

PERTH AND KINROSS COUNCIL

Finance and Resources Committee

15 June 2022

LOCH LEVEN GUIDANCE

Report by Head of Planning & Development (Report No 22/125)

1. PURPOSE

- 1.1 This report summarises the comments received during the consultation on non-statutory planning guidance published for consultation in 2021. It follows a similar report (Report No. 22/95) to the Kinross-shire Local Committee on 21 April 2022. That report sought the views of the Area Committee on the guidance. These have been incorporated into this report which seeks approval to finalise and adopt the guidance document to support the Local Development Plan (adopted November 2019) as non-statutory Supplementary Guidance.

2. RECOMMENDATIONS	
2.1	<p>It is recommended that Committee:</p> <ul style="list-style-type: none">• approves the Loch Leven guidance to support the implementation of Policy 46 of the Local Development Plan.

3. STRUCTURE OF REPORT

- 3.1 This report is structured over the following sections:
- Section 4: Background
 - Section 5: Key Concerns, Responses and Proposed Changes
 - Section 6: Conclusion
 - Appendices

4. BACKGROUND

- 4.1 The Loch Leven Special Protection Area and Ramsar Site planning advice addressing phosphorus and foul drainage in the catchment area (Loch Leven guidance) has been prepared in response to the adoption of LDP2. This is non-statutory planning guidance to support LDP2. In the report to council on 29 January 2020 (Report No. 20/25 refers), it was noted that the guidance document would be brought forward to Strategic Policy and Resources Committee as part of the review of guidance to support LDP2. The document was placed before the Kinross-shire Local Area Committee to seek feedback on the guidance. This has been incorporated into this report.

Loch Leven Guidance

- 4.2 The Loch Leven Guidance supports Policy 46: Loch Leven Catchment and sets out the tests and information required for developments within the catchment area to address phosphorus emissions that affect the Loch. It sets out requirements for phosphorus mitigation for private wastewater systems.
- 4.3 The Loch Leven Guidance was updated following adoption of the Local Development Plan (adopted November 2019) (LDP2). This was consulted on from 17 February to 16 March 2020. Following consideration of the Lathro application (19/00917/FLM) (Report No. 20/112) at Planning and Development Management Committee on 1 July 2020, the issue of additional mitigation for developments connecting to public wastewater treatment plants was raised. The updated guidance was not promoted for adoption to allow time to consider this issue. As a result, a special meeting of the Loch Leven Catchment Management Group explored further options as detailed below. While no major changes resulted, an added minor change requested by SEPA needed further consultation which was carried out between 29 November 2021 and 24 January 2022.

5. KEY CONCERNS, RESPONSES AND PROPOSED CHANGES

- 5.1 Responses to the consultation held in 2020 were received from SEPA and NatureScot, with minor technical changes requested (see Appendix 2).
- 5.2 Following concerns raised about phosphorus impact on the loch of new development connecting to public wastewater treatment works (WWTW), a meeting of the Loch Leven Management Group was held in August 2020. At that meeting, it was concluded that a requirement should be explored for developers connecting to public WWTW to provide a phosphorus mitigation calculation.
- 5.3 Consultation with SEPA, NatureScot, Scottish Water and Legal Services concluded that this requirement was not feasible to implement. In summary, this is because there is no power in the policy to request this information. It is not reasonable to request this information as it would serve no purpose, as Scottish Water mitigation is based on a SEPA licence based on their own environmental assessment.
- 5.4 Scottish Water mitigation is carried out in response to daily monitoring within the context of their licenced limit. The Planning Authority's power to request information to inform a Habitat Regulations Appraisal could not extend to the provision of this information, due to the final input to the loch being controlled by Scottish Water in accordance with their licence.
- 5.5 A further request was made by SEPA outside the consultation period for the guidance to include a statement about the temporary use of private facilities where there is no connection to public WWTW. While a minor change, it was thought significant enough to call for a further consultation.

- 5.6 The further consultation in 2022 resulted in only a further response from SEPA regarding terminology and a request for a definition of “potential bedrooms” which has been produced in collaboration with SEPA and the Council’s building standards team. The resulting draft incorporating all changes is attached as Appendix 1.
- 5.7 Further work is ongoing to engage with partners including Scottish Water, SEPA, CEH, NatureScot and local councillors to explore the operation of Policy 46 and any improvements that may be brought forward for LDP3.
- 5.8 The Kinross-shire Local Committee was content with the revised guidance set out in Appendix 1 and agreed to recommend it to this committee for approval. However, concerns were voiced in relation to the following:
- continued issues with combined sewers where the storm drains overflow during periods of heavy rainfall releasing sewerage into the catchment
 - the discord between the LDP reducing the housing land requirement in Kinross-shire to protect Loch Leven, and the housing numbers on allocated sites invariably being approved for higher numbers than identified in the plan
- 5.9 The Kinross-shire Local Committee are supportive of the further work referred to in paragraph 4.7 and wish to see their concerns raised above addressed fully in the preparation of LDP3.

Loch Leven Protocol

- 5.10 In parallel with these discussions, the Loch Leven Protocol (the Protocol) has also been updated between Council officers, SEPA and NatureScot to update references to LPD2 and reflect current practice. The protocol is an operational arrangement concerning conditions and the implementation of measures to protect the Loch. This is a delegated matter, and the Head of Planning & Development continues to liaise with the two other agencies over the terms of the protocol and revise as appropriate. For information, the latest version of the protocol is attached as Appendix 3.

6. CONCLUSION

- 6.1 The Loch Leven guidance has been reviewed to support the implementation of LDP2. The document has been through two public consultations and extensive consultation with stakeholders, including the Kinross-shire Area Committee.

Authors

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APPENDICES

- Appendix 1: Loch Leven
- Appendix 2: Loch Leven Guidance Summary of Consultation Responses
- Appendix 3: Loch Leven Protocol

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan	Yes
Corporate Plan	Yes
Resource Implications	
Financial	None
Workforce	None
Asset Management (land, property, IST)	None
Assessments	
Equality Impact Assessment	Yes
Strategic Environmental Assessment	Yes
Sustainability (community, economic, environmental)	Yes
Legal and Governance	None
Risk	None
Consultation	
Internal	Yes
External	Yes
Communication	
Communications Plan	None

1. Strategic Implications

Community Plan

- 1.1 The Loch Leven guidance document supports delivery of the Perth and Kinross Community Plan/Single Outcome Agreement by safeguarding and encouraging restoration of valued natural environments. As well as promoting health and wellbeing, the guidance document contributes positively to the priority of “Creating a safe and sustainable place for future generations”. In particular the guidance addresses the challenges of:

- maintaining the outstanding beauty of our urban and rural environments; and
- responding to the agenda in relation to climate change.

Corporate Plan

- 1.2 The Loch Leven guidance document contributes to the achievement of the Council Corporate Plan Priority delivery of “Creating a safe and sustainable place for future generations,” in particular the guidance promotes the goal to Protect our Outstanding Area.

2. Resource Implications

Financial

2.1 None.

Workforce

2.2 None.

Asset Management (land, property, IT)

2.3 None.

3. Assessments

Equality Impact Assessment

3.1 Under the Equality Act 2010, the Council must eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments (EqIA) for plans and policies allows the Council to show that it is meeting these duties.

3.2 The Loch Leven Guidance was considered under the Council's Integrated Appraisal Toolkit. No impacts on equality were identified and the document was assessed as not relevant for the purposes of EqIA. A full EqIA was not needed.

Strategic Environmental Assessment

3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. The guidance was considered under the Act in consultation with Consultation authorities and pre-screening identified that the Loch Leven Guidance will have no or minimal environmental effects and is therefore exempt and the SEA Gateway was notified on 30 January 2020. The reasons for concluding that the PPS will have no or minimal environmental effects is that the earlier version of the Guidance had been screened out and the minor changes introduced would have no or minimal effects.

Sustainability

3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Nature Conservation Act (Scotland) Act 2004 public bodies in Scotland have a duty to further the conservation of biodiversity. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:

- in the way best calculated to delivery of the Act's emissions reduction targets
- in the way best calculated to deliver any statutory adaptation programmes
- in a way that it considers most sustainable.

- 3.5 The guidance was assessed for Sustainability through the Integrated Assessment Toolkit. The document promotes sustainable development and the conservation of biodiversity and addresses climate change by: • Promoting best practice development that protects and restores nature and utilises nature-based solutions • Promoting the health of waterways and water bodies through avoidance and mitigation of impacts from new development.

Legal and Governance

- 3.6 None.

Risk

- 3.7 None.

4. Consultation

Internal

- 4.1 The draft guidance was developed and consulted on with internal stakeholders as set out in section 3 of the Report. The Loch Leven guidance required minimal changes although consultation with building standards was carried out as a result of SEPA comments.

External

- 4.2 The draft guidance was developed and consulted on with external stakeholders as set out in section 3 of the Report. Further consultation with SEPA was required.

5. Communication

- 5.1 Once approved, the guidance will be uploaded to the Council website and those consulted on the draft will be notified. The Loch Leven guidance has minimal changes and further promotion beyond communication as stated and conversations with development management is not considered necessary.

2. BACKGROUND PAPERS

- 2.1 No background papers are referred to.