stage.

Infrastructure Levy

We note that implementation of the Infrastructure levy is mentioned in the Delivery Plan. Although infrastructure is not define in NPF4, green infrastructure and blue infrastructure have been, and we note that the Infrastructure Investment Plan for Scotland[2] includes 'natural infrastructure' in its definition. Therefore, LINK urges consideration to be given to how the infrastructure levy can be used to invest in nature networks and other natural infrastructure.

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[2] Definition of Infrastructure, p8 of the The Infrastructure Investment Plan for Scotland 2021-2022 to 2025-2026 (emphasis added): 'The physical and technical facilities, **natural and other fundamental systems** necessary for the economy to function and to enable, sustain or enhance societal living conditions. These include the networks, connections and storage relating to the enabling infrastructure of transport, energy, water, telecoms, digital and internet, to permit the ready movement of people, goods and services. They include the built environment of housing; public infrastructure such as education, health, justice and cultural facilities; safety enhancement such as waste management or flood prevention; **natural assets and networks that supply ecosystem services** and public services such as emergency services and resilience'