

## Local Government and Communities Committee

### Planning (Scotland) Bill

#### Submission from Barratt North Scotland

This submission has been prepared on behalf of Barratt North Scotland. At the outset, it is important to note that this submission should be considered alongside the submission prepared by Homes for Scotland on behalf of the house building industry as a whole.

In year ending June 2017, Barratt North Scotland built and completed 442 homes in the North East of Scotland across a number of outlets in Aberdeen City, Aberdeenshire, Moray and Highlands. Over the last 30 years, we have completed over 20,000 homes in North Scotland. We therefore have substantial experience (both positive and negative) of the planning system and the measures that we believe can be put in place to improve housing delivery which is a key aspiration of the Planning (Scotland) Bill.

We welcome the opportunity to provide our view on this consultation and have set our response below under the four title sections.

#### **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?**

1.1 Barratt North Scotland fully support the idea that the right development must be in the right location as is presently expressed through national policy. This fundamental issue must remain and we believe that the draft Planning Bill will facilitate this.

1.2 In addition, we are supportive of collaboration with key stakeholders (Scottish Water for example) and local communities (which includes the extensive involvement through local plan preparation and planning application evaluation) where this would help to speed up delivery and provide certainty but would emphasise that this needs to be at an early stage in the process.

1.3 We are nonetheless concerned about the Local Place Plans concept. There is currently a housing crisis due to the under-delivery of homes across Scotland and so anything which will worsen this situation is unacceptable. We do not support the proposal to prepare 'Local Place Plans' as we are concerned that this will slow down the planning process, from LDP preparation and adoption, to consultations to decision making and delivery of housing. Furthermore, we are concerned that the parties who would be interested in preparing such plans would be anti-development (or at least in their area) and would not represent the views or objectives of the wider community and therefore such plans would conflict with the aims of the Planning System or those of the applicable LDP, preventing housing being delivered. Lessons should be taken from the misuse and confusion of Neighbourhood Plans in England. Should 'Local Place Plans' be implemented, they would require rigorous examination to ensure compliance and soundness as per the examination of all other Plans. This would be both cost and resource intensive. In any instance, the adopted LDP would

require to take precedence therefore the merit of having 'Local Place Plans' in reality is questionable. We await the outcome of secondary legislation to provide updated comments on this topic.

1.4 The intent behind the proposed 10 year LDP is acknowledged in order to avoid consultation overload and allow a greater focus on plan delivery. However, the timeframe for a local spatial strategy to then be in place is perhaps too long and then unable to respond to changing local circumstances. There is therefore a need for Development Plan review triggers to be clearly defined to allow such changes to be responded to timeously. Further comments are provided under question 2 below.

## **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?**

2.1 The initial intent of the Planning Review was to address the undersupply of housing that was evident across Scotland. There is concern that the Bill itself shows little detail as to how this will be achieved but it is hoped that the substantive changes brought through secondary legislation for example will assist and provide confidence.

2.2 In relation to the proposed new 10-year LDP we support the aspiration to focus on delivery but this should be part of the preparation of the LDP, rather than adding time to the LDP timescale to allow time to try to deliver the plan after it is written. We are concerned and do not agree with this approach. Current 5-year effective housing land supplies are failing to be implemented in authorities across the country (and ineffective sites are impeding deliverable sites being realised) and as such we do not have confidence in a 10-year supply being implemented. Furthermore, this would require option agreements between land owners and prospective housebuilders to be considerably extended beyond a shorter term market period. This directly impacts on housebuilders' and investor confidence and appetite to enter into such agreements and therefore will delay and/or reduce the number of potential housing sites coming forward.

2.3 We believe that, for such proposed 10 year plans to work effectively and as intended, a regular review process would need to be undertaken and any updates made within reasonable timescales to reflect the accurate housing forecast and provision within the Local Authority area.

2.4 There needs to be more flexibility to allow Development Plans to accommodate housing development and changing conditions and circumstances over time.

2.5 Should housing delivery begin to fail in a Local Authority area, demonstrated by a lack of 5 year supply, a clear and strong presumption for permitting development that contributes to sustainable development should apply. This should also apply where the relevant plan is not up to date. This will ensure clarity of approach in this situation and help to maintain consistent delivery of homes. It will also focus the authority on creating a deliverable plan, to assist with its delivery and to keep it up to date.

2.6 In order to incentivise delivery, the concept of a 'new homes bonus' could be considered, which would further encourage Local Authorities to focus on delivery and add to the benefits that development brings into the authority.

**3. Do the proposals in the 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?**

3.1 The current reality of Strategic Development Plans' (SDPs') role in the delivery of housing is relatively minor beyond providing a starting point for Local Authorities' setting housing targets. In this context, we do not object to their removal from the process if this helped to streamline the overall process. However, we do believe there is a need for a robust and accurate method of setting housing targets, and if SDPs are to be removed this would particularly be needed at a national level (through the National Planning Framework and Scottish Planning Policy), to ensure housing is delivered. The requirement for the delivery of more homes across Scotland is widely acknowledged and to ensure this happens there needs to be accountability. Government targets need to filter through to allocation and delivery on the ground.

3.2 With or without the presence of SDPs, enough housing sites to meet the requirements need to be allocated and these need to be in the right locations that reflect market demand to ensure delivery. In the current system, we do not believe that all housing sites are being allocated in the right locations (or allocated at all) due to political pressure and lack of understanding by Local Planning Authorities of market demand (where people want to live) and the issues affecting the deliverability of complex sites. We believe that housebuilders and other industry professionals are best placed to advise of deliverable sites to local politicians.

3.3 In order to help delivery, it is essential that properly funded Regional Partnerships are established which would come through further legislative changes to ensure these are required rather than loosely being 'expected'.

3.4 Further guidance (for the sake of clarity) is required as currently it is not clear whether the NPF (which will effectively replace the SDP) will set housing targets for each authority, and how they will test final plans against these. If authorities have to produce their own requirements this will add time. It may also mean the needs are not met.

**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?**

4.1 Barratt welcome the proposals which will provide more focus on delivery of housing sites but as mentioned earlier in this response, the finer detail of secondary legislation will be vital to the fuller understanding of the reality in terms of interaction between LDP/NPF and their respective relationships.

4.2 Further, we agree with the proposal to remove the Main Issue Report (MIR) stage from the Local Development Plan (LDP) process to help streamline the process and create a more productive and effective consultation through the information gathering stage and the Draft/Proposed Plan. Similarly, the use of a 'gatecheck' early-on in the process could be positive, however the evidence report stage looks like it could

become very elongated, delaying the production of plans. In that respect our comments made in 12.3 (ability to comment on the evidence report) is relevant.

4.3 As noted above, the current relationship between a Local Development Plan (and Strategic Development Plan) and the National Planning Framework is one where the former must take into account the latter. That is a reasonable position. The change in status of the National Planning Framework therefore also necessitates a change in how this interacts with other parts of the Development Plan. In addition, the ability of one part of the Development Plan to be at odds with another (as would be permitted by the proposed revisions to Section 24 of the Planning Act) will fundamentally undermine the effectiveness of the Development Plan.

4.4 Whilst we oppose the proposed Local Place Plans, the requirement for these and Local Development Plans to simply have regard to one another is a reasonable default position. Where a Local Place Plan is to be taken forward as part of the Local Development Plan through a review or amendment, the test can then be that the Local Place Plan is consistent with the Development Plan.

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

5.1 Barratt North Scotland has no strong view on Simplified Development Zones. However, we acknowledge that there is a positive opportunity ensure development is delivered quicker in these zones and this should be embraced.

5.2 However, it is important to remember that allocating land for an easier passage through the planning system does not guarantee it will be deliver development faster, as there may be other delays (services/ infrastructure for example) which make development unviable and therefore delivery will continue to be delayed.

## **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?**

6.1 Barratt North Scotland acknowledge that one of the main objectives on the agenda for the Planning Bill is enhanced community engagement. However, there are few specific changes set out within the Bill as currently drafted that will deliver enhanced community engagement in the planning process.

6.2 Communities are already consulted on proposals through the LDP and the pre-application process. Many Community Councils already produce local action plans and are supported through dedicated Council community liaison officers. There are plenty of opportunities for communities to be involved in the preparation of plans and to influence development proposals.

6.3 In our previous consultation response to the Planning White Paper, we agreed with the suggestion for Community Councils and Local Authorities to determine

specific consultation methods for unallocated sites. Unallocated sites will often have already gone through the same consultation process during the preparation of the LDP and the current pre application requirements are robust and fairly extensive. We would question the appropriateness and effectiveness of additional and individual consultation measures beyond this. Furthermore, this would lead to substantial inconsistency in consultation measures not only across Local Authorities but also within them.

6.5 It is essential that Local Place Plans take account of the extant LDP or the emerging plan and the NPF. It is also important that a process for examining LPPs to ensure soundness and compliance must be put in place. In addition, some consideration should be made for where neighbouring LPPs, or indeed overlapping LPPs by different groups in the same area could be in conflict.

6.6 The key thing is that if the notion of LPP's are to progress, they must not become a cause for delay in the planning system.

**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?**

7.1 Barratt North Scotland has no comment to make on these elements of the Bill.

**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?**

8.1 The Infrastructure Levy is likely to have significant financial implications for developers. The costs associated with the Levy are significant yet there is a real lack of understanding of what the Levy can achieve and when, and as such further detailed analysis will be required to give them credibility. Notwithstanding, much like current Planning Gain requirements, we are fully committed to paying for Infrastructure which is necessary to directly mitigate against the impact of our developments and help to deliver any development where this is fully justified.

8.2 In certain areas of Scotland, the level of existing planning gain requirements levels, in particular for education, are already making sites unviable. This should therefore be taken into account when devising and applying any levy to ensure that the burden of additional contributions do not render further sites unviable, reducing the prospect of delivery of homes. We would also advocate the use of District Valuers when assessing what level of contributions can reasonably be applied to a development.

8.2 From the outset, any Levy must be combined with a program of forward funding so that development is not delayed whilst contributions are sought from other developments. Further, a clear strategy for delivery of infrastructure must be decided and set out before any levy is put in place. Lastly, it must also be flexible to allow for viability constraints so development is not stifled.

**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?**

9.1 Yes, this is absolutely essential. Training should be devised immediately and incorporate information about developer issues, such as buildability, timescales and viability. Stakeholders should be involved in devising this training, such as service providers and developers.

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

10.1 Whilst we acknowledge the intentions of the proposed monitoring of performance of Planning Authorities, the Bill falls short of providing actual improvements on the basis of planning fees.

10.2 We have made comment in our response to the Proposed Planning Fees increase (response February 2017) that there needs to be a direct relationship between fees and performance. We have seen planning fees increase whilst at the same time authorities are either releasing staff or not filling positions. This impacts on performance. We are fundamentally concerned that increased fees would not be allocated to resource the planning function within local authorities. If Local Authorities cannot ring-fence planning fees for the planning service then it is difficult to see how improvements can be made. Our thoughts on this subject remain the same and hence why we have concerns about the ability for Authorities to improve.

10.3 We would be interested to know if there would be any sanctions if an authority does not improve its performance, or repeatedly has poor performance, following the new reporting and directions proposed.

**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?**

11.1 Barratt North Scotland are concerned that the proposals in the Bill do not go far enough and do not build on the changes to the Fees that were brought into play in 2017.

11.2 We are prepared to pay for an improved planning system however, we have mentioned above and in other consultation responses that the lack of ability to ring-fence planning fees for a Planning Authorities to enhance their performance is an issue. We know that the money is absorbed into the general council funds and this is a worry as it continues to highlight that planning services are not being properly funded.

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

12.1 Barratt North Scotland is generally supportive of the Planning Bill so long as the main objective of determining the right development in the right place continues.

12.2 In addition, achieving greater and more effective collaboration from communities and other stakeholders in Development Plan formulation is accepted to be an important and valuable aspiration. However, this should not be at the cost of more delays to delivery of homes.

12.3 In terms of future consultation, there should be a chance to be consulted on the Local Outcomes improvement plan, which is to inform the LDP instead of a vision. In addition, there should be a consultation on the evidence report (for the 'gatecheck' stage) as this will include the key topics and information that will influence the shape of the plan. Lastly, there should be an opportunity to comment on the modified proposed plan.

12.4 The benefits of extending the time from notification of adoption to actual adoption of the plan are unclear.

12.5 We would welcome the ability for ministers to amend and unsatisfactory plan.

12.6 A procedure needs to be set out if only part of the plan is approved by ministers.

12.7 The requirement for whichever is the later of NPF or LDP to prevail needs to be clarified to ensure there is no assumption that LDPs do not need to be prepared in compliance with the NPF.

12.8 The types of applications that may not require a PAC should be set out for review.

12.9 Where PoAN's now expire after 18 months, there should also be provision that recent consultation within that period can count towards a new PAC process.

12.10 The requirement to offer a pre-determination hearing should remain.

12.11 In our opinion, the remit of Local Review Bodies should be confined to minor matters that will free up the DPEA to deal with major appeals more quickly. For the avoidance of doubt, major development appeals should NOT be determined by LRBs.

12.12 Barratt accept the current appeal rights of applicants and suggest that Third Party Rights of Appeal would work against the development industry, which would in turn add to the delay in delivery of key sites across the country. In that regard, the current system should remain.