

Consultation on Open Space Strategies and Play Sufficiency Assessments Regulations

The Planning (Scotland) Act 2019 introduced new statutory duties to prepare and publish an Open Space Strategy and to assess the sufficiency of play opportunities for children in the Local Planning Authority area. The Act gives Scottish Ministers powers to prepare regulations on detailed aspects of Open Space Strategies (OSS) and Play Sufficiency Assessments (PSA) and a consultation paper (Consultation on Open Space Strategies and Play Sufficiency Assessments) has been published that sets out the proposed provisions for the regulations and the draft regulations themselves. The consultation paper sets out 21 questions on aspects of the document on which views are specifically sought and a 22nd question which provides for any other comments to be recorded. The proposed responses to each question are set out below. Consultation responses have to be submitted to the Scottish Government's consultation hub by 31 March.

It should be noted that Scotland's Fourth National Planning Framework 4 (NPF4) has also been published in draft and is currently out for consultation as is draft Local Development Planning - regulations and guidance. The closing date for comments on both is also 31 March. There are links between all 3 documents and some of the responses on the OSS and PSA guidance, as set out below, highlight potential ambiguities when all 3 are read together.

Open Space Strategies

1. (a). Do you agree with the idea of promoting an outcomes-based approach through the Open Space Strategies Regulations?

Yes.

1. (b). Do you agree with the suggested outcomes?

Yes.

Any comments?

The outcomes proposed in the draft are:

- (a) improving access to green infrastructure, open space and green networks;
- (b) creating successful and sustainable places;
- (c) improving health and wellbeing;
- (d) advancing equality and eliminating discrimination;
- (e) securing positive effects for biodiversity; and
- (f) mitigation of and adaptation to climate change.

In arriving at these outcomes, the guidance states that other sets of existing outcomes, goals and approaches were taken into account, including: the UN Sustainable Development Goals; the National Performance Framework's national outcomes; the 6 Outcomes for the National Planning Framework set out in the Planning Act; and the national indicator on access to green and blue space. The proposed outcomes appear sensible and align to a significant degree with those of Glasgow's existing Open Space Strategy. We would welcome the opportunity to support the development of approaches to measure impact of delivery against these outcomes.

2. Do you agree with the proposed definition of:

(a) 'open space'

No.

Any Comments?

The draft guidance defines open space as “space within and on the edge of settlements comprising green space or civic areas such as squares, marketplaces and other paved or hard landscaped areas with a civic function”. This definition does not include blue space, which is only really alluded to in the definition of “green space” (which follows) and which is “space which provides a recreational function, an amenity function, or aesthetic value to the public ...”. There are significant areas of blue space in the city which are important for other reasons (i.e. not recreation, amenity or aesthetics). These would include, for example, SUDs ponds or natural wetland, important for water management or biodiversity purposes. Amending the definition of ‘open space’ to read “space within and on the edge of settlements comprising green space, blue space (such as burns, lochs, wetlands, ponds and rivers, whether natural or manmade) or civic areas such as squares, marketplaces and other paved or hard landscaped areas with a civic function” would help address this issue.

(b) ‘green space’

No.

Any Comments?

As set out above, the proposed definition does not cover all blue spaces and it might be confusing for readers for water to be thought of as a “green” space. In addition, the definition of green space seems to unnecessarily limit green spaces to those that provide “a recreational function, an amenity function, or aesthetic value to the public”. Many of our green spaces are protected because of the other functions they provide – e.g. green corridors, natural or semi-natural open space, cemeteries, food growing, etc. The definition of green space should be amended to be less limiting as this could constrain the Local Planning Authority’s (LPA) ability to audit certain spaces and take them into account in identifying green networks.

(c) ‘green infrastructure’

Yes.

Any Comments?

Green infrastructure is defined as “features or spaces within the natural and built environments that provide a range of ecosystem services”. This would include things like green roofs, street trees, rain gardens and green walls.

(d) ‘green networks’

Yes.

Any Comments?

Green networks are defined as “connected areas of green infrastructure and open space, that together form an integrated and multi-functional network” and this definition makes sense. However, clarity is required on the relationship between green networks and “nature networks” as referred to in the Draft NPF4 – e.g. Policy 3 Nature Crisis states “development plans should facilitate biodiversity enhancement ... including by facilitating the creation of nature networks” and Policy 32: Natural Spaces states “Spatial strategies should also be designed to better connect nature rich areas through establishing and growing nature networks”. As development plans should “take into account statutory Open Space Strategies” (draft LDP Guidance), is it the expectation that both nature networks and green networks should be developed?

(e) ‘ecosystem services’

No.

Any Comments?

The proposed definition could be confusing it does not actually define what ecosystems services are. The description used by NatureScot could be the basis for something more detailed: “the direct and indirect contributions ecosystems (known as natural capital) provide for human wellbeing and quality

of life. Those services provided by ecosystems lead to benefits received by humans in the form of security, goods and materials, health and wellbeing.”

3. Do you agree with proposed thresholds for open space audits in Draft Regulation 4(2)?

Yes.

Any comments?

The Act requires the OSS to contain an audit of existing open space provision and the draft guidance proposes a size threshold of spaces of 0.2 ha or above. The audit can also include any smaller spaces that the planning considers appropriate (e.g. where of particular value to the community, or significantly contributes to particular outcomes e.g. flood water management or habitat connection). In addition, the guidance states that sites included in previous audits can be audited where the LPA wishes the data to continue from its baseline.

We consider 0.2 ha to be a reasonable threshold for open space audits. In Glasgow, this would mean a requirement to audit over 500 spaces, as a minimum, and potentially significantly more. Consideration would need to be given to which additional sites below 0.2ha would need to be audited or, indeed, whether the City would wish to audit more to continue the data set in the existing Glasgow Open Space Map.

4. (a). Do you agree with suggested information to include about each open space (location, size and type)?

Yes.

Any comments?

We agree that location, size and type are the basic aspects that need to be recorded in the audit. These aspects reflect the data currently available to view on the Glasgow Open Space Map and should be relatively straightforward to collect and record.

4. (b). Do you agree with Regulation 4(5) on the other information planning authorities may include in the audit?

Yes.

Any comments:

Para 34 of the draft guidance sets out other aspects that planning authorities may include information on, these being:

- accessibility to the public;
- functions of open spaces;
- the extent to which open spaces deliver those functions;
- presence of play opportunities; and
- condition.

It is noted, and welcomed, that it is not a requirement to collect this information for all audit spaces and it is also recognised that there may be circumstances (e.g. in particular areas or for particular types of space) where the LPA will want to collect such information. This has been the case with Glasgow’s current OSS where data on accessibility, function, play and condition, amongst other things, has been collected for those spaces that are envisaged to play a key role in providing local communities with access to good quality, multifunctional open space near their home.

However, the draft guidance also requires the LPA to produce audit statements (for individual localities) on accessibility, quality and quantity and, for the LPA area, on accessibility, quality and quantity for the “totality of open spaces and green networks in their area”. There are concerns that

this could increase the data which the audit is *required* to collect – our concerns are set out in further detail under Q5a below.

5. (a). Do you agree with the suggested approach to require locality level place-based information?

Yes.

Any comments?

Paras 42 and 43 of the draft guidance set out the requirements for statements in open space audits to:

- cover the accessibility, quality and quantity for the totality of open spaces and green networks in the LPA area; and
- describe the quality, quantity and accessibility of open spaces and green networks in each locality. Localities are to be defined by the LPA and could be wards or other areas the Council defines (not to exceed a population of 30,000). This should support 20 minute neighbourhoods and feed through into place-based local development plans.

There are question marks over how statements on quality and accessibility can be prepared without auditing the quality and accessibility of each open space over 0.2 ha – i.e. are quality and accessibility requirements of the audit – “musts” rather than “mays”? It is noted that further guidance on various aspects of the regulations will be forthcoming, and it is hoped that this will provide greater clarity on how quality and accessibility are to be assessed. If it is the case that this is required for all, or even most, audit sites, then this will significantly increase the time and resources required to undertake the audit. Given the linkages between the OSS, PSAs and the LDP Evidence Report, this could impact significantly on LDP timetables. It is considered that the costs of preparing OSS and PSAs set out in para 7 of the draft document (£2,812.50 per LPA per annum to cover both) is already a huge underestimate, particularly in a city like Glasgow. Anything that would add to that burden would be difficult to resource.

5. (b). Do you agree with the three high level aspects that should be covered in these statements ‘accessibility’, ‘quantity’ and ‘quality’?

Yes.

Any comments?

Whilst in general agreement, we have concerns over the processes that might be involved in securing the information to inform these statements, as set out under 5(a).

6. Do you agree with the list of consultees for the open space audit?

Yes.

Any comments?

The list of consultees included within paragraphs 47-50 are considered appropriate They are: children and young people; older people; disabled people; community councils; the public; key agencies; the Green Action Trust; and any other person or community body which the LPA considers appropriate. Consideration should be given to including existing citizen’s assemblies and “friends of” groups within this list of consultees.

7. (a). Do you agree the Assessment of Current and Future Requirements should have regard to how open spaces and green networks in the area are contributing to the outcomes?

Yes.

Any comments?

The Act states that an OSS must contain an assessment of current and future requirements with para 52 of the consultation stating that, in doing so, the LPA is to have regard to how green infrastructure, green networks and open spaces are contributing to the outcomes. Glasgow’s current OSS takes a

similar approach, outlining the various ways in which the city needs to use open spaces, now and in future, to deliver the OSS outcomes of a healthier city, a more liveable city and a more resilient city. However, it deals primarily with open space and not green infrastructure. Further clarity is required on exactly what the assessment of current and future requirements is to involve, what form it would take (e.g. high level statement or preferred future use for each space) and the resources that would be required to achieve this. We would be happy to work with Scottish Government to explore this issue further.

7. (b). Do you agree with the proposed provisions for the Assessment of Current and Future Requirements for the assessment to be informed by engagement with the groups set out?

Yes.

Any comments?

The consultation document suggests that LPAs may wish to consider the following aspects when undertaking the assessment of requirements:

- future requirements (demographics, areas of change / growth areas and their open space needs);
- needs for a variety of types of open space and green network connections;
- needs of different interest groups e.g., sporting groups/ clubs/ trainers, dog owners, community growing groups and societies;
- needs of different ages, e.g. toddlers, children, young people, older people;
- needs and requirements of different characteristics e.g. people with disabilities, ethnic and minority groups, different genders and sexual orientations;
- any relevant legal requirements, for example their statutory duty, under the Community Empowerment Act¹⁴ to provide allotments where there is proven demand, and to consider whether there may be need for more allotments to meet future demands;
- maintenance requirements of different types of space; and
- requirements for green infrastructure to support climate change adaptation and mitigation.

The need for the assessment to be informed by these groups is understood. However, recent experience with the Glasgow Sports Pitch Strategy has highlighted some difficulties in engaging effectively with some sports clubs, for example. This became quite a time-consuming task for the consultants undertaking the work and has delayed the production of the strategy. Whilst the level of engagement for a higher level OSS might not be as intensive as was required for the Sports Pitch Strategy, the experience does highlight further the potential for delay in the process.

We also have concerns about how we can ensure true representation of a cross- section of all age groups. We are investigating partnering with our Education Improvement service and would be happy to work with the Scottish Government to explore how meaningful engagement and consultation can be achieved.

8. (a). Do you agree Open Space Strategies should include a statement setting out how they contribute to the outcomes?

Yes.

Any comments?

We agree that a statement should be included and are in agreement with paragraph 14 of the draft regulations: "An outcomes-based approach means focusing on what the policy should achieve, rather than inputs and outputs, it encourages organisations to work across traditional boundaries, looking at the bigger picture. It is positive and forward looking, thinking about what type of places we want in the future, and what they can help achieve."

8. (b). Do you agree Open Space Strategies should identify strategic green networks?

Yes.

Any comments?

There is a need for the term 'strategic' to be defined. The relationship between strategic green networks and nature networks, as required by the draft NPF4, should also be clarified (see response to Q2).

8. (c). Do you agree Open Space Strategies should identify how green networks may be enhanced?

Yes.

9. Do you agree with the proposed consultation requirements on draft Open Space Strategies?

Yes.

Any comments?

The draft regulations require publication of a draft OSS for a minimum 12-week consultation period. Consultation is required with the consultees set out earlier (in paras 47-50 - see response to Q6 above). Adverts publicising the consultation in the local press are also required. However, it should be recognised that meaningful consultation requires both time and trust and that additional time is required to analyse the information received during engagement. All of this will require staff resources and, as set out above, the costs of preparing OSS and PSAs set out in para 7 of the draft document is considered a huge underestimate.

10. Do you agree with the proposed publication requirements for Open Space Strategies?

Yes.

Any comments?

The draft regulations allow for the LPA to modify the draft OSS, after the closing date for representations, to take account of representations, any matters arising in consultation and any minor drafting or technical matters. After any modifications have been made, the LPA is to publish, the Open Space Strategy by electronic means.

11. Do you agree the Regulations should set a 10 year minimum review period for updating open space audits and strategies?

Yes.

Any comments?

In principle, this should allow for an appropriate length of time to prepare OSS and OSS audits and to enable them to inform the local development plan – this timeframe is welcomed. However, clarity is sought from the Government as regards Glasgow's situation, where there is some urgency to prepare a new LDP (the existing LDP is now over 5 years old and work on the new one has been delayed until the Development Plan Regulations, NPF4 and other guidance, such as on OSS and PSA, has been published). Glasgow has a relatively new OSS, approved by the Council in February 2020, and which addresses many (though not all) of the requirements of these draft regulations. Will Glasgow be expected to prepare a new OSS alongside a PSA to inform the new LDP or will the existing OSS suffice? Preparing a new OSS prior to the LDP is likely to significantly stretch current resources and will require resource growth and realignment if delay in production of key documents is to be avoided. The Council would welcome further dialogue with the Scottish Government on this matter.

Play Sufficiency Assessments

12. Do you agree with the proposed definitions?

(a) "children"

Yes.

Any comments?

The consultation document defines children as “persons under the age of 18 years”. This seems a reasonable definition of the persons for whom the LPA should be assessing play opportunities.

(b) “localities”

Yes.

Any comments?

The consultation document states that localities has the meaning given in section 9(2) of the Community Empowerment (Scotland) Act 2015. Utilising the definition set out in legislation appears a sensible approach.

(c) “open space”

No.

Any comments?

As set out in response to Q2a, we have concerns that this definition does not include blue space, which is only really alluded to in the definition of “green space”. The response to Q2a provides further detail.

(d) “play spaces”

Yes.

Any comments?

The consultation document defines play spaces as “outdoor spaces which are accessible by the public and which offer play opportunities for children”.

13. Do you agree planning authorities should map the locations of the two categories of play spaces, and how they are described in Draft Regulations 3(2)(a) and (b)?

Yes?

Any comments?

Paragraphs 79-81 of the consultation document highlight that, whilst play spaces specifically designed and managed for play are essential in meeting the needs of children, valuable informal play opportunities also exist in many open spaces, including natural spaces, woodlands, urban forestry and in some public realm areas. As a result, the proposed draft regulation seeks to require planning authorities to identify play opportunities in two categories of play spaces:

- those play spaces that are specifically for play; and
- those within areas of open spaces of which the primary function is not play.

It is agreed that informal, imaginative play in open space that is not specifically for play is valuable for children (this is recognised in Glasgow’s OSS) and that the two categories should be mapped. However, there are concerns over the resources that may be required to identify which spaces fall within the second category. Further clarity is also required as to whether this is limited to audit spaces (in excess of 500 spaces in Glasgow over 0.2 ha) or whether any other open spaces considered appropriate to audit for the OSS would reflect smaller spaces where the primary function is not play. We would therefore suggest that a statement should be included that defines the Open Spaces that are out of scope for assessment as informal play spaces. This statement could be the subject of co-production with the young people.

14. Do you agree with the proposed requirement to assess play opportunities in respect of their suitability by age groups?

No.

Any comments?

Paras 86 and 87 of the consultation document state that the PSA must describe the play opportunities for all ages of children and that this is envisaged as “an assessment of the play provision, in particular

in its space design and any play equipment provided in the space and their suitability for children of certain age groups”.

Clarity on a number of aspects of this statement would be welcomed:

- is the assessment of play provision limited to spaces with formal equipment? This would appear to run contrary to the promotion of informal, imaginative free play on open space. We do not think that fixed equipment should be a requirement as it is not considered to be as effective for imaginative play. This runs contrary to the aim to assess the opportunities for imaginative play that don't necessarily require formal equipment on site.
- Should only “designed” spaces be included? This would appear contrary to the recognition that woodland and other natural space offer play opportunities
- The assessment of the suitability of play opportunities for children of certain age groups is spelled out in more detail in the consultation document and includes an indicative tool (pending the publication of further guidance) to identify play opportunities for all the following age groupings: 0-4, 5-11, 12-15 .and 16-18. The indicative tool goes into what is considered to be an excessive level of detail, proposing that assessment of up to 23 different ways of playing is required by age group. Whilst it is recognised that different types of play/space are required for different age groups, we again have concerns over the resources required to deliver such an approach.

15. (a). Do you agree with the proposed three aspects of assessment -‘accessibility’, ‘quantity’ and ‘quality’?

Yes.

Any comments?

As with OSSs, the draft regulations require statements covering the aspects of quality, quantity and accessibility of play opportunities in respect of each locality within the local authority area and for the totality of the local authority area. For PSAs, it is assumed that this will relate to information that is already required through assessment of the suitability of play opportunities for children of certain age groups. However, it is possible that, as with OSSs, this will necessitate the collection of additional data on, for example, accessibility. Again, there are concerns over the staff resources required to collect such information for both dedicated play spaces and spaces with non-dedicated play opportunities.

15. (b). Do you agree to provide them in written statements in respect of the totality of the local authority area and at each locality level?

Yes.

Any comments?

To avoid the duplication of work, the written statement should be the same as that featured within the open space strategy.

16. (a). Do you agree to the requirement to consult as part of the process of carrying out the play sufficiency assessment?

Yes.

Any comments?

Paras 106-107 of the consultation document indicate that LPAs must consult with: children; parents and carers; community councils; the public; and any other person or community body which the LPA considers to be appropriate. Consultation could be in the form of facilitated workshops, in-person drop-in events or digital means (e.g. questionnaires). Some flexibility is to be left for LPAs to choose the methods that best suit their local circumstances and harness maximum feedback and input from local children and communities. The consultation process would require those with the skills and training to engage with children of various ages, such as local childcare and youth services. The children's forum is also a potential route for engagement. The consultations should be child friendly and not be too onerous. A play charter could also be of valuable tool.

16. (b). Do you agree with the proposed list of consultees on play sufficiency assessments?

Yes.

17. Do you agree with the publication requirement for play sufficiency assessments?

Yes.

Any comments?

The consultation document requires the LPA to publish the PSA by electronic means and encourages consideration be given to the publication of a suitable child friendly version. The use of Storymaps would lend itself well to this proposal. As noted earlier, the completed PSA will form part of the Evidence Report which supports the preparation of the LDP. With respect to his last point, it should be recognised that PSA is reliant to a significant degree on the evidence gathered from the Open Space Strategy, so the work on the PSA has to take this into account and cannot be done in isolation. As noted earlier, this could have significant implications for the LDP timetable, especially for the first phase of LDPs under the 2019 Act.

18. Do you have or can you direct us to any additional information that would assist in finalising these assessments (BRIA, EQIA, CRWIA, ICIA)?

Please add your comments here

None.

19. Please give us your views on the content of these assessments and how they have informed the draft provisions, or if you think changes are needed to the Regulations to further respond to the issues?

Please add your comments here

We welcome the attempt to complete the assessment for the whole of Scotland.

20. Do you agree with the Fairer Scotland Duty screening and our conclusion that full assessment is not required.

Agree.

21. Do you agree with the Strategic Environmental Assessment pre-screenings, that the Open Space Strategies and Play Sufficiency Assessments Regulations are exempt from the Environmental Assessment (Scotland) Act2005, as the environmental effects are likely to be minimal?

Agree.

22. Any Other Comments

Whilst we welcome the consultation on OSS and PSA regulations, we have concerns about the resource implications and the timings in relation to the LDP Evidence Report. Para 7 refers to work that the RTPI carried out on the cost of the new duties which is estimated to be £2,812.50 per planning authority per annum to cover both duties. These calculations were developed in 2019 when the full scope of the work to gather the evidence base and the level of consultation required had not been identified. There also seems to be an assumption that work was already being undertaken on some of the elements of the OSS and PSA. We would estimate, based on the work that we have undertaken as part of the H2020 Connecting Nature project, that for an authority the size of Glasgow, at least £120k per year is required to sustain the resource required to create and maintain the evidence base; develop the policies and proposals and consult adequately. In an ideal world, the OSS and PSA would be running in a five year cycle with the Development Plan and could share resources, but in the next year most authorities are going to have to start or continue work on both at the same time. The OSS, PSA and the Forestry & Woodland Strategy, not covered by this consultation, are critical component parts of the Evidence Report. Working on all of these in synch will create human and financial resource

challenges for all Planning authorities and more acutely for those with a larger and more diverse geography.