

Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Midlothian Federation of Community Councils

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

The Bill's aim, as stated in the Policy Memorandum accompanying it, is

“to change planning's operation and its reputation from that of a regulator to a positive and active enabler of good quality development; a shift from reacting to development proposals to proactively supporting investment and quality placemaking.” We do not believe the Bill meets that central aim. As long as the system is dependent on private land developers to come forward with proposals, it will be reactive and, by definition, a poor method of reflecting and implementing both community views and the need to protect the environment.

The Bill proposes doubling the development plan cycle to ten years and placing stronger emphasis on ‘front-loading’ to ensure that plans better reflect community and other consultees' views. However this may have perverse effects:

- If communities have only one chance every ten years to influence the plan, the system must show better responsiveness to community concerns, otherwise development that is not supported locally will be locked in for a decade, further undermining public confidence in the system.
- If the development plan is only reviewed every ten years, this will increase the number of applications that are contrary to the plan, particularly in the later years of the cycle. If the ten year cycle is not accompanied by a greater willingness by planning authorities and the Scottish Ministers to refuse applications that are contrary to the plan, this will also undermine public faith in the system.

The current system relies heavily on planning authorities issuing a ‘call for sites’ as the basis for constructing the development plan. It is not clear whether and in what ways the Planning Bill proposes to change this. The term is not mentioned in the Bill nor in any of the supporting documents. If the new planning system continues to rely on the preferences of private land speculators as the basis for development plans, it will not sufficiently take into account the views of communities nor the need to protect the environment.

The word ‘environment’ appears only once in the Bill, and then only in relation to Scottish Ministers directing planning authorities to provide information to support the preparation of the NPF. Given the thrust of the Bill to facilitate and expedite built development, we see no evidence that it will secure better protection of the environment.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

The question should not be whether it delivers more houses. It should be whether it does a better job of identifying and meeting housing need. . In Midlothian, as in many other parts of Scotland, the planning system makes an extremely poor job of delivering the social housing and affordable private rented sector housing that is desperately needed by the people who already live in the area and want to stay there. In stark contrast, the planning system facilitates speculative private housing development dominated by larger houses that make the highest profits for the developer.

3. Do the proposals in Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

We find the proposals for “regional partnerships” vague. It was already difficult for communities to have a meaningful input into the strategic development plan process. It is even less clear how they would be involved in regional partnerships. Experience with the City Deal process suggest that there is a real danger of a democratic deficit in regional planning, with lack of clarity about decision-making responsibilities and the process for involving communities.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

We have misgivings about the ten year cycle for LDPs. There should be a clear mechanism for reviewing plans within the ten year cycle to ensure that community concerns are addressed.

From our experience in Midlothian, it is clear to us that any strengthening of the ‘front loading’ process in plan preparation must bring with it a greater willingness by planning authorities to listen to and act upon community views.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

In Midlothian there is no evidence that complexities in the planning system are holding back development. Therefore we see no need for Simplified Development Zones that would water down the requirements to address community concerns and environmental impacts.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local

development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

We fully support proposals for communities to produce Local Place Plans. However section 9(2) of the Bill only requires planning authorities to “have regard to” local place plans when preparing a local development plan. We believe a stronger commitment to LPPs is required since community confidence in the system will be seriously undermined if planning authorities are permitted to override a community’s expressed preferences for the land in their area.

Resources are a significant concern. Introducing new rights and responsibilities that cannot be met in practice because of lack of funds or technical skills would disempower communities.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

Our experience is that enforcement is currently very poorly resourced and that planning authorities are often reluctant to enforce because of fear of the financial implications of enforcement cases going to court. We support the increased fines proposed. However we would also like to see a stronger mechanism for the additional funds generated being ploughed back into greater resources for the enforcement function in planning authorities.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

Inadequate infrastructure provision has been, and continues to be, a major issue in Midlothian. It has three elements: (1) failure of the current system to generate the funds required to allow key infrastructure to be built before housing developments are completed; (2) the system’s inability to fund certain categories of infrastructure (e.g. health provision, utilities and telecommunications) that are considered beyond the planning system’s remit; and (3) a major mismatch between the calculated infrastructure requirements of new developments and the pressing infrastructure needs of existing communities.

Any infrastructure levy system must therefore deliver on (1) timeliness, (2) the full range of required infrastructure and (3) the needs of the wider community, not just the future occupiers of proposed new housing developments.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

Yes we fully support these proposals. The role of elected members carries with it considerable power for very long term impact on communities, and their decisions must be based on sound knowledge and understanding. We would stress that provisions for training of councillors must be properly funded and must apply equally across all planning authorities. There should also be regular training updates and refresher courses.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

The Bill contains no proposals to speed up the completion of applications subject to a 'minded to grant subject to a legal agreement' decision. This is an area that is governed only by a Scottish Government recommendation, which is applied highly inconsistently across Scotland. This has allowed developers to string out the application process over several years, causing blight and uncertainty for communities. The Scottish Government recommendation that applications should be refused if the legal agreement is not completed within six months should become a legal requirement.

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high –performing planning system the Scottish Government wants? If not, what needs to change?

[no response]

12. Are there any other comments you would like to make about the Bill?

We believe that the Bill should introduce a right of appeal for communities against planning consents. The planning system is heavily weighted in favour of private developers coming along with development proposals. If communities are to be empowered to take a greater part in the planning system, and to have a clear role in defining the future of their places, they must have the right to challenge decisions that are contrary to their vision for the development of their area.

Extending the right of appeal to communities would strengthen the system by deterring poor applications and encouraging developers to properly engage with and respond to the views of communities.

The extended right of appeal could be limited to specific circumstances, for example applications that are contrary to Local Development Plans or Local Place Plans.

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