

## Local Government and Communities Committee

### Planning (Scotland) Bill

#### Submission from Taylor Wimpey plc

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?*

With required refinement and clarification through subordinate legislation, Taylor Wimpey consider the Bill has the ability to achieve this appropriate balance. We strongly support the omission of Third Party Right of Appeal in the Bill. Whilst we endorse increased PAC requirements and the introduction of Community Place Plans we must ensure that CPPs are positively prepared, supporting growth to meet the identified need. CPPs should also need to be subject to consultation and independent examination.

Refinement of the Bill will be required to ensure that it is fit for purpose. Our main concerns bulleted below must be addressed to ensure the Bill produces a planning system that supports the delivery of appropriate development. These comments are consistent with the comments we have made at all stages of the Bill preparation.

- NPF requires to set housing land targets and timescales for delivery to Local Authorities and these require to mandatory;
- LDPs must conform with and be consistent with NPF and the housing targets set. Not just “*have regard*” to. There is evidence that several LDPs recently adopted are not conforming to SDPs or to SPP. The SG need to ensure that this does not keep happening.
- 10 year LDP cycles are too long without robust trigger mechanisms for a review should an LDP fail to deliver sufficient housing land. 10 year cycles will likely mean more appeals which is in no ones interest.
- Simplification of developer contributions through removal of the Infrastructure Levy. There is a need to provide more clarity on what is proportionate and can fairly be asked for. There should be a scale and kind test, which seems to have fallen by the wayside;
- Invest in the planning system through adequate resourcing of people and skills. There needs to be increased investment throughout the DM and DP processes to allow for greater collaborative working, to allow public and private sectors to take shared ownership of delivery of LDP proposals and plan objectives.

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?*

Taylor Wimpey strongly supports the need for this Bill to create, support and encourage higher levels of house building in Scotland. We are very concerned however that without certain changes and clarification this could be severely at risk. We believe that if these changes are made, the Bill could result in higher levels of new housing building as well as increased levels of employment, skills development and other benefits flowing directly and indirectly from house building.

**1. NPF requires to set strategic land requirement for LDPs and LDPs require to conform.**

The NPF needs to ensure robust and ambitious Housing Supply Targets are required for each Local Authority. The ambition of the Technical Paper set out that the NPF would set out housing targets and that the LDPs would have to be consistent with these. This has not been continued into the Bill which now only requires LDPs to *'have regard'* and *'take account of'* NPF. This fundamental change for LDPs not to be consistent or conform with NPF will allow Local Authorities to set their own agenda on housing targets and in our opinion, will result in less land being allocated and lower levels of new house building. This is exactly what is being borne out just now across the country under the existing system. It should allow us to move away from the debate over numbers if embraced in the right way. We want to see realism applied over effectiveness and timing of developments, we want to see more collaborative working.

**2. LDP Gatecheck**

With the current system many of LDPs are not fit for purpose with respect to housing land supply. Reporters have agreed with this through the Examination Process but by this stage it is too late and nothing has been done about it. Many examinations have resulted recently in the need to prepare SG to augment the land supply not being delivered through the LDP process, which has either not been prepared or has been delayed significantly without delivering the required housing land. Many authorities look to rely on plan reviews to address their housing problems at a later date rather than dealing with the difficult decisions today which has been an issue in the making over the last two decades. Many authorities see the problem as too big, they need to collaborate for answers not push application determination to appeal because this is the convenient way forward politically. In this regard the Gatecheck process is fundamentally important and must be robust to prevent the preparation of deficient plans.

We previously supported the purpose of the Gatecheck to provide reassurance on the evidence base and approach early in the process rather than at the end through the Examination process. If the outcome of the Gatecheck specifies that a set amount of housing land requires to be allocated and the LDP does not do this, as an industry we must still be able to challenge this. The last 3 LDPs in the SESplan area have not accorded with SESplan housing requirements as confirmed through the Examination process And have been allowed by SG to be adopted without adequate changes required.

As the Bill is written there is no detail on how the Gatecheck assessment process will work and nothing to suggest that anyone in the development industry or local communities will be able to influence or be involved in the Evidence Report. If this doesn't happen the Evidence Report will just be the Local Authorities view. There is nothing in the Bill which deals with a scenario whereby the Assessor considers the Evidence Report to be flawed. There is no recourse by third parties if they don't agree with the Evidence Report or the Assessors account of it.

### 3. 10 Year LDP cycles and LDP Review Triggers

Taylor Wimpey maintain that if the LDP cycle is to increase to 10 years there requires to be a robust requirement for review of the LDP if it is found to have a shortfall and is failing to deliver housing land. The wording of the Bill dilutes this position considerably to the "*Authority may..*" and "*Ministers may enact..*" This needs to be substantially clearer with an absolute requirement for a review so that there is an appropriate supply of new development land helping to maintain an adequate housing land supply throughout the entire LDP lifecycle. Page 6 of the Bill sets out how Ministers can direct LAs to amend the LDP but it does not specifically state a regulation about housing land. This list shouldn't be exclusive and should be amended to include housing land.

There only requires to be a partial review of the housing section of the LDP to avoid any delays associated with a full review although it is noted that some authorities recently have undertaken just a part review, albeit it has still taken too long to review. If there is no absolute requirement for amendment/ review then the 10 year LDP lifespan is too long.

4. *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?*

Taylor Wimpey recognise that the Strategic Development Plan was not fit for purpose and did not deliver, or support, the level of sustainable development

required. The main issue was widely accepted as the disagreement on how to calculate sufficient housing land supply targets. As stated above, we believe that to effectively create a robust structure, the Bill must:

- Ensure the Local Development Plan is regularly reviewed and should a shortfall develop within the effective housing land supply then immediate action should be taken to both test that allocated sites are deliverable and viable and release additional land to ensure that housing supply targets are met.
- Ensure that the National Planning Framework sets a housing supply target that is accurate and ambitious and that LDPs are required to conform to this to ensure sufficient land is allocated to ensure consistency of supply. The NPF should deal with cross border infrastructure issues, making any consultation with regional partnerships essential in the preparation of the NPF.
- Regional Partnerships have not come through to the Bill which we previously supported. In their absence, LAs will be able to pursue their own agenda in the absence of regard to their neighbouring authorities.

5. *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?*

Taylor Wimpey are hopeful that the new Bill, in finalised form, will ensure Local Development Plans are focused on housing delivery, consistency of housing land supply and simplification of the overall planning process. We believe that the Bill should:

- Ensure that the NPF directs ambitious housing land supply targets to each Planning Authority in a robust, consistent manner that is open for consultation in early course. The proposals for an early 'GateCheck' should remain consistent with the LDP Examination to ensure that no Local Development Plan is ever adopted with a shortfall to its effective housing land supply.
- Simplify developer contributions through the S.75 process rather than introduce a more complex and difficult arrangement of S.75 and Infrastructure Levy. We believe that the lack of clarity surrounding proposals for an Infrastructure Levy pose considerable risk to the supply of new housing in Scotland and, as with CIL in England, any additional levy would not prove successful. Taylor Wimpey cannot support the existing proposals for an Infrastructure Levy. We need there to be a measure of what is and what is not acceptable to ask for. Scale and kind used to be the measure. There needs to be standardisation of the infrastructure essential for development.
- Ensure a requirement for regular 'Gate Checks' to the LDP throughout the 10 year lifespan. This could take the form of regular tests of effectiveness,

scrutinised by the Scottish Government, assessed preferably at 5 year intervals.

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

Taylor Wimpey support the use of Simplified Development Zones and believe that, if operated correctly and in early collaboration with developers, they have the potential to enable development with sufficient safeguards for community and environmental interests. Taylor Wimpey believe more should be done to ensure strategic developer-backed housing sites are identified early through allocation safeguarding. Strategic safeguarding could allow the use of Simplified Development Zones to create vibrant, high quality places that can be planned effectively by both planning authority and developer with earlier community and stakeholder consultation.

7. *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?*

Communities at present are afforded the opportunity to be involved in the Main Issues Report, Proposed Plan, Examination, Planning Permission in Principle application, Detailed Application and Approval of Matters Specified in Conditions stages. This is in our opinion sufficient to allow communities to be involved in the planning system. More needs to be done by councils through the LDP on why housing is needed, what the benefits are and what infrastructure is going to be brought forward to support. If housing is seen as essential, the debate can then move onto where does it go and what should it look like.

Despite this Taylor Wimpey wholly support community engagement and the need for local development plans to engage with communities earlier in their preparation. We support proposals for increasing the PAC requirements. Whilst we do, however, draw concern that community place plans may disrupt, delay or reduce the efficiency of the local development plan, we acknowledge that this is will not be the intent and clear guidance will be provided through subordinate legislation. CPPs need to be introduced very carefully with tight control on how they are prepared. They need to be positively prepared allocating sites to meet need in line with national policy. They will need to be subject to consultation and independent examination if they are going to effectively plan for growth.

We do not support Third Party Right of Appeal as a way of communities influencing decisions affecting their area and strongly urge that this is not included in any amended Bill. As set out in further detail in Q13, we strongly believe that TPRoA will add additional delay and uncertainty to a system that is already slow and unresponsive. It will undermine democracy; will divert investment way from Scotland and would add in significant additional cost and pressure on a Local Authority resource that is already under overwhelming

pressure. TPRoA will not deliver essential housing, infrastructure or investment, will be costly through the courts and does not increase collaborative working.

8. *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?*

Taylor Wimpey support the use of fines and recovery of expenses where developer's fall short of compliance requirements. We believe developers must act responsibly and the changes to fines and recovery of expenses will not affect responsible developers operating in Scotland.

9. *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?*

Taylor Wimpey do not agree that the Infrastructure Levy is the best way to secure investment for new infrastructure. We believe that neither the Bill nor the Technical Paper provides sufficient detail for consultation. Furthermore, we believe that the introduction of such a levy would dilute the valuable contributions that developers make to communities through S.75 and we would prefer that the Bill reinforces and simplifies contributions through S.75 agreements. More changes should be made to the tax system to allow any tax raised locally from LBTT, VAT etc to be spent by SG locally on services and infrastructure. It is a political issue, not a planning one and infrastructure levy should be a political debate for the tax system. CIL in England has not proved successful. The government is currently undertaking a review including consideration of alternative approaches.

10. *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, Taylor Wimpey support both formal and informal training for local government councillors. We would also support the training of local government officers involved in determining effectiveness of sites and viability and also SG officers and Reporters to receive training. We should promote collaborative working to ensure that there is a broader understanding of the economics of development.

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

Taylor Wimpey believes that performance improvements within planning authorities would be gained through increased resourcing for staff and skills. The increases to planning fees should be used to improve the number of staff and the level of training staff received within planning departments.

12. *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?*

The increases to application/service fees offer no direct relationship to funding for planning departments in Scotland. Taylor Wimpey believe that, fundamentally, it is essential that local authority planning departments should have the option to ring-fence any funding received from planning services. An overall increase in major development through-put for the planning department should increase income and support better trained and better staffed planning departments. Whether this results in a high-performing planning system is yet to be seen, however we believe that faster decisions and greater volume of consents should bring an overall benefit to the performance of local authority planning departments.

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

Taylor Wimpey support a progressive, efficient and sustainable planning system. We believe that the proposed changes within the Bill offer the potential to improve a system that has suffered from historic failings and created a poor culture with fear, division and lack of leadership. To ensure that this happens, a number of matters need to either be addressed through amendments to the Bill or introduced through subordinate legislation as set out below or in the specific instance of Third Party Right of Appeal the Bill should not be amended through the Parliamentary process for the reasons set out.

#### 1. Third Party Right of Appeal

Taylor Wimpey support the Bill's position on not introducing Third Party Right of Appeal and strongly urge against any amendment to this. We do not support Third Party Right of Appeal for the following reasons:

- We strongly believe that the basis of a fair and efficient system is the speed and strength of its decision-making ability. At present it takes far too long to obtain planning permission on allocated sites and a further procedure would add delay and uncertainty to a system which is already slow and unresponsive. There is sufficient opportunity to be involved in the plan making and application stages.
- England and Wales have made clear their opposition to introducing TPRoA and if introduced in Scotland investment would migrate south of the border along with jobs.
- TPRoA would likely be abused through unjustified opposition to development proposals and objectors may not be representative of the views of the wider community. Many developments may be supported by communities due to the creation of jobs, provision of much needed services and infrastructure etc but a single objector could cause significant delay and cost by submitting an appeal.

- TPRoA would undermine local democracy as Councillors are elected to make decisions on behalf of the community and the value of that role would be minimised if all their decisions could be challenged.
- A TPRoA would not produce the level playing field that supporters advocate as it would allow communities to challenge a decision made on their behalf by Councillors they have already elected.
- The taxpayer would bear the costs of funding additional case work required by these appeals and applicants would incur additional costs with defending their proposals.

## 2. NPF to set Housing Targets & LDP to accord with NPF

Taylor Wimpey support Scottish Government accountability for setting progressive and aspirational housing supply targets to support economic growth, jobs and skills. Taylor Wimpey support a clear, consistent and robust methodology for calculating housing supply targets. We acknowledge the failures of Clydeplan and SESplan to accurately calculate housing needs and we would like the Bill to require NPF to govern this requirement. NPF should set the housing supply targets for each Local Authority Area and the Bill should set out that the LDP requires to conform with NPF and not “*have regard to it*”.

## 3. 10 year LDP and Gatecheck

Taylor Wimpey fundamentally believes that a Local Development Plan should never be adopted with an identified shortfall in its housing land supply and we want a Gatecheck process that ensures that evidence is independently verified prior to the Local Development Plan review. If a Plan is adopted with a shortfall, it sends the wrong message that failure to deliver is OK and that planning is not collaborative.

We are concerned by the lack of requirement for formal reviews within the 10 year LDP lifespan. We would like annual monitoring of an ‘assessment of effectiveness’ to ensure the Housing Supply Target is verified and the housing land supply remains effective. Failure to have met the Housing Supply Target of the preceding five-year period should always result in the shortfall being carried forward for the subsequent five-year period to ensure the housing requirement is met.

## 4. Infrastructure Levy

We recognise that the Bill only grants Ministers the ability to bring in an Infrastructure Levy at a later date and does not actually say it will come in or that it is required, we maintain that the introduction of an infrastructure levy poses a significant challenge to new planning applications. Whilst a lack of clarity around the mechanism for valuing a potential levy limits our ability to respond fully, we believe that evidence from the English CIL system proves that an Infrastructure Levy would not raise the expected level of income from development. Furthermore, we believe that the imposition of an Infrastructure Levy would reduce the value of contributions made through S.75 and cause a detrimental impact to the communities in which developers operate. Taylor Wimpey are focused on supporting the communities in which we build and actively encourage

public sector investment in the areas we build to maintain, support and encourage thriving communities.