



RESPONSE TO SCOTTISH EXECUTIVE CONSULTATION ON SCOTTISH PLANNING POLICY 11: PHYSICAL ACTIVITY AND OPEN SPACE

INTRODUCTION

Homes for Scotland was pleased to be invited to participate in the working group considering the drafting of SPP11 Physical Activity and Open Space. This SPP will replace NPPG11 Open Space and Recreation. Unusually, it is being prepared after preparation of a key Planning Advice Note (PAN 65 Open Space), which sets out a number of detailed aspects of planning for open space. The PAN in turn was prepared following preparation of a Research Report in 2002 On Rethinking Open Space.

Homes for Scotland's key concerns during the working group stage were that:

- the SPP remained focussed on the key planning issues
- there should be a clear onus or requirement on Local Authorities to carry out audits of open space and recreational facilities in line with PAN65
- there should be a clear onus or requirement on Local Authorities to prepare open space and recreation strategies, and to ensure that these relate to the development plan
- there should be a fair balance between retaining and enhancing existing open space while allowing for appropriate redevelopment, possibly linked to making alternative provision
- the political pressure for a presumption against the loss of any open space does not override the need for balance
- there should be clear and consistent standards of provision
- there should be greater clarity on matters such as maintenance

In the main, Homes for Scotland considers that these concerns have been given fair consideration and much of the resultant draft is worthy of support. The draft raises some Consultation Questions for respondents and these, along with some remaining points of concern, are discussed in the following section.

DISCUSSION

Introduction; The Value of Physical Activity and Open Space; Policy Context

The opening sections of the SPP are generally succinct yet comprehensive in discussing the value of open space and the policy context. Homes for Scotland commented at the first draft stage that a number of consultees were seeking to link a wide range of objectives and strategies to the SPP, and it is encouraging that the Executive has resisted the temptation to dilute the focus of the SPP. Paragraph 8 would, however, benefit from a brief sentence on the role of Parks and managed spaces in rural areas in order to be complete.

SPP Objectives

Homes for Scotland understands why the context for this SPP included an awareness within the Executive and other public agencies of political and public concern over loss of open spaces. However, Homes for Scotland believes that that concern was overstated and is in danger of skewing the SPP's objectives. It should be borne in mind that any application to develop an area of open space must be approved by the Planning Authority following extensive consultation. In many cases, areas of open space or playing fields are in fact disposed of by Local Authorities themselves, either as surplus land or as parts of packages of PPP projects. Further, the pressure to develop open spaces must reflect in part a problem of lack of available land to meet development needs. Therefore, a range of issues underlie applications to develop open spaces, and the implication in media coverage that the issue is a product of development industry pressure alone is rejected by Homes for Scotland.

In that context, it is suggested that the section on SPP Objectives is still slightly weighted towards a presumption against loss of existing open space, for instance in the wording of paragraph 14 bullet 2 and paragraph 15 final sentence. Paragraph 19 refers to spaces identified as surplus, and the scope for the Local Plan to identify alternative uses. What is missing is an acknowledgement that open spaces can be redeveloped where they have no function or where they can satisfactorily be replaced. This is perhaps implied in the phrase "take a strategic approach", and the issue is expanded upon later in paragraphs 28 – 35. Nonetheless, it could be better reflected in the section on Objectives with an additional clause at the end of paragraph 15:

“, or are not replaced with new provision of similar or greater value.”

The objectives in paragraph 14 would benefit from 2 amendments. In bullet point 1 it is suggested that the phrase "in consultation with key stakeholders" be added after "local authorities". An additional bullet point is also proposed as follows:

- ***to ensure that planning applications are determined on the basis of up-to-date information***

Homes for Scotland supports the objective in paragraph 17 that open space audits and strategies should feed into the development plan and be updated on a regular basis. Similarly it supports the provision in paragraph 21 that standards of quality for open space be addressed in the open space strategy and incorporated into the development plan in order to give clarity to developers. It is important that these inputs are made to the drafting of the Local Plan and not left to be dealt with as Supplementary Planning Guidance.

Open Space Audit and Strategy

Paragraphs 22 – 27 are key, placing a clear requirement on Local Authorities to conduct open space audits which focus on both quantity and functions of open space, produce an open space strategy identifying both surpluses and deficits of open space, work corporately to achieve this, and formalise appropriate parts of the strategy in the development plan. This represents a very clear obligation to work to the terms of PAN65. Homes for Scotland fully supports this approach, and any suggestion of diluting it or leaving scope for Local Authorities to delay aspects of the work should be resisted.

In that respect, paragraph 23 should specify timescales for completion of audits and strategies. These could be defined in terms of a maximum period of time, possibly one year, after publication of the SPP, or in terms of the development plan timetable, perhaps by requiring that the audit and strategy is completed and available as an input to a draft Local Plan.

In paragraph 24, it is assumed that the reference to all spaces ***“public and privately-owned”*** does not extend to facilities owned by private individuals and not accessible to the public and/or club members.

Paragraph 25 lists the outputs and uses of the audit and strategy, including providing justification for possible developer contributions to provision. The second last sentence should have a final clause added:

“, in line with the provisions of Circular 12/1996.”

As paragraph 42 later makes clear, the audit and strategy may also be used to justify departures from the minimum standards for open space set out in the SPP. It is therefore crucial that their early production is ensured, and that they are produced in consultation with stakeholders.

The first Consultation Question covers the proposal to update and review the audit and strategy at least every 5 years to inform the review of the development plan, and seeks views on the need for annual monitoring of changes to local provision. It is suggested that interim monitoring and review would be very helpful, as 5 years is too long a period in which to rely on

information about surpluses and deficits of provision which will be used to assess planning applications. Other planning matters, such as land supply for housing and employment, or sustainability indicators, are monitored annually and there should be no difference in the case of open space provision.

Protection of Open Space

Paragraphs 28 – 35 cover the issue of presumption against development.

The provisions of paragraph 28 are key, and any objections to the requirement for Local Plans to clearly identify both open space which should be retained and open space which could be redeveloped should be rejected. Reliance on general policy would be inadequate – detailed mapping in Local Plans is required.

The issue of replacement open space is briefly covered in the first part of paragraph 29. While this section does introduce the scope for replacement of existing spaces as part of development proposals, it contains a far stronger presumption against loss of space than the corresponding sections of paragraph 32 dealing with replacement of playing fields. Homes for Scotland is concerned both with the potential interpretation of the requirement that “any community concerns have been addressed”, and the suggestion that a form of sequential test should apply to proposals. There appears to be an issue of consistency of tone and approach here.

The issue, however, is lacking from the subsequent Consultation Question on a possible model policy. This appears to cover two separate issues. The first half of the proposal covers reasons for allowing development of open space, but does not cover the possibility of replacement. Therefore any suggested model policy needs to incorporate the element of balance discussed above.

The second half is a different issue, that of the impact of adjacent development on the character and quality of spaces. This also introduces an element of developer contribution to mitigate impact, though measuring the impact of development on the “openness” of a space may be a subjective process, and quite different from a quantitative assessment of the adequacy of open space and playing facilities to meet needs. It is suggested that matters such as landscaping and environmental works as part of a planning application need not be covered in a policy, but can be dealt with on a case-by-case basis using conditions.

In that respect, the proposed model policy is dealing with two separate issues and needs to be completely rethought, with only the first issue of loss/replacement of open space being appropriate for any model policy approach.

Paragraph 29 retains measures proposed in the draft to which Homes for Scotland objected. This paragraph requires that any application involving the granting of consent for development on land identified in a development plan

as open space be referred to Ministers. This seems disproportionate, and not in line with the provisions of the Planning Bill which only require referral to Ministers of non-conforming decisions on major applications. It is not clear why applications for change of use of open space should be singled out for a different procedure. However, Homes for Scotland would agree that, where local authorities own open space and they propose to redevelop it for other uses, applications are referred to Scottish Ministers.

Paragraph 32 generally sets out a reasonable test of whether playing fields should be retained or released for development. In the final sentence of the paragraph, it would be beneficial to insert after **“must consider”** the phrase **“with reference to its open space audit”**. However, the final section contains the suggestion that, if a playing field is considered surplus, the Local Authority should then consider whether it might be used for other open space purposes. This raises the question as to how this might be achieved; would the burden of converting a former playing field to, for instance, a planted ecological area fall on the developer even if his proposal was for other forms of development? This might also give a Local Authority the power to reject part of an application which in all other respects was an acceptable use of the land.

Paragraphs 33 – 35 raise the procedures for consulting sportscotland on applications, and also ask whether other bodies such as SNH or Greenspace Scotland should be consulted on applications. In the case of sports pitches, sportscotland is currently consulted so that is not a significant change. However, as a general principle, these bodies will presumably be consulted on each Council’s open space audit, its open space strategy and its development plan. Therefore, if a Council is determining applications in line with all these documents is there a need also to consult on individual applications in a context where the Planning Bill is seeking to make the planning system quicker? Homes for Scotland would suggest that only applications where the Council proposes to depart from its strategies or development plan need be subject to such consultation.

Planning for Open Space Within New Development

Paragraph 43 covers the role of the development plan in setting out standards for open space having regard to the existing levels of provision in the audit/strategy, and taking account of proposed new development, and Homes for Scotland supports these provisions and the aim of giving developers greater certainty. The provision to use Supplementary Planning Guidance for site-specific matters is noted, but as stated previously there should be no support for any argument that SPG is appropriate for introducing the detailed results of the audit and strategy into the development plan process.

Paragraph 44 covers off-site provision in the event that on-site provision is impossible or inappropriate. It should firstly be made clear here that financial contributions are only appropriate when a development does actually generate a need for new provision, in line with the terms of Circular 12/1996.

Thereafter, if contributions are appropriate, then the option of commuted sums should be available in certain circumstances. For instance, there is little value in small-scale developments providing small pockets of space as opposed to contributing to a fund which can provide a larger, more strategic space locally. Additionally, if small sites are still required to provide items such as SUDS which use land, then additional land given over to open space may affect viability. It may be that a site size/capacity threshold could be introduced in development plans, below which commuted sums would generally be preferred. Such thresholds are now commonly applied in affordable housing policies for similar reasons of viability, scale and strategic provision.

Table 1 sets out proposed minimum standards of provision, derived from the research document Minimum Standards for Open Space. Homes for Scotland has serious concerns about incorporating these standards into the SPP. Firstly, it understands that, while the research has been published, there has been no formal consultation on it or any action taken to finalise the standards for incorporation into policy. Therefore, it would not be appropriate to formalise the standards as Scottish Executive policy through this SPP without further consultation.

Secondly, the provisions under Class 9 (Residential) require further clarification. The text refers to a range of types of space, including semi-natural and civic space. However, it is not clear if this includes provisions often specifically required by planning conditions, such as structural landscaping, SUDS features and associated safeguarding zones, and so on. If it does not, then the amount of space suggested in the Table becomes excessive.

Thirdly, even setting aside the previous point, the development industry has major concerns about the cumulative impact on developments of other policy requirements for developer contributions, many of which use potentially-developable area (transport provision, car parking, community facilities for example), and others which impact on the viability of development (for instance affordable housing which reduces the net returns to landowners and developers).

For a "typical" medium-density suburban housing layout, a requirement for 60 sq. m. of open space per house amounts to a land take of 12 – 15% of site area. If other forms of space such as SUDS or structural landscaping are not included then clearly that figure rises significantly. Added to the other burdens described above, the impact on the net developable area of a site becomes very substantial. That impact would of course generally be higher on high-density sites.

For all these reasons, Homes for Scotland cannot support the content of Table 1, or even its inclusion in the SPP, pending further consultation on the research findings into space standards. **Homes for Scotland would be pleased to assist the Scottish Executive to carry out further research,**

including case studies, into the impact of the proposed standards on site layouts and development economics.

The question is posed as to whether different standards might apply in rural areas. There may be merit in this, given that rural areas will typically have greater access to open space and certain types of recreational opportunity. However, each Local Authority Audit would identify where needs for access to open space and recreation can partially be met by surrounding countryside, Country Parks and so on.

Paragraphs 45 – 47 cover management and maintenance. These paragraphs require maintenance issues to be considered and developed through the audit, strategy and development plan as well as during discussion on planning applications, and the greater clarity this will bring for landowners and developers is welcomed. This paragraph should encourage Local Authorities to be open to a variety of management and factoring approaches. Paragraph 47 also notes that any use of Planning Agreements should be governed by the principles of Circular 12/1996, and this is supported.

Implementation

The concluding section on Implementation again makes it clear that Councils must approach the issue of open space in an integrated and corporate manner, and this is welcomed. Paragraph 67 should again conclude with a reference to the need for developer contributions to be in line with the provisions of Circular 12/1996.

CONCLUSIONS

In general, the draft SPP contains much which is supported and welcomed by the development industry, and it reflects a number of the points raised by Homes for Scotland at draft stage. Homes for Scotland continues to have concerns around:

- The further refinement of wording to ensure a balance between protection and appropriate development/redevelopment
- The consistency of approach between development/replacement of open space and of playing fields
- The need for interim monitoring and review of open space audits and strategies to ensure that they remain a sound basis for determining applications
- The procedures for referral of applications to Ministers when Councils approve redevelopment of designated open space
- Ensuring that consultation arrangements with other bodies do not become excessive and disproportionate
- The need for Local Authorities to have regard to Circular 12/1996 in seeking contributions
- The scope for greater use of commuted sums, linked in part to the use of thresholds for on-site provision of open space

- The appropriateness of the proposals for a model policy

In particular, Homes for Scotland cannot support the adoption as policy of the minimum standards for open space set out in Table 1 page 11 pending full consultation on these standards. Homes for Scotland is willing to assist the Scottish Executive with further research and case studies into the impacts of these proposed standards.