



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 7 March 2018**

**Session 5**



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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**  
**8<sup>th</sup> Meeting 2018, Session 5**

**CONVENER**

\*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

**DEPUTY CONVENER**

\*Monica Lennon (Central Scotland) (Lab)

**COMMITTEE MEMBERS**

\*Kenneth Gibson (Cunninghame North) (SNP)

Jenny Gilruth (Mid Fife and Glenrothes) (SNP)

\*Graham Simpson (Central Scotland) (Con)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Sarah Boyack (Scottish Federation of Housing Associations)

Jonathan Fair (McCarthy and Stone)

Malcolm Fraser

Professor Cliff Hague (Heriot-Watt University)

Jenny Hogan (Scottish Renewables)

Kate Houghton (Royal Town Planning Institute Scotland)

Dorothy McDonald (Clydeplan)

Gordon Nelson (Federation of Master Builders Scotland)

Tammy Swift-Adams (Homes for Scotland)

Stuart Tait (Clydeplan)

Stuart Winter (Scottish Renewables)

**CLERK TO THE COMMITTEE**

Jane Williams

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Local Government and Communities Committee

Wednesday 7 March 2018

*[The Convener opened the meeting at 09:03]*

### Planning (Scotland) Bill: Stage 1

**The Convener (Bob Doris):** Good morning, everyone, and welcome to the eighth meeting in 2018 of the Local Government and Communities Committee. I remind everyone present to turn off mobile phones. As meeting papers are provided in digital format, members may use tablets during the meeting. We have an apology from Jenny Gilruth MSP, who is a committee member. Unfortunately, she cannot be with us.

Under agenda item 1, we will take evidence from two panels on the Planning (Scotland) Bill at stage 1. It gives me pleasure to introduce our first panel. Tammy Swift-Adams is director of planning at Homes for Scotland; Jenny Hogan is deputy chief executive at Scottish Renewables; Gordon Nelson is director of the Federation of Master Builders Scotland; Sarah Boyack is head of public affairs at the Scottish Federation of Housing Associations; and Jonathan Fair is regional managing director, Scotland, at McCarthy and Stone. I thank everyone for coming to the meeting.

I understand that there will be opening statements before we go to questions. I ask Jenny Hogan to start.

**Jenny Hogan (Scottish Renewables):** Thank you very much for the opportunity to provide evidence to the committee today.

Scottish Renewables is the voice of Scotland's renewable energy industry. It represents more than 270 organisations, including developers and installers, as well as community organisations and companies right through the supply chain. Many of our members are developing projects across a range of scales, from district heating schemes to wind farms, and from hydro power projects to solar panels. Those businesses and communities are helping to deliver the Scottish Government's target, which all the major parties support, to meet half of all our heat, power and transport needs from renewables by 2030. Those ambitions are extremely challenging and require a joined-up approach across all levels of government and its agencies.

Although we welcome many of the bill's provisions, we believe that some of the proposals would have unintended consequences for our

sector and, as a result, many of the Scottish Government's national outcomes.

More specifically, I will summarise a few of our recommendations. We recommend that the bill be designed to enable the national outcomes to be achieved within the necessary timescales while minimising costs; that sustainable development should be an explicit purpose of the bill to make it clear that the delivery of the climate change plan, the future climate change act and the energy strategy will be facilitated; that the process for reviewing plans and policies must be able to reflect rapid changes in technology and policy—that is particularly pertinent for energy and carbon reduction; and that the planning system should not be viewed simply as a service for developers but also as a service for the public good that must balance a range of interests, and that it should therefore be resourced by both the public and private sectors.

We also recommend that consideration be given to introducing a new consultee tasked with advising on the socioeconomic impact of applications, to provide balance to those who assess other impacts—for example, the economic development department of the local authority; and that complex applications that require an environmental impact assessment be treated as major projects and not determined under delegated powers, or, at least, given that option. We support the independent planning review recommendations and those of a number of stakeholders who have argued that front loading community involvement is the most effective way to empower people in the process, as opposed to reforms to appeals.

We agree with Community Land Scotland, the Scottish Crofting Federation and others that areas of Scotland that are currently mapped and identified as wild land areas should be balanced with socioeconomic opportunities for Scotland's rural land, whether that be for crofting, woodlands, renewable energy generation or other opportunities for income.

**Tammy Swift-Adams (Homes for Scotland):** Homes for Scotland is the voice of the home-building industry. We have more than 200 members, including home builders that are responsible for around 95 per cent of the new homes that are built in Scotland each year.

As director of planning, I hear from my members on a wide range of issues. Planning is not their only challenge, but it is one of the biggest ones.

The need to deliver more homes sparked the planning review in September 2015. Two and a half years later, we are no further forward in housing delivery. We need to build more homes. Homes for Scotland has scrutinised the proposals

in the bill and the wider planning review through that lens. However, we are not blind to the other ambitions behind the bill, and we are aware of the many balancing acts that the system faces.

The bill provides a rare and crucial opportunity to help the planning system to fulfil its potential in delivering new homes and other development that Scotland needs. If we can get planning reform right, good performance should be the norm, and communities and home builders alike should have better trust in the process that shapes our country's development.

We strongly support the focus of the planning review on making planning more collaborative rather than introducing more opportunities for conflict. We think that the bill should acknowledge that collaboration more than it currently does.

More broadly, the bill could be strengthened through changes to what is proposed on development planning, the infrastructure levy, performance and fees. It is important to maintain the strong relationship between the different components of the development plan, for example.

Finally, we are concerned that the bill and its accompanying financial memorandum overlook the fact that, to properly resource planning services and infrastructure delivery, it will be necessary to look beyond the development community and the planning system. The changes that we suggested in our written evidence are intended to ensure that the bill achieves its intended objectives without leaving important details to chance.

**Gordon Nelson (Federation of Master Builders Scotland):** Thank you for the invitation to give evidence.

The Federation of Master Builders, which has more than 8,000 members, is the largest trade association in the United Kingdom construction industry, and we are recognised as the voice of small and medium-sized construction firms. Our house-building members build on small sites, typically of fewer than 30 units. Our consultation response is based on their experiences and views as small house-building firms across Scotland.

**Sarah Boyack (Scottish Federation of Housing Associations):** The SFHA represents housing associations and co-operatives across Scotland.

An effective planning system is critical for our members to take forward their proposals to provide affordable warm homes, meet people's needs and deliver socially inclusive communities. Recent research that we produced with Shelter shows that our members are making a key contribution to achieving the Scottish Government's target of 50,000 affordable homes

and that they are tackling inequalities and delivering socially inclusive communities at the same time. However, there must be an approach that ensures that housing meets people's needs now and in the future.

Our research highlighted the need to ensure that housing is accessible, is affordable and is where people need it throughout the country. Therefore, our ambitions for the Planning (Scotland) Bill are that there be a stronger link between the range of housing needs that need to be met and the planning process; that affordable land be made available where it is needed to meet those housing needs; and that infrastructure be planned and provided to enable high-quality housing developments in communities.

The bill provides an opportunity to address issues around land supply and cost. That is critical, because one of the motivators behind the bill is that not enough housing is being delivered in Scotland. The bill makes provision for an infrastructure levy, but we want land to be transferred at existing use value so that the uplift in value that is gained through planning permission for housing can be used to fund the infrastructure that is needed to service those sites.

It is also important that the planning system be resourced to implement the ambitions that are in the bill so that housing associations and co-operatives can ensure collaborative developments with front-loaded consultation; deliver the place making that people want in their communities to provide high-quality places in which to live with active travel and green spaces; and meet the Scottish Government's wider range of objectives.

**Jonathan Fair (McCarthy and Stone):** Good morning and thank you for the opportunity to speak to the committee.

This is a particularly opportune time for the evidence session to take place. Over the past 10 years, there has been a great deal of discussion about meeting the needs of the most disadvantaged in society and also about first-time buyers, or generation rent. Unfortunately, there has not been the same level of discussion about meeting the needs of generation stuck—the last-time buyers who want to get on the final rung of the housing ladder.

Last Tuesday, Angela Constance, the Cabinet Secretary for Communities, Social Security and Equalities, said when addressing the Chartered Institute of Housing Scotland conference that innovative approaches were needed to meet the housing challenges of Scotland's ageing population. She said that there was a need to take action to address the needs of our ageing population to ensure that more suitable housing

and services were put in place to help individuals to continue to live independently and at home.

Changes to Scottish planning policy in 2014 were certainly a step in the right direction but, unfortunately, there is little evidence so far that those changes have delivered on the original aims. It is clear that, if Scotland is to make any real progress in the provision of appropriate retirement housing, much more needs to be done. Although the independent planning review highlighted the need to address the housing needs of the ageing population, there is, unfortunately, no mention in the bill of housing for the elderly as a policy priority or target.

In our discussions, I hope to make a number of suggestions on how the Planning (Scotland) Bill can make a step change to ease the way for a significant increase in retirement housing that will help to achieve the objectives that the communities secretary set out last week and the objectives for savings to the health and social care budgets that the Scottish Government in general has set out. Most importantly, I hope to suggest how it can provide an appropriate range of housing options for older people in Scotland.

**The Convener:** I thank all our witnesses for those opening statements.

**Graham Simpson (Central Scotland) (Con):** I thank the witnesses for attending. Apart from Ms Hogan, they represent the house-building sector. A couple of them mentioned that an ambition behind the bill was to deliver more housing. I must admit that I do not see that in the bill. Do the witnesses see it and, if they do not, what should change? In other words, will the bill deliver more housing?

**Tammy Swift-Adams:** We said in our written submission that there is nothing significant in the bill that specifically refers to housing or is specifically designed to increase the delivery of new housing. However, if we look at the policy memorandum, which outlines the Government's vision of how planning will be done in future—which will be delivered partly through the bill and partly through other means—it is clear that, for planning to be successful, it needs to deliver more homes.

09:15

In our written submission, we have made a number of suggestions—which we can work up into amendments—about how the bill could do more to make planning a better enabler of new homes. They include strengthening the relationship between local development plans and the national planning framework to make sure that local development plans bring forward the homes that are needed in local areas. We also suggest

filling in the gaps in the bill at the moment, including in relation to the clear need for better collaboration with the development industry, and with communities at large, at the early stage of plan preparation. In the policy memorandum, there is a clear reliance on that collaboration in order for planning to work, in terms of both delivery and community trust. At the moment, the bill does not acknowledge that collaboration or ensure that it happens.

**Sarah Boyack:** We have suggested that we look at housing need across the country and then ensure that that housing need is met in every part of the country. We need national targets, which need to feed through to regional work. That then needs to feed through into local development plans. If the suggestion is 10-year development plans, with an emphasis on implementation, delivery and collaboration, and with a properly resourced planning system, developers will be able to work through that system, whether they are delivering social rented properties or a range of housing choices across the country.

One of the key things that we found in our strategic housing investment plans research was that there is not that link between where housing need is and where housing is being built. That is partly because of the cost of infrastructure, but a critical issue is the cost of land. We suggested that that is one of the issues that need to be looked at in the bill. The Scottish Land Commission has done work and is looking at a range of options. We think that that debate needs to filter into the bill. The issue needs to be reflected in headline statements in the bill, or to follow in the regulations and secondary legislation that come afterwards.

The comment that Tammy Swift-Adams made about collaborative work is really important. Developments such as those relating to Glasgow's Commonwealth games involved incredibly complex sites. There were issues about remediation—improving the quality of the land before anything was built. There were a mixed range of developments, including low-carbon developments. Those developments were able to happen because the local authority was able to work collaboratively with a series of developers, including registered social landlords.

At every stage, it is crucial that we ensure that there are targets, that there is affordable land and that there is collaborative delivery on the ground.

**Gordon Nelson:** I echo some of those comments. The bill, in itself, will not bring about the delivery of new homes, but there is an aspiration in the policy memorandum, which was referred to earlier, to close the gap between planning consent and the delivery of new homes. The secondary legislation and guidance that come with the bill could help speed up the delivery of

new homes in the right areas. The front-loading approach should enable better engagement between small local house builders and communities, so that there is the right development in the right area at the right time.

The aspirations of the bill are certainly there. However, there are significant barriers beyond the nature of the legislation. The price and the availability of land have been mentioned. For many of our house-builder members, a major barrier to entry is a lack of access to affordable development finance, which prevents many aspiring small home builders from entering the house-building market. Scotland desperately needs more diversity of housing supply and more entrants into the house-building industry.

**Jonathan Fair:** I echo much of what has already been said, but I would particularly like to highlight a couple of things. For the bill to be effective in driving improved housing delivery, it needs to include measures and ways to improve the speed of the process. As a result, the bill should ensure that the people who invest in housing delivery in Scotland have confidence that their investment will come to legitimate fruition. Whatever measures are included in the bill should focus on those issues.

**Graham Simpson:** I think that we all agree that there is nothing in the bill that would deliver more of anything. It does not seem to have any ambitions on anything, but certainly not on housing. Could you be a bit more specific? We are looking at potential amendments to the bill. Are there any that you would suggest?

A couple of you mentioned having national house-building targets. In her written evidence, Tammy Swift-Adams suggested a more robust methodology, and Sarah Boyack mentioned that as well. Should we say something in the bill about a methodology for setting out what targets would be so that they would flow down to local levels?

**Jonathan Fair:** We need to set clear national targets for house building across the sector, and for housing for older people in particular. It would be particularly important to have that differentiation between different appropriate uses. Monitoring that delivery through yearly statements and by including appropriate policies in support of that aim in the bill—for example, in national planning framework 2—would be the right way to go to ensure that more housing is provided and that the delivery of that is monitored over time.

**Tammy Swift-Adams:** There is definitely a need for a clear methodology for developing a housing supply target and monitoring how likely it is to be delivered or how successfully it is being delivered. I would not necessarily argue for having the full detail of the methodology in the bill but

there needs to be something more in the bill for that to hang from.

If the bill was going to say anything specific on home building, it would be a recognition that it is an important development in the national interest and that the NPF must include clear targets on house building if it is to be successful. Some of the other specific amendments that we suggest to support that would be to ensure that local development plans comply with the NPF where it sets house-building targets and to ensure that there is early collaboration with home builders among others when those plans are put together to ensure that they are more deliverable than the plans and sets of site allocations that are in plans at the moment.

I should have mentioned earlier that there is no mention of a local development plan review being triggered in the event of a shortfall in the housing supply arising. It is easy to envisage that happening because it happens now. You would think that it would be a logical trigger for a plan review but, at the moment, there is nothing in the bill that requires local authorities to review their plans if there is a shortfall.

**Gordon Nelson:** There should be more in the bill to enable local authorities to give more strategic consideration to small sites within local development plans.

One thing that encourages colleagues of mine in England about the Westminster housing white paper is its stronger focus on small sites and speed of delivery. It proposes that 10 per cent of housing allocations be small sites—half a hectare or less. It seems that there are more specific details on smaller sites for local authorities' plans in the white paper, which is encouraging.

It is to be debated whether more detail should be specified in the Planning (Scotland) Bill or be put in guidance and secondary legislation, but an emphasis on specifying smaller sites in local authorities' plans should encourage more small house builders.

**Sarah Boyack:** I am thinking particularly about making the connection between identifying housing needs and feeding that through into the planning system. Local authorities work on their SHIPs and undertake work on housing needs demand analysis, but that needs to be fed proactively into the planning system, and we need to ask where the sites are that will deliver that range of needs. We need to join the dots between the various levels of planning—between the national and regional levels and delivery in the local plans.

According to recent statistics, there are something like 10,000 people with disabilities on council waiting lists, 35,000 people with



homelessness applications and more than 162,000 people on local authority waiting lists. We have people saying that they want access to land. There are also the issues that have been mentioned about “generation rent”—people who want to buy their first home. How do we meet those needs? We know where they are, so we need to feed that through into the planning system. That is why land is crucial: we need affordable land to provide a range of different house types for different needs.

Older people have been mentioned; for them the issue is accessible house design, as well as the number of house types that we design. There should be a range of choices for older people and people who need accessible homes throughout their lives.

There must be a focus on the quality as well as the numbers and we must dig down into communities to find out what the range of need is.

**Graham Simpson:** Three witnesses have mentioned the need for more variety of homes and for smaller sites. Sarah Boyack mentioned the land value uplift model, which could provide one way to deliver smaller sites. What are your views on that? We will ask later about the infrastructure levy, so you do not need to talk about that. How could we provide more variety and allow smaller house builders to get a foot in the door?

**Sarah Boyack:** There are more examples from the huge set of Commonwealth games sites, which involved a range of developers. One issue is the role of local authorities in bringing land forward. When local authorities and registered social landlords work in partnership, that can be successful in delivering land—local authorities provide access to land and RSLs build high-quality developments after consultation. A more collaborative approach to providing land is one way to achieve that. It does not necessarily have to involve one or two small sites; different builders can be involved in the process for parts of sites.

I return to the point that having 10-year development plans provides the opportunity to focus on implementing those plans. Producing longer-term plans is not a money-saving exercise, because the focus must be on delivery. That is one of the bill's big aspirations that we want to be delivered.

**Jonathan Fair:** Local development plans are critical to housing that meets older people's needs. Developments to meet those needs are typically in central brownfield locations; smaller sites prevail and they tend to be close to shops, services and transport links. Local development plans containing clear guidance and an intention to identify and protect suitable sites of that kind, and there being a presumption in favour of giving

consent to specialist retirement housing that is tenure blind—it might include sheltered housing or extra-care accommodation—would be a means to encourage, protect and secure such precious small sites for future development.

**The Convener:** To get through all the questions on the bill, we will have to move on in a wee second, but I will bring in Gordon Nelson.

**Gordon Nelson:** As has been mentioned, more small sites could be brought forward through local plans, but there should also be more opportunities for small and medium-sized house builders on larger sites—that might involve portioning larger sites and allocating them to the custom and self-build model, which is a more viable housing delivery model for small and medium-sized house builders.

There are other ways of looking at the planning system in order to remove some of the barriers to entry for small house builders. A lot of our members have fed back to me that huge up-front investment of resources is required from small house builders, with limited certainty of outcome. The evidence to us is that the planning system has become more and more of a lottery over the years, given the cost of achieving consent. Many small and medium-sized enterprises have to commission consultants—to do transport surveys, for example—because they typically do not have the internal resources to navigate their way through the planning system. Commissioning of consultants and payment of fees add to the cost and the risk, and reduce the certainty of getting a return on investment. We could look at many other areas in the bill, and beyond it, in terms of making it easier for more small house builders to build more houses.

**Tammy Swift-Adams:** I reiterate that we need to deliver more homes of all types. It is not the case that just one type of housing is in short supply or that just one type of housing deliverer or provider is disadvantaged; the problems in the planning system and beyond it affect all house building, so we need to take an all-tenure approach that enables everybody, whoever they are looking to provide homes for, to deliver more homes.

**The Convener:** The thrust of the initial question was about whether there is anything in the bill that will in itself increase housing supply, house building and housing completions, and the answer seems to be that there is not, although the bill might be part of the picture.

Gordon Nelson made an interesting suggestion in relation to how the national planning framework, housing need assessments and strategic housing investment plans feed into the development of local place plans and local development plans,

which we will come to later. I am trying to tease out from the panel whether there needs to be something additional in the bill or in statutory guidance to help to deliver an increase in house building, if the framework must take account of all the things that the panellists have talked about in relation to where to build, what to build and in what numbers, in order to meet the national ambitions for delivery and—we hope—design at local level. Is there a framework that can—no pun intended—be built on, whether by including a provision in the bill or by putting something in statutory guidance or secondary legislation?

09:30

**Tammy Swift-Adams:** There is. Proposed new section 3AA(2) of the Town and Country Planning (Scotland) Act 1997 deals with the type of information that should be taken into account when the national planning framework is prepared, and there are equivalent provisions on local development plans. That provides an opportunity to set out specific work that needs to be done or specific information that needs to be taken into account. We have suggested that that information should include information on housing needs and education capacity in an area, because that is one of the big infrastructure blockers.

**The Convener:** Is it the case that we have got the framework right, but it does not spell out explicitly enough what should be taken into account when meat is put on the bone with regard to what should be built, where, and in what numbers? Do the panellists have any additional comments on that before we move on? If the framework is not right, we need to know that. We have local place plans and local development plans, housing need assessments and SHIPs, but the issue is how the national planning framework feeds into and influences those things at local level. I am trying to ascertain whether the framework, as it is proposed in the bill, is right at local level, if we can feed those things in.

**Sarah Boyack:** There are a couple of things that could usefully be clarified in relation to infrastructure. We need to know what level of infrastructure is planned so that sites can be delivered, and a joined-up approach is needed. The new climate change plan, which came out this week, has very high targets for low-carbon housing, but there is no read-across between that and the bill.

**The Convener:** Do the witnesses have any other comments on the framework in the bill as it is designed, given that there is a lack of clarity, because a lot will be left to guidance? Is the framework right or wrong? Should it be added to?

**Gordon Nelson:** We expect to see a bit more in the guidance and the secondary legislation. The ingredients are there, but they need to be tied together, and there is not quite enough detail on that in the bill. The aspirations are more or less there, particularly if we look at the policy memorandum, but a lot more work needs to be done to tie everything together and to link with the overall outcomes that we want to achieve, whether on housing delivery or on the other aspects of infrastructure that the country needs.

**Monica Lennon (Central Scotland) (Lab):** I want to pick up on Sarah Boyack's point about strategic housing investment plans and housing need and demand assessments. It sounds as though a lot of work is done at local authority level to map out local housing needs. That is done separately from the local development plan process. We are now looking at the national planning framework as being the answer when it comes to providing a national picture of what our housing need is, and there will no longer be strategic development plans.

Do we have the right tools and the right data? Is the problem the fact that the approach is not joined up enough? If so, could the bill address that? Is something else missing?

**Sarah Boyack:** You are right that the lack of a joined-up approach is part of the problem. If we look at our statistics on housing for older people, we are not automatically taken to one type of provision, but we need that issue to be addressed in all our rural communities. There are different ways in which that can be done.

It is about whether it will be explicit that different housing needs will be met in communities, because merely identifying numbers at national level does not achieve local delivery. That is why feeding through into local plans is crucial, as is making the process absolutely explicit, as Monica Lennon suggested, so that housing need and demand are identified at community level and fed through into the local development plan process and, crucially, so that sites are identified.

However, that will not solve everything. For example, there might be social security or welfare issues that need to be addressed in residential housing for older people with regard to care that needs to be provided. However, the physical infrastructure—or, at least, having that ambition throughout our communities—is not explicit in the system at the moment.

**Monica Lennon:** Leaving aside delivery and identifying sites, because we will come on to that, are we doing a good enough job to identify need? Do we have the right data and numbers, or is the picture still unclear?

**Tammy Swift-Adams:** A lot of people have questions about the methodology for housing need and demand assessments. There is no current consultation on that, but I hope that the Government will be open to amending that situation in order to support the work of the bill. I was advised recently that one of the shortcomings in the housing need and demand assessment is that it does not take into account hidden households that might want or need a home. Currently, for example, young couples who live with parents do not show up in statistics. There are definitely shortcomings in assessment.

**The Convener:** Just for the record, I will tell you that the committee does an annual trawl through the SHIPs that are returned to the Scottish Government. I am just checking with the clerking team that we still have that ahead of us. The SHIPs appear around Christmas time, the Government analyses them and we follow up on that. The committee is certainly alert to them.

**Andy Wightman (Lothian) (Green):** I will move on to strategic development plans and the national planning framework.

There are significant proposals in the bill to get rid of strategic development plans and to put in place what appears to be a voluntary approach and new measures by amending the Town and Country Planning (Scotland) Act 1997 with proposed new section 3AA, which would give powers to ministers to direct that information be provided for the national planning framework. What are your views on the abolition of strategic development plans? We will hear evidence in the next panel from Clydeplan, which in its written evidence cited the Scottish Government's research in 2014 that said that strategic development plans have yet to bed in and still have a role to play. We will have to take a view on the question of strategic development plans; that seems to be quite important.

My second question is on the national planning framework, because it is very much linked to strategic development plans. Is it right that ministers should be able to draw up the national planning framework and include things such as housing, which has traditionally been an issue for local councils to resolve?

**Jenny Hogan:** We broadly support the proposals on strategic development plans. On regional partnerships, which are linked to that, we feel that having more information on how they might be resourced would be useful. It would be desirable for secondary legislation to provide for regional planners a clear steer on the Scottish Government's national priorities.

We agree that there should be a role for ministers and central Government in order to

ensure that things that are strategically and nationally important are in the national planning framework.

Perhaps linked to some of what has been said about housing are district heating networks and low-carbon heating systems, which exist in some places and are extremely important for meeting our climate change plan and energy strategy. There needs to be a clear link between national policy and what ends up in local development plans.

**Tammy Swift-Adams:** Homes for Scotland has also supported getting rid of strategic development plans, because they have not done the job that they were intended to do with regard to delivering more homes by getting local authorities to work together effectively and to look beyond their boundaries. That said, regional planning is an important activity, and we understand that it is intended that the Scottish Government will work closely with local authorities, and groupings of local authorities, to include regional strategies and targets.

I can understand the desire not merely to replace one process-heavy part of the system with another set of regulations. However, we need a better balance between the desire for flexibility and a bespoke approach to regional planning that suits different groups of local authorities, and the need to ensure that that definitely happens and is recognised in the system. At the moment, the bill does not recognise regional planning or regional partnership working at all, which we think is a shortcoming. It could be written into the arrangements on NPFs fairly easily.

**Sarah Boyack:** That is critical, as regards infrastructure provision. There needs to be a requirement for wider regional planning and it has to be delivered at some point. If it is not there explicitly, it will not be prioritised.

**Andy Wightman:** Just to be clear, Tammy Swift-Adams, you said that there needs to be regional planning, which is a normal thing across Europe. Is it your view that the process that underpins strategic development plans is too process heavy but that we still need regional planning?

**Tammy Swift-Adams:** Yes. We still need local authorities to work together on the needs of a sub-region, for example, or cross-boundary issues. Everybody expects that that would continue, but if it is not recognised in the bill and is not resourced, it will not be effective. Local authorities that want to work together and continue to do so need to be supported in those efforts.

**Andy Wightman:** That is the key point. There is an expectation that co-operation will continue, but is the expectation that it will do so voluntarily?

Should the bill be strengthened in order to place a duty on local authorities to co-operate?

**Tammy Swift-Adams:** It is essential that it happens. To some extent, we can leave it to trust that local authorities will work together, but the bill needs to make sure that, where that does not happen voluntarily on the ground, the national Government can do something to corral local authorities and make them work together to build a stronger NPF.

**Andy Wightman:** But we are talking about regional planning here. Do you not think that there should be a duty to co-operate?

**Tammy Swift-Adams:** We would have to look at how effective that would be. A duty to co-operate has replaced strategic plans in England.

**Andy Wightman:** The idea is that that would give a more flexible framework but it would still impose a statutory duty to co-operate. It would allow—I am thinking out loud here—Clydeplan, for example, whose representatives are coming in later this morning, to continue with its quite robust process but enable other authorities to take a lighter touch. However, everyone would be required to do a degree of regional planning.

**Tammy Swift-Adams:** An alternative to having a duty to do something would be having a check and balance in place to make sure that local authorities can be made to work together if they are not doing so voluntarily. Having a duty to co-operate could be interpreted as implying that local authorities will not co-operate, which is possibly a challenge or a negative perception. It has to happen, but there are different ways to support it.

**The Convener:** Shall we see if any of our other witnesses have thoughts on that? I am not trying to take your question from you, Mr Wightman. I am just trying to ascertain the position for the purposes of our stage 1 report. We have had two witnesses who have said, “Let’s get rid of the strategic development plan but we would assume that local authorities and others will continue to work together,” and others who have said otherwise. I think that Sarah Boyack said that we should keep it. Is that correct? Sarah, would you be relaxed if the strategic development plan went and something were to be put in its place to make sure that local authorities and other key stakeholders continued to work together strategically?

**Sarah Boyack:** It is a good thing. It is up to local authorities to identify what the key priorities are in their areas. However, unless people come together in the first place, they cannot make that judgment.

**Andy Wightman:** Rather like my question for Tammy Swift-Adams, I ask Sarah Boyack whether

she thinks that regional planning should remain a statutory duty. The danger is that, when regional planning is desirable—as I think it is in most places, to a certain degree—but not a statutory duty, local authorities drop everything that is not a statutory duty in the face of financial pressures and just do not do things that they are not required to do.

**Sarah Boyack:** That was my point. It needs to happen and then, once local authorities get together, it is up to them to identify what the priorities for action are.

**Andy Wightman:** So should the bill contain a statutory duty?

**Sarah Boyack:** Yes—I think that I said that at the start.

**The Convener:** There is a good dynamic here, so let us get more information on the public record.

09:45

**Tammy Swift-Adams:** To some extent, there is a duty in the bill because there is a stipulation that the Scottish Government can require not just individual local authorities but groups of two or more authorities to work together in contributing to the work on the national planning framework. That is where the regional planning work comes in. The bill does not specify that the Government will work with regional partnerships—maybe it should. However, there is currently a duty that the national Government can use to make groups of two or more authorities work together with the Government on national and regional planning.

**Andy Wightman:** That is a duty that will help the Government to prepare its plan, which is not the same as regional planning.

My final question is on the national planning framework. The national planning framework will now become part of the development plan, yet it is drawn up by the Executive. The Scottish Parliament gets to look at the plan; for example, last time, the Local Government and Communities Committee produced a report on it and we had a debate in Parliament. However, the debate was merely on a motion to note the reports produced by the Local Government and Communities Committee and other committees. There is no democratic oversight of the national planning framework. If, for example, the Conservatives were to win the next election and formed a minority Government—

**Graham Simpson:** We can but hope.

**Andy Wightman:** If so, the Conservatives could, for example, allow fracking in the national planning framework, against the will of Parliament.

Do you think that there needs to be stronger democratic oversight of the national planning framework?

**The Convener:** Everyone has taken a deep breath following Mr Wightman's comment, which might be called, at best, blue-sky thinking.

**Kenneth Gibson (Cunninghame North) (SNP):** I would call it a nightmare scenario.

**The Convener:** Let us try and stay focused. Are there any comments on that?

**Monica Lennon:** We are too shocked.

**The Convener:** We will have a couple of supplementary questions on strategic planning, because we have a lot of other stuff to get through.

**Monica Lennon:** I remind the committee that I am a member of the Royal Town Planning Institute.

Andy Wightman was exploring an interesting line of questioning on whether regional planning will happen if we accept that regional planning is a good thing but there is no duty to do it. I am thinking about evidence that Craig McLaren from RTPI Scotland gave last week to the Finance and Constitution Committee on the financial memorandum. He said:

"we are heading towards a crisis in resourcing the planning system."—[*Official Report, Finance and Constitution Committee*, 28 February 2018; c 3.]

We have heard a lot about how difficult it is for local authorities to fulfil their statutory duties. If there is no statutory duty on regional planning or spatial planning at that level, how likely is it that local authorities will come together and voluntarily or enthusiastically put some resource into regional planning? I would like to hear from Tammy Swift-Adams first and then I am happy to hear from others.

**Tammy Swift-Adams:** If you do not put resources into something, it makes it more difficult to do. There are clear and detailed statutory duties on local authorities in certain areas to form an authority and produce a strategic development plan. That is where resource has been put into regional planning, but it has not produced positive results for those regions, including in the delivery of housing.

I understand the desire not to simply replace one process-heavy set of duties with another set, but rather to look at how local authorities can achieve more if they are able to design their own approaches to regional planning, but Ms Lennon is right that, based on the traditional approach to the financial memorandum and in resource-stretched times, there is a risk that local authorities will not direct a significant amount of resource to that.

There could be an option for the Scottish Government to put specific funding into new aspects of planning reform—that needs to happen for regional and collaborative planning, local place plans and all sorts of things that the Government is relying on people doing in order to make the planning system work.

Based on how financial memorandums work at the moment, if there is no duty to do something, it will not get costed and it will not get resourced. However, I do not think that imposing a duty that, as with SDPs, will not work is the right way of resolving that issue.

**Monica Lennon:** In its written evidence, Scottish Renewables talked about regional partnerships but questioned the resources for them. Tammy Swift-Adams suggested that the Scottish Government fund them. How realistic is that suggestion? Could something be done through the bill to ensure that people work together at regional level?

**Jenny Hogan:** To keep it brief, I will just agree with Tammy Swift-Adams. We do not want to put too much in the bill, only to create, in effect, the same issues that we have had with strategic development plans. We have suggested that secondary legislation is the place to provide a clearer steer. I do not have anything else to add to what has been said.

**The Convener:** That is helpful.

If there is a duty to co-operate on strategic planning, local authorities and stakeholders could just say, "We fulfilled our duty by meeting other local authorities, so although we could not find common ground, we met our obligation." Will the inclusion of a duty drive regional co-operation and make it happen? There is currently an obligation in that regard, but it does not seem to have worked. Will the duty drive the change that people are looking for? We will put the same question to Clydeplan and other witnesses on the next panel.

Please do not feel obliged to answer. We can let the tumbleweed move on.

**Tammy Swift-Adams:** In England, a duty to co-operate has replaced the regional plans. It does not require people to agree with one another. Local authorities might have a meeting to talk about a subject and, by doing that, they have fulfilled their duty; the existence of the duty does not achieve anything more than that in practice.

**Jonathan Fair:** Behind that is the issue of resourcing, which was mentioned. We can have a duty, but if the resources to implement the duty fully are not there or if the will to do so is not there, all those principles will fail.

We have similar concerns in the context of local place plans. Local place plans are an excellent

concept, but if communities do not have the resources or the ability to engage fully with the process, they will likely just slow down the LPP process.

**The Convener:** That was a perfect segue into the next line of questioning—it is as if you knew what was coming. I note that Monica Lennon, our deputy convener, pursued the issue of resources quite effectively; the issue will not be missed by the committee.

**Alexander Stewart (Mid Scotland and Fife) (Con):** It would be good to get the panel's views on the extent to which the introduction of local place plans into the Scottish planning system will enable communities to influence local development planning.

**The Convener:** No one seems desperate to answer. Will someone make eye contact with me?

**Sarah Boyack:** We need resourcing and we need to work out where the priorities are. Our members do a lot of work with communities to add value, not just by building houses but by thinking about wider community engagement and community development. The language around the bill—up-front planning, collaboration and so on—is good, but all that has to be paid for.

Our members say that getting through the planning process is taking longer and longer. Local place plans are a good thing, but there have to be resources, particularly for communities that have traditionally been excluded and whose voices have not been heard. If we want to deliver social inclusion, that has to be planned in from the start.

**Jonathan Fair:** Any business would legitimately want a local community to have a say in activity in its area. However, I am concerned that the time spent in developing a local place plan might delay the LDP or that the sequence in which the two plans were produced might mean that they were not aligned. That is the danger in the detail behind the principles.

The communities that might best benefit from local place plans might not have the skill sets, the resources or the people to enable them to engage with the process. It might be argued that the communities that have all those resources are not the ones that most need local place plans. That is another interesting dynamic.

**Alexander Stewart:** Is there an opportunity for plans to run together at the same time?

**Jonathan Fair:** That is a possibility while the LDP is in draft form but, once it is settled and agreed, it needs to take primacy.

**Gordon Nelson:** To echo points that were made earlier, there have to be resources for LPPs.

There is a potential for the LPPs to exacerbate the already long delays that our members cite in the plan-making process for house building. That could be a detrimental effect.

The LPPs need to be credible and deliverable. The community representatives need to be sufficiently trained and knowledgeable to make a positive impact in developing LPPs and engaging with developers and the wider community. From our experience, there is potential for conflict between the community and community councils. There is an issue about the definition of a community, who is the voice of the community and how they interact with other wider official community representatives.

Certain things could be a boon to many of our members, who are building in their communities in local authorities in Scotland, but we should be careful about the lack of resourcing and the impact of delays.

**Tammy Swift-Adams:** The original question was whether the local place plans will help communities to influence planning and, from our perspective, they will. If you are looking for a way of resolving community frustration with planning, the local place plans, as they are set out in the bill, seem quite a good way of doing that. In part, that comes from the fact that they are very flexible. The bill brings local place plans into the planning system in a way that they are not included at the moment. Places such as Linlithgow, which has been mentioned, have produced local place plans, but those do not have a recognised place in the planning system. However, they will have that in the future. As part of the planning system, the plans are likely to relate to the development and use of land, so they will be material to decisions. They give communities a positive opportunity to influence planning without doing what neighbourhood plans have done, which is to introduce lots of regulatory steps that have to be gone through to get a plan in place and regulated. That flexibility is a positive aspect of the local place plans—certainly, it will be as they initially come in.

**Jenny Hogan:** I agree with everything that has been said. In our written submission, we said that we welcome further clarity on the role of the local place plans and the scrutiny that will be applied to them. We referred to the experience in England and Wales, for example, where there has been a mixed response to the way in which the plans there have panned out. In some cases, they have even been described as anti-development. However, that is not to say that we are against local place plans. We very much encourage that model and the front loading of the process.

**Alexander Stewart:** There is no doubt that there is enthusiasm in communities to be part of

the process. You have identified issues to do with resourcing, knowledge and the length of time that things take to progress. There is also an issue about whether the representatives of a community are actually representing the community or are just a section of the community who have an issue and want to deal with it in the plan. Will the plans enhance opportunity, or will they cause issues?

**Jenny Hogan:** To go back to what has been said already, that depends on the resourcing, how the process is managed and, ultimately, how it is scrutinised. However, I agree that broadly it is a good proposal.

**Alexander Stewart:** We have talked about the relationship between the local place plans and local development plans as those are developed. Should the local place plans be a formal part of the local development plan? Should they be a material consideration in that process or should authorities simply have to have regard to their content?

**Tammy Swift-Adams:** Certainly, when the local place plans are first brought in through the bill, having regard to them is the right relationship. If you make local place plans part of the development plan or put a much stronger obligation on local authorities and the national Government to ensure that development plans reflect local place plans, you will have to put in a lot more checks and balances relating to how the plans are prepared and ultimately what can go in them, which would mean that communities would lose flexibility.

**Alexander Stewart:** You have identified the aspiration in this respect, but the question is how we ensure that we achieve it. The same aspiration is in the bill, but it will have to be resourced and implemented on the ground, and the timescales for the process will need to be part of all that, too.

10:00

**The Convener:** I see that this issue of the link between local place plans and development plans has inspired a lot of supplementaries. Indeed, I think that it brings us to the meat of the bill. Should there be a requirement for development plans to demonstrate how this has been taken into account and how they have been amended to include, where possible, genuine process-driven activities in support of local place plans? If local place plans are to be a material consideration in the planning process, should development plans do more than “have regard” to them? Should there be a process by which development plans must, in theory, at least be reviewed on the basis of a local place plan? That would certainly give it a bit more meat.

Does anyone have any thoughts on that? I see a lot of scribbling going on.

**Jonathan Fair:** If communities are to feel that their voice is being listened to, that is certainly one way of demonstrating that. It seems sensible to have a review process that is based on the content of an LPP before the LDP is finalised and signed off.

**Sarah Boyack:** It would provide an opportunity to bring communities into the process of planning their future and visioning what they want in that respect. The issue, then, is joining the dots to make sure that that happens. In any case, it has to be resourced to ensure that we hear the voices of those who probably have not been heard. With a front-loaded planning system, it will be important to get that sort of thing right, because that is where you want to encourage people to get involved.

**The Convener:** We should never assume anything when scrutinising legislation, but would it be beneficial—though not a requirement—for local place plans to be developed ahead of the local development plan? After all, if the bill is passed, a local development plan will be in place for 10 years, although there will be processes for amending it during that 10-year period. As a result, it could take account of a local place plan that was developed, say, a couple of years after it had been put in place. What, in an ideal world, would be the sequence of events? Would local place plans feed into a development plan before it was drafted? Is there any best practice that could be put in place if the bill were to be passed?

**Tammy Swift-Adams:** To some extent, it all depends on what the communities want to use local place plans for. If they want them to influence the local development plan, they might look at putting one in place at the right time in the process. Equally, though, they might want to use a local place plan to fill in some detail that has been missed or to pick up on a change in events that might have happened since the development plan was put in place. There is not necessarily any perfect sequencing dynamic.

**The Convener:** I know that there is a lot of interest from MSPs on this matter, but I want to ask one more question.

When we talked about ensuring that we met housing targets, whether that be in the social rented sector or through giving a boost to the private sector, we touched on strategic housing investment programmes, housing needs assessments and the need for development plans to take account of those things in their delivery. Should local place plans have to do the same thing? After all, there is no point in front loading a planning system if the community is going to say, “We quite like the balance of social rented housing and private housing, our green space and so on here,” and to put in place a local place plan that sets that in stone but which does not directly

challenge, for example, any significant housing need that might exist. Should there be some guidance on local place plans to make it clear that they should take account of and dovetail with the national planning framework, strategic housing targets and the local development plan itself? Surely there has to be some kind of dovetailing with those national targets.

**Jenny Hogan:** It would be helpful to have some guidance early on, because I can see a scenario in which, if that is not in place, a community might produce a local place plan and then see, further down the line, the NPF, the LDP and so on being developed with national outcomes in mind. I think that, if those things are not taken account of for that very reason, it will create some disquiet and understandable frustration in communities. If, earlier in the process, a community gets some kind of guidance on the principles that the local development plan will have to adhere to or take cognisance of, it will create more of a positive mindset in that community earlier on.

**The Convener:** We have place standard tools and the charrette process to consult with communities on what they want from where they live, with place setting and standards for that approach. Should there be further guidance for local place plans to say that they should meet, and take account of, local, regional and national priorities? Alternatively, should communities just be consulted, and what comes out is what comes out—even if it has a totally different direction from every other part of public policy?

**Jonathan Fair:** If local development plans and housing need and demand assessments proactively began to describe how to address the housing needs of a wide range of people, including older people, in a local area, it would be important for LPPs to have the same structure and guidance. Otherwise, LPPs and LDPs would begin to conflict and you would go back to the fundamental question of which would have primacy. In some circumstances, moves to smooth and streamline the process could get stuck in a loop of legal challenge and discord between communities and local authorities, which would be extremely unhelpful. Consistency in guidance and parameters is inherently important for the work of local authorities and communities and the tiers of supplementary information.

**The Convener:** I have had my money's worth asking questions about that issue.

**Kenneth Gibson:** I want to move on to another area, but first, on this issue, is it realistic to expect the majority of communities—rather than a tiny minority—to develop place plans, given the issues of community capacity across Scotland? My experience is that the people who get involved in such issues tend to be very small groups within

larger communities. Some communities do not even have functioning community councils. Is there a concern that Scotland could end up with a planning landscape like a patchwork quilt?

**The Convener:** I will take your substantive question later, as there are still a number of supplementary questions about local place plans.

**Sarah Boyack:** This is an innovative proposal from communities that want their voices to be heard. It is work in progress and you can support the process with good guidance and resources. However, there is not a requirement for communities to do local place plans. When communities want to do that, you should make sure that they have the capacity and that they are listened to. I am not sure how overprescriptive you should be at the start, given that the process is meant to be bottom up.

Communities are not instructed to do plans, but they are encouraged and given a voice. I hope that developers in the area would work with communities; that is part of the ethos of registered social landlords. This part of the bill is new and innovative, so the aspirations should be clear and there should be a process to evaluate and learn from what has happened. If potential problems can be identified in advance, you should do that and follow best practice. However, in the end it will be up to communities and it is about supporting them to get on with it.

**Kenneth Gibson:** The answer depends on how we define communities. Should local place plans be developed only when communities have been seen to consult within their own communities? In my experience as a councillor and an MSP, community organisations often represent only themselves; they do not engage more widely within communities. I am sure that others have discovered that in their working lives. If a local place plan has been developed, how widely should a community group have engaged effectively with the local community?

**Jenny Hogan:** I agree that there is an issue about how to define the community. In the renewables industry, we experience a lot of instances in which small and vocal minorities have very strong views on proposals but they do not necessarily speak for the community. If engagement is not required, it would need to be seen in the later parts of the process. The issue is how much credence is needed to make sure that the balance is right. The best way of dealing with that is to resource that broad engagement at an early stage so that we encourage the widest community to come forward, including young people and people of all economic backgrounds and ages. If we can get that right and maximise early engagement, that should reduce the risk of hearing from just a few vocal minorities.



**The Convener:** Are there any other thoughts on defining a community? If there are no takers, we will move on.

**Andy Wightman:** We are getting to the nub of what is in the bill on local place plans. Sarah Boyack said that the proposal is a good aspiration, which is novel and innovative. However, the challenge for us is whether it is worth it. Will it lead communities up the garden path? At the moment, the two bodies that can produce such plans are community councils or a community body under the Community Empowerment (Scotland) Act 2015. However, the local authority duty with regard to local place plans is merely to have regard to them—they do not form part of the statutory development plan.

The Scottish alliance for people and places, of which the SFHA is a member, says:

“Local Place Plans should be considered as part of the Local Development Plans process, notably considering their content during the first stage of the gatecheck. The Bill should make this link more explicit.”

There is a balance to be struck between giving communities the freedom to draw up plans and ensuring that their effort is rewarded by some measurable impact on the planning system. That is the balance that we are struggling to get right. Do you have any views on how the process might be made a little bit more effective in order to persuade people that it is worth doing in the first place?

**Sarah Boyack:** You said something about resources and local plans being taken account of when the local development plan is being prepared. Those are the two critical issues.

**Andy Wightman:** A bill cannot make provision for resources. At the moment, the bill provides that local authorities shall “have regard to” any local place plan. That is all. Is that enough?

**Tammy Swift-Adams:** As I said before, I think that it is sufficient. The question gets debated, but there are relatively few things that primary legislation tells local authorities that they have to have regard to in their planning work and local place plans are now one of those things. There is status in that. Local place plans have been made to be part of the planning system and are a consideration in other parts of the planning system. We should not underestimate the fact that “have regard to” means something; it is a duty on local authorities that is not applied to many other things.

**Jenny Hogan:** I agree. If you go further than that, you risk hearing only from small groups, which in some cases have vested interests, and then you have to ask questions about how to avoid that impact. It comes back to wide early engagement being encouraged in a positive

proactive way, rather than simply as a requirement.

**Graham Simpson:** The problem is the way in which the bill is drafted and the phrase “have regard to”, which has been mentioned. Let us be realistic about how the world works. If we say to a council that it has only to have regard to something, the danger is that it will take one look at a document that has been produced by a group of people—such as the group in Linlithgow that some of us met—and then say, “That’s all very well, we’ve had regard to it” and stick the document on the shelf. That is what will happen, because that is how the world is and that is how councils work.

Communities, however they are defined, will produce the plans at great expense and length and they will be ignored, which will put people off. Better-off communities will be better placed to produce such plans, while worse-off and more disadvantaged parts of Scotland will not produce them. That could result in what Kenny Gibson described as a patchwork landscape.

The committee’s challenge is to beef up the provision—it needs to be beefed up because it is not strong enough. The phrase “have regard to” is not good enough; if we are going to involve people, we need to involve them properly. We have asked this question repeatedly this morning: should it be part of the process of producing a local development plan that, at the same time, an authority should have to show that it has engaged with communities to produce local place plans? It should be done at that point so that it actually means something, because it does not mean anything at the moment.

10:15

**The Convener:** You have had a good chew over that point, Mr Simpson. The committee has not yet taken any decisions. We may come down precisely where Mr Simpson is, but we have not yet formed our view on that. For some members, it is clear that the phrase “have regard to” does not go far enough, whereas Jenny Hogan said that it strikes the balance about right. Is there anything else that you—and, indeed, the rest of the witnesses—would like to see in place? If the duty were not to be statutory—which perhaps it should be—what else could we put in place to go further than “have regard to”?

**Jenny Hogan:** I return to the principle. For us, the ideal scenario is that a local development plan truly represents the full local community and that communities should feel that the local development plans are theirs. We should focus on that and on communities’ elected representatives in their areas truly representing their views.

Fundamentally, that still comes down to the consultation requirements on local authorities to ensure that they are basically doing their jobs and fully representing their communities. The good thing about local place plans is that they provide a proactive approach by which at least certain elements of communities can put forward their ideas and views. Ultimately, it is surely up to local authorities to represent their communities at large.

**The Convener:** We will have the opportunity shortly to talk about how we can improve local development plans as opposed to local place plans. Do the witnesses have any other comments about going further than “have regard to” and what process we might put in place, or about making it a statutory duty?

**Sarah Boyack:** One of the suggestions from the Scottish alliance for people and places was just that it should be made more explicit that a local place plan has been produced when a local authority is doing its gate check on the local development plan. The local authority should not just say, “And, by the way, we have had regard to it” but not say anything more about it. Rather, it should be expected to say where views have been taken on board and included, and where and why they have not been. I suggest that the authority needs to be much more explicit about that, by showing due process to the community; it should not just say, “Thanks, we’ve seen this and we are moving on” but should actually engage in what has been recommended.

**The Convener:** It would be helpful to have a process in which best practice would be that local authorities would consider local place plans in a meaningful way rather than just saying that they have had regard to them.

**Tammy Swift-Adams:** I want to make a very similar point. The evidence report is a good place in which to say that a local authority has looked at the local place plans that have been produced in an area and how the local development plan could help to advance the aspirations in those plans. Beyond the fact that there will be an evidence report, the bill is very quiet on how the collaboration and the early gate check will work. We want home builders to be involved in early collaboration, and communities would want to be involved in it, too—particularly those that have produced local place plans. If we addressed that wider gap early, we could pick that up.

**The Convener:** Thank you. Monica Lennon has a supplementary question on that and she has been very patient. We will move on to development plans in more detail, so you might want to take your question on to those, too—it is up to you.

**Monica Lennon:** Sure. Sticking with the subject of the local place plans, we took evidence last week, we have been out engaging in communities and some of us have looked back at the evidence sessions on the Planning etc (Scotland) Act 2006. Some of the aspirations of the previous Planning (Scotland) Bill are still embedded in the current bill, partly because communities do not feel that they have an equal place in the planning decision-making process. For those witnesses who do not support equalising rights of appeal, I can understand that a local place plan might be a remedy. However, Tammy Swift-Adams described a situation in which her members would prefer to see regard being had to local place plans rather than those being embedded in the development plan.

Could there be tension and conflict on the status of local place plans not only in the LDP process but when it comes to development management? When planning consultants come along to represent clients and start to look at all the things that have to be taken on board, are your members likely to talk down the local place plan and say, “Well, it is a material consideration” or “You must have regard to it” but then go on to say, “But, actually, the development plan says this, and it is king in this process”? In 10 years’ time, will people be saying, “Front loading didn’t work in 2006 and local place plans didn’t work in 2018, so what should we do next?”

**Tammy Swift-Adams:** The honest answer is that it will depend on what local communities try to do with local place plans. The Scottish Government has made it clear that it sees the plans as an opportunity for communities to come together and do something positive, but that it does not want them to undermine what the wider system is trying to do in delivering what individual communities and Scotland as a whole need.

A benefit of the flexibility of local place plans is that it gives communities a chance to come together in that way if they are properly resourced. It is right to continue with the existing flexibility and to allow people to make of it what they can, subject to the resources that are made available to them. If LPPs become a positive part of the planning landscape, there are mechanisms in place for local authorities to bring them into the local development framework. If local authorities do not work positively with communities on local planning work, they will be accountable to those communities on that basis.

I think that that is why the Scottish Government has left a lot of what is in the bill fairly loose at the moment compared with the Planning etc (Scotland) Act 2006 and the planning system traditionally. Things do not work because we have put lots of regulations and processes in place, and

that has not freed up people to work together more collaboratively and collegiately. I think that there would be a bigger risk of us saying in a few years' time that local place plans are a problem if they were very heavily regulated.

**Monica Lennon:** The changes in the 2006 act included a provision that there should be early engagement with communities, particularly on major planning applications. Jenny Hogan might be able to relate to that. How has industry approached that? Jonathan Fair might be able to comment on that, too. Communities now have an opportunity to engage with developers and other stakeholders before the submission of a planning application that could have a big impact on them. I understand that you have to submit a report before the application goes to the council.

Are there any aspects of industry's approach that could be improved on in that regard? The early engagement provision was seen as the big opportunity to override the need for appeal rights to be equalised.

**Jonathan Fair:** I think that early community engagement and the provision of clear opportunities for communities to influence the outcome of major applications are critically important in ensuring that people feel that their voice has been heard, listened to and responded to rather than heard and ignored.

As a business, we think very highly of and have good experience of early community engagement. In every case in which we propose a project, that process of dialogue and discussion always results in changes to our proposals and in us having a much more rounded view of the local community's views on our development. Doing that at an early stage before we submit a planning application gives us an opportunity to demonstrate in the course of the process what has changed on the back of that engagement, and that has been a good experience for us.

The only comment that I would make is that such best practice is not common practice—I do not think that everyone in the house-building sector necessarily performs to those standards.

**Monica Lennon:** That was an extremely helpful answer, because people who have been involved in planning know that, if community engagement is approached properly, it is a good thing for business and it cuts out many of the problems. However, we have taken evidence from people in communities who feel that it is often a tick-box exercise that companies have to do—it is just another step in the process before the planning stage. They have told us that they have no evidence that their views were taken on board, because nothing changed in the master plan. Do you recognise that?

**Jenny Hogan:** I agree with Jonathan Fair's comments. Early engagement is very important for us, too. Across the development community, some developers are better at that than others. As an industry body, we very strongly encourage our members to engage early and in a good way, so that communities feel that they have been heard and listened to.

Generally speaking, I do not think that anybody likes planning by appeal. Our industry has a lot of experience in that area, too. It is costly and it does not always end up with a good or happy outcome for certain parties. Therefore, to encourage that, we strongly support front loading and approaches such as the local place plan.

**Monica Lennon:** A community may get involved in and put a lot of passion, time, energy and resource into developing a local place plan. However, it will reach a point at which its views are low down the pecking order, because developers and others will come along and say that the local development plan has more weight. They might thank the community for doing its local place plan, but tell it that its plan might not make that much difference. The bill has good intentions, but is there a danger that people will engage in local place planning but walk away feeling underwhelmed by it?

**Jenny Hogan:** You mentioned the situation almost in terms of it being the LPP versus the LDP. As we discussed in response to the previous question, it is key that the LDP is ultimately the place where the local community's views are clearly represented. If we can make sure that the LDP is right, we can get the balance right.

**The Convener:** That exchange was helpful, because Monica Lennon was talking about the front loading of the system. We must see how local development plans feed into that, too. For example, the bill proposes an evidence report, and reference has been made to the gate-check process. How are those aspects of the bill beneficial to the front loading of community engagement, and where must they go further if we want front loading to be as meaningful as possible? It would be helpful to have your response on that before we move on.

The panel has been stunned into silence. Front loading is a key part of the bill, so your comments would be helpful in allowing us to cover the issue when we do our stage 1 report.

**Tammy Swift-Adams:** The only aspect of the bill that reflects that early engagement and gate-check collaboration is the reference to the evidence report, but the bill is completely silent on the need for that to be a product of collaboration. We referred to that major omission in our written

evidence. I do not think that that is deliberate, so I hope that it will be corrected.

**The Convener:** That is helpful. Is there anything else that does not go far enough on engagement and which you would like to draw to our attention, even if it is not in your written evidence?

**Sarah Boyack:** The only issue is the need to be absolutely clear about the continued relevance of the local development plan and ensuring that a gate check is not just carried out at the start of the process, but kept up to date throughout it.

The bill needs to be explicit about the consultation processes. In looking to involve communities, we need to ensure that young people and people who are traditionally excluded are part of the development plan process, so that the emphasis is on ensuring that people's voices are heard and listened to at the start of the process.

**The Convener:** That is helpful. As there are no further comments, we will move on.

**Monica Lennon:** Earlier on, we talked about making sure that we know what we are planning for, and housing needs was given as an example of that. We are squeezed for time, so I will try to quickly run through the infrastructure levy proposal.

We know that infrastructure is a constraint to making sure that development happens. Will the proposed infrastructure levy unlock additional development? Can we learn anything from the experience of the community infrastructure levy in England?

**Tammy Swift-Adams:** As time has gone on, there has been less confidence that the infrastructure levy could do that. Right from the beginning, when Homes for Scotland submitted written evidence to the independent panel, we said that we supported the principle of a levy as a replacement for section 75 of the Town and Country Planning (Scotland) Act 1997, because that would give more clarity to developers on how much they would need to pay and when, which would be better than the situation that we have at the moment. However, the Scottish Government's research on a levy has shown that it has a fairly limited ability to increase the funds that come through developer contributions.

A review of CIL in England has shown that CIL has not been an effective tool. That is partly because it has not amassed enough money to pay for the infrastructure that local authorities want to deliver. In addition, the responsibility for delivering a lot of the infrastructure has been taken from developers that are able to provide it and given to local authorities that are not geared up to be infrastructure providers.

10:30

A wider issue that has become clear is that, whether a levy or section 75—or a combination of them—is used to try to maximise the contribution that is made by developers, we will not get anywhere near as far as we need to get to fully fund infrastructure. There has not been any look at how to fill that gap beyond developers and the planning system. I am not sure that quite a big change—a big bit of legislation and a change in policy direction—will deliver the infrastructure that is needed. Looking at the levy is a distraction from the wider work that is needed on how to fund infrastructure beyond what can be done through development.

**Sarah Boyack:** I noted the comment in Craig McLaren's evidence to the Finance and Constitution Committee that there have been occasions in England when the infrastructure levy has been counterproductive because it has ruled out affordable housing. Developers have said that it is too expensive to have affordable housing on site when they pay the infrastructure levy. That is a cautionary note.

We want to see a different approach to generating money by using the uplift of land value when permission is granted to a site. It is critical to make sure that investment that is raised in an area goes to that site, so that local authorities are able to generate resource and invest it to deliver the quality that is aspired to at the site.

**Jenny Hogan:** As we said in our submission, the main issue is that we are not clear whether energy projects would come under a levy. Greater clarity on the intentions for the levy would be helpful to avoid confusion.

My other point is similar to that which Sarah Boyack raised. The energy industry, particularly the renewables sector, is under extreme pressure to cut costs, largely because of revenue support being reduced or removed altogether. The energy strategy is very clear that the Scottish Government's policy is to support cutting costs as far as possible in renewable energy. Creating new fees and levies runs counter to that approach, so we raise caution on that point.

**Jonathan Fair:** Our business operates across the whole of the UK, and some of my colleagues have experience of CIL in England. Tammy Swift-Adams's comments about some of its weaknesses are important. The principle of the infrastructure levy is broadly supported in the sector, but it needs to be recognised that the mechanism takes time to build up funds that can be used to pay for the infrastructure that is required. It is critically important that the funds that are raised are spent on the infrastructure that is linked to the development that has occurred or was required in

the first place. The jaundiced view of CIL's impact comes from the disconnect in timing and the investment intentions from funds that it has raised in England and Wales.

**Gordon Nelson:** Our view is that any such infrastructure levy should not apply to the smallest sites for houses to be built on, or the viability of building them will diminish even further and they will not come to fruition. Feedback from our house builder members in England and Wales suggests that the greater transparency and certainty that CIL was meant to deliver has not happened and that most developers see no greater certainty in CIL than they do in section 106 agreements. That is a note of caution on the experience of CIL from our house builder members in England and Wales.

**Tammy Swift-Adams:** We have concerns about how the policy memorandum and the financial memorandum suggest that the levy might be brought in. Initially, I think that we had all assumed that local authorities would cost the infrastructure that they needed to provide and then look at how to recoup some of that cost through development. However, it has been suggested that things could be done on a land tax basis.

More broadly, the roles of local and national Government are unclear. It has been suggested that the powers should be framed so that a local authority could choose whether to bring in a levy, how to do that, and its level. However, provisions say that the national Government could take some or all of that money and redistribute it around the country. That is quite far removed from a simple infrastructure levy to fund infrastructure development in an area. Such an approach would be more like a selective tax on some types of development in some areas to cross-subsidise things that happen elsewhere in the country. The idea of redistribution—of the national Government passing money around the country—suggests the misunderstanding that I mentioned earlier. Infrastructure cannot be fully funded from development. Edinburgh, for example, would not be able to cross-subsidise infrastructure elsewhere, because it has challenges in meeting its own needs. How the Government has elaborated on how it might use the levy raises more concerns and problems than it resolves.

**Monica Lennon:** I am interested to know whether there are any alternative ideas. The bill does not have the purpose of planning built into it, but we are trying to make sure that we get fantastic places, and we are all committed to place making. A panellist mentioned the role of the private sector, but this is about the public good, as well. Are we getting the balance right for investment in development? We have talked about a lack of resources in the planning system. Are we trying to do place making on the cheap?

**Jonathan Fair:** The problem for infrastructure investment is a combination of a lack of resources and a lack of joined-up thinking. Conflicts arise when disparate organisations do not think carefully about the implications of an LDP and what it means for their investment programme, whether that be for public utilities, road infrastructure or schooling. The development industry is happy to make legitimate contributions towards detriments that occur on the back of its activities, but there is a wider question about public investment in infrastructure for public good beyond individual developments.

**Sarah Boyack:** That has sparked a thought. It is about the delivery phase, as well. It is not just about what goes into a plan; it is also about what happens afterwards. Our members' experience is that collaborative work with local authorities can help to get developments moving. When different infrastructure providers are brought together, people talk in the same room rather than have endless conversations. That is about resourcing not just to produce a plan, but to implement it with stakeholders and place makers to get the high quality of place making that we aspire to.

**Gordon Nelson:** If the proposed infrastructure levy came through and was payable, we would argue that payment should come on the completion rather than the commencement of housing properties. That would make little financial difference to the local authorities that would collect it, but it would make a huge difference to SME developers. We argue for a build now, pay later model, otherwise the levy would act as another barrier to entry and disincentivise many home builders from upping their output.

**The Convener:** Graham Simpson has a brief supplementary question. We are pushed for time.

**Graham Simpson:** My impression is that builders—on this panel, anyway—do not want to pay for infrastructure, as is currently proposed. Sarah Boyack suggested another model that is based on land value uplift. How might that work in practice? Are you talking about compulsory purchase of land? That would probably horrify Tammy Swift-Adams.

**Sarah Boyack:** There is a range of mechanisms. You have mentioned compulsory purchase orders but, if we want affordable housing developments across tenures, there is a range of options that can be taken forward to have the capacity to have land that is affordable for development.

In our rural communities, work has been done through the legislation on both community empowerment and land reform to give communities access to land that was not being used. It has been suggested that, in urban areas

such as town centre sites, compulsory sale orders could be one way to bring land into use. We are looking at land value capture. The cost of the land is a major issue in deciding what can be put on that land in terms of quality and numbers. The state gives the benefit to the person who owns the land, and those who come to develop the land thereafter have to pay that. Whether people pay for rent or sale, they pay that premium. We are looking for a more equitable and efficient way of ensuring that we can make use of land. That would be a progressive step for a range of developers.

**The Convener:** I know that there will be a divergence of views among the witnesses.

**Sarah Boyack:** We know that the Scottish Land Commission is doing work on that, so there is a timing issue in terms of where the committee is in taking evidence, but work was published before Christmas that looked at the issue in quite some detail and considered a range of options, including compulsory sale orders, CPOs and different types of land taxes. That is material to the bill, and it is worth pausing to look at the different options.

**The Convener:** That is helpful. I was going to put that on the record, but you have saved me from doing that. There may be a variety of views from witnesses. If you feel compelled to say something in response to what we have heard, please drop us a line, because we are constrained for time today. I apologise for that, but we now have to move on to another important section of the bill.

**Andy Wightman:** I want to look at the proposed simplified development zones. We have had a couple of simplified planning zones and we are not going to have any more of them; the proposal is that we have simplified development zones. I want to ask two questions. First, would such zones serve any useful purpose? Secondly, if you think that they are a good idea, by what process should they be decided upon? The bill proposes, for example, that third parties can ask for them, but it does not specify who those third parties are—my sister in Switzerland could ask for one—and it provides for there to be appeals to ministers if local authorities refuse. Indeed, the Scottish ministers can make simplified development zones themselves. I note that the Scottish alliance for people and places suggested in recommendation 13 in its written submission that

“Simplified Development Zones should be included in the Local Development Plan”.

Those are my two questions—one is on the purpose and one is on the process.

**The Convener:** And there was a mention for Mr Wightman’s sister, which was nice.

**Jenny Hogan:** We do not have a great deal of views on SDZs, but we think that they could be an opportunity to align with some of the national outcomes, particularly in the climate change plan and the energy strategy—for example, on heat networks. The Scottish Government recently consulted on local heat and energy efficiency strategies and district heating regulations, and it has ambitious plans for low-carbon heat projects in Scotland. The SDZs could provide a clear steer towards heat and could help to catalyse the district heating networks and innovative solutions for other forms of energy at local level, so there might be opportunities that those zones could be used for.

**Sarah Boyack:** The SFHA’s only comment is one that you would expect us to make. We would still want to ensure that there are affordable social rented options, so that there is not a monotenure, and that there is an opportunity for local communities to see what is being proposed, where possible, to ensure that it is part of the local development plan process and whether it could potentially amend the development plan. That is one of the recommendations made by the Scottish alliance for people and places. For us, it is about making sure that options for affordable housing are part of the process where there is going to be a housing development.

**Gordon Nelson:** We agree that zoning land through simplified development zones could allot more areas for new housing, but the focus must be on supporting the development of smaller sites that provide better design, scale and quality. I sound a cautious note that that could, in principle, support more small sites coming through but equally that must not be at the expense of master planning large, strategic sites. That is a note of caution on simplified development zones.

10:45

**Jonathan Fair:** We are supportive of SDZs. As we have already said, there are important questions about how the resources to prepare and set them up and to monitor their effectiveness can be provided within local authorities. However, in principle, anything that speeds up and simplifies the planning process should be welcomed.

**Andy Wightman:** That was useful. In written evidence, some people suggested that we should call them not simplified development zones but better place zones. It might not be simple, but it might be better planning.

No one addressed my question on the process. Should my sister in Switzerland be able to ask for a simplified development zone, get refused and take that to ministers for them to create one? How much freedom does that allow anyone anywhere

in the world to suddenly place demands on land in Scotland through the planning system? If you do not have a view, please just say so, because we are short of time.

**The Convener:** No one is grasping the nettle. Your sister is probably in Switzerland right now, shouting, "Answer the question!"

**Graham Simpson:** Where does she want to build?

**The Convener:** We are short of time, so we should move on. There are still some aspects of the bill that we have yet to explore. We should hear your views on an equal right of appeal; I am sure that several MSPs would like to ask questions in relation to that. We asked a number of questions on the matter last week and heard a variety of views. I want to leave the discussion as open as possible, so I will not pitch my initial thoughts but ask the witnesses to tell us what they consider to be the opportunities or dangers in an equal right of appeal and to give us their views on it.

We have heard about front loading of the system, and the counterblast is the equal right of appeal. The issue has been alluded to this morning, but it was not mentioned in particular. Let us get something for the *Official Report*, so that the committee can take a balanced view when we look at the evidence that we have received over the past few weeks.

**Jenny Hogan:** We agree with the recommendations on third-party right of appeal or equal right of appeal that came out of the independent planning review, which considered the issue extensively. There are a number of risks that were outlined by the report, so I will not go into them in detail, but delays and rising costs are significant risks. We strongly support front loading, as that is the best way to engage communities' views proactively, rather than planning by appeal, which nobody wants.

**Tammy Swift-Adams:** Homes for Scotland is opposed to a third-party right of appeal in principle because it would significantly disadvantage housing delivery and investment in Scotland and it would create new conflict in the planning system. We do not think that there is any way to frame a limited third-party right of appeal that would address those negative consequences.

The existing applicant right of appeal recognises the limiting effect that the planning system has on what individuals can do with their land. That right of appeal is not abused in the way that some people think that it is; only about a third of planning applications that are refused are appealed. However, it delivers quite a high proportion of Scotland's new homes.

When the minister introduced the bill, he alluded to the fact that more than 5,500 homes have been given consent through the appeal process in the past few years. We must not underestimate the contribution that the appeals process makes to the planning system in delivering new homes. I moved from Edinburgh to Dunbar last year, and the house that I live in came through the appeals process. It is just a small site of 20 homes, and there were questions at local level about whether housing was the right use for that site. There had been some long-term ambitions to do something else with the site that were no longer relevant, but which were still in politicians' minds. Those homes eventually got permission through the appeals process. That development is almost entirely occupied by people who have moved from elsewhere in Dunbar. I live in one of two households that I know of that are made up of people who have come from outside of Dunbar.

The development has provided homes to people who run the local music school, people who work in the local brewery and people who work in the power station, so it is not the case that homes that come through the appeal route are automatically a negative thing in communities or a negative part of planning. If there had been a third-party right of appeal, it is possible that those homes would not have been built and that those people would not have had the homes that they think suit them. In addition, there would have been a delay to the process and a single individual's view might have taken primacy over the potential for that development to give a home to 20 families, most of whom are from the same community, as it has now done.

**The Convener:** Do other witnesses have views? Everyone has put their hand up. We will hear from Jonathan Fair first.

**Jonathan Fair:** Rather than repeat comments that have already been made, all of which I agree with, I want to focus on the purpose of the planning system, which is to encourage appropriate sustainable economic development in our communities.

Sustainable economic development takes place only if the businesses that are responsible for it have the certainty of knowing that, in committing substantial sums of money to bringing projects through the planning system, they have some chance of success, and that they will be able to bring their projects through to a timeline that is in some way predictable. Without such a guarantee, regardless of which function we are talking about—whether it is housing, the renewables sector or any other line of business—if the investment framework becomes so uncertain that it is not known when the answer will come or how many times the decision will be appealed at the

last minute, people will choose to invest elsewhere. That is the biggest danger here.

**Sarah Boyack:** We strongly support the primacy of local development plans and the involvement of communities in consultation on those plans. Earlier, we had a lengthy discussion about up-front consultation. We feel that the bill strikes the right balance in that regard. We recognise the importance of local development plans, and we think that, to as great an extent as possible, people who propose housing developments should come through that route, and that those plans should be kept up to date. We think that that is a better alternative.

**Gordon Nelson:** I support the comments that have been made. The emphasis of the bill is on front loading. I think that a third-party right of appeal would discourage investment, ramp up the uncertainty and slow down housing delivery. In addition, it would act as another barrier to entry for those members of ours, of whom there are many, who currently work on repairs, maintenance and improvements but who aspire to become house builders. It would represent another risk to the investment that is required to become a house builder. Therefore, it would block a more diverse range of house builders from entering the industry, and for some existing house builders, it might represent an existential threat to their house-building model, with the result that they might rework their business model and return to working on repairs, maintenance, improvements and extensions. The introduction of a third-party right of appeal would present a huge risk to developers.

**The Convener:** Before we hear from Jenny Hogan, I point out that many committee members have an interest in the issue. Members are free to ask a question, but because of time constraints, those questions will have to be brief.

**Jenny Hogan:** I want to add a couple of figures into the mix. Our members have told us that the current appeals process can typically add between six months and three years to a project timeline, and the cost can range from £50,000 to £300,000. We need to consider not only the time delays, but the costs that would be involved and who would bear them if any changes were made to the appeals process.

**Andy Wightman:** Jenny Hogan, in response to a line of questioning from Monica Lennon, said that no one likes planning by appeal. However, you seem to be suggesting that you want to keep the applicant's right of appeal but do not want anyone else to have a right of appeal. The proposal that has been put to us is that rights of appeal would be equalised on the basis of compliance with the local development plan, such that in circumstances in which an application violated the local development plan but was

approved, communities would have a right of appeal, and where the local development plan permitted a development but the application was turned down, the applicant would have a right of appeal. What do you mean when you say that no one likes planning by appeal?

**Jenny Hogan:** I am suggesting that we could risk a lot more appeals being made, which would slow down the process. There is already quite a lot of that in the process.

**Andy Wightman:** There is a lot of that but, if we got rid of an applicant's right of appeal, there would be a lot less.

**Jenny Hogan:** I agree with the comments that were made earlier. We cannot get rid of appeals entirely, but I go back to the point that I made about local communities feeling that the local development plan is theirs. That chimes with the point that Sarah Boyack made about the need for a plan-led system. The best way to deal with the issue is to get the front loading and the planning process right, so that communities feel that the plan is truly theirs, rather than to use the appeals process, which is a bit of a sticking-plaster approach to trying to fix problems. We should deal with as much as possible in the plan but, fundamentally, the planning system still needs some route to appeal.

**Tammy Swift-Adams:** If we got rid of an applicant's right of appeal, we would exacerbate the existing housing problem. Each year, we are building only about 60 per cent of the houses that we think that we need to build, or that we were building pre-recession. If we take out the houses that come through appeal on the scale that Kevin Stewart outlined when he introduced the bill, that figure would be reduced to 40 per cent. Therefore, a significant amount of supply would be taken out.

Framing a limited right of appeal, or equal right of appeal, around departures would be very difficult. A departure from the plan is hard to define. A lot of communities would probably assume that, if a site was not specifically allocated in a plan, it is a departure, but it is not if it meets the broader aspirations and policies of the plan, including the housing targets. Often, the crux of what is debated in appeals is whether there has been a departure from the plan. There would need to be that full argument before it could be decided whether someone had access to the appeal system, so the measure would not be black and white.

**The Convener:** I hate to stop you in full flow. Anyone is welcome to give us more information on the matter outwith this evidence session. Monica Lennon will take us away from the issue of equal right of appeal and on to another matter that we want to cover before we close the session.



**Monica Lennon:** I think that there is consensus among the panel that we want a plan-led system and we want that system to be front loaded, because early engagement is best for communities. However, if developers and applicants do not get the decision that they would have liked, they still want to have the right of appeal. I have not worked as a planner for a while, but that sounds like a bit of a contradiction. Applicants want a plan-led system and they want front loading, but they still want to have the right of appeal. Will that not undermine everything that the bill is trying to achieve?

**Jenny Hogan:** I come back to the point that the planning system is there for an applicant to put in a proposal, and for the local authority to represent the local area—

**Monica Lennon:** Can I stop you there?

**The Convener:** Let her finish the point.

**Monica Lennon:** I thought that we were rushed for time, but I will let Jenny Hogan continue. Hopefully, we will get a few more minutes.

**Jenny Hogan:** I was not going to say much more, because I am probably repeating things that I have already said. Ultimately, the system should be one in which the local authority and the local development plan truly represent the views of local people.

**Monica Lennon:** Maybe that highlights one of the problems. Jonathan Fair talked about the purpose of planning, and I am not aware that the bill tells us what the purpose of planning is, so we are relying on interpretation and assertions. That is an issue that we will need to address in our further scrutiny.

Are there any circumstances in which the panel would find it reasonable that the community—not as a third party, but as an equal partner—would or should have a right to appeal any planning decision, or, as a matter of principle, is the right of appeal a no-go area?

**Tammy Swift-Adams:** I think that I said at the outset that we oppose such a change in principle, because of the impacts on investment in Scotland, which would put us at a disadvantage, and because of the increase in conflict. In principle, we certainly do not think that it would be a positive change.

**Monica Lennon:** Are all the witnesses against equal right of appeal in principle?

**Sarah Boyack:** There is another issue about where people's voices are heard. One of the suggestions in the proposals by the Scottish alliance for people and places is about mediation and hearing what people have to say. Ensuring that people have been involved throughout the

process, and do not find out things at the end, is a critical area in which the planning system needs to be better.

11:00

**Monica Lennon:** We could have a whole session looking at the fairness of appeals. If Tammy Swift-Adams's figures are correct, and the route to appeal takes between six months and three years and costs between £50,000 and £300,000, it seems as though it is open to only the wealthy few who can afford very expensive consultants and solicitors.

Perhaps we could finish on the point about the purpose of planning. Should the bill state what that purpose is? In her evidence, Jenny Hogan talked about defining sustainable development. Does the bill tell us why we need to plan and what the legislation is for? Are those things fundamental to making this work?

**Jenny Hogan:** I reiterate that we would like sustainable development to clearly be front and centre in the bill. However, the bill is there to enable Scotland's national priorities right across strategies, from the climate change plan to energy and housing. All the priorities for Scotland as a whole should be facilitated through the bill.

**The Convener:** Are there any other comments on the purpose of planning and whether it should be in the bill?

**Tammy Swift-Adams:** There is definitely a need to better explain to everybody how planning works. That is not necessarily quite the same thing as stating the purpose of planning, and the bill might not be the right place for it. A lot of conflict and misunderstanding comes from the fact that although we have a plan-led planning system, it is also very flexible—for good reasons—and delivery focused. Trying to frame a purpose that describes all that without alienating people who perhaps do not want that to be the purpose of planning could be quite an endeavour.

**The Convener:** We are now over our time. I am looking around to see whether any member has any absolutely burning issues that they feel the need to ask about at this point, before I move towards closing the session.

**Kenneth Gibson:** I do. First, I have not asked a substantive question and, secondly, the issue of older people's housing has not been touched on. It is important, and we have a submission from McCarthy and Stone that is specifically on that.

We are all aware of the fact that, in the 1960s and 1970s, the private and public sectors built council houses and private houses that had no regard for older people, in that, for example, they were on hills or had big steps internally or

externally. People have realised that that needs to change. McCarthy and Stone's submission says:

"The 2016 review noted that 'future proofing is needed to ensure the needs of Scotland's ageing population are met'", but that

"the existing Bill and accompanying policy documents make no mention of older people's housing as a policy priority".

I want to explore, very briefly, one or two points that came out from that submission, to see what others have to say about them. One is that there should be a requirement for

"local authorities to prioritise specialist retirement housing", which should be regarded as

"as important as the need for, or equivalent to, affordable housing".

Would that include dementia-friendly housing that is also suitable for people with disabilities, Mr Fair?

**Jonathan Fair:** Yes, it would. That is an important element of our views on the bill. As I said, we need to ensure that we provide appropriate guidance on how to meet the housing needs of older people in our communities. In locations that are appropriate for such developments, we also need to consider the need for connectivity and how that impacts on the size and location of sites. As I also said earlier, we then have to ensure that, having set clear national targets for such delivery, they are followed through at local level, which might be done through policy or through reporting and monitoring exercises.

We must also recognise that housing for older people across a range of tenures is appropriate. To ensure that we meet the needs of the growing demographic that exists in Scotland and given the population changes that are due to come in the decades ahead, it is critical that we do not look at just one type in that mix.

**Kenneth Gibson:** The figures that are presented in Mr Fair's submission suggest that the number of people aged over 75 will increase from 440,000 to 800,000 by 2039. What should the national target for new-build housing for older people be, as a percentage of new builds, and how will that be delivered?

In your submission, Mr Fair, you mentioned brownfield sites on a number of occasions. You said:

"central brownfield sites between 0.25 to 0.5 hectares in size, close to shops, services, and transport links should be protected and a presumption given in favour of consent for specialist retirement housing, including sheltered housing and Extra Care accommodation".

From my point of view, that is a step too far. There could be other competing priorities, but my experience is that older people do not necessarily

like to live in such sites. In my constituency, 34 per cent of the population of Arran is retired, compared with 22 per cent of the mainland population. Those people often like to live in rural settings and have views of the Clyde and all the rest of it. How did you come to that conclusion? Furthermore, what should the affordable housing mix be within such developments? What targets should be set? Will you comment on brownfield sites, an issue that you mentioned frequently in your submission?

In view of the time constraints, I have asked all my questions together.

**The Convener:** Before the witnesses respond, I make it clear that I will close this evidence-taking session shortly. If any member has a burning issue that they want to raise or the panellists have something that they simply must say, this will be your last opportunity to do so.

I will take Mr Fair first, then allow others to make their final comments.

**Jonathan Fair:** I do not have a view on the proportion of housing that needs to be provided for older people, but they are a substantial part of the demographic. Only small numbers of appropriate and relevant housing is provided for them, so there is plenty to shoot at.

We have rightly focused on well-connected and centrally located brownfield sites. The drive behind that is older people's tremendous pragmatism not just about what their needs are at the present time, but about what they might be in the future. Therefore, the need to be close to, for example, support services and networks, friends and families and community healthcare facilities tends to be a fairly important part of their thought process when they choose where to live. Equally, many people enjoy rural settings and excellent outlooks from their property.

In common with other parts of the population, different people have different needs, but from the feedback that we have—we monitor the situation closely with our client group—those are the features of retirement housing that they consider to be most appropriate for them.

**Kenneth Gibson:** What about my question about affordable housing?

**Jonathan Fair:** There are challenges in the planning system about how affordable housing contributions are applied to retirement housing developments. By their very nature, retirement developments provide an appropriate level of affordable housing for that area and release homes that are perhaps more appropriate for families or people who are starting out in life.

**The Convener:** To bring things back to what is in the bill, there is another discussion to be had

about how that would fit into local development plans and 10-year plans.

**Sarah Boyack:** Although we have statistics about the future position, housing is an issue now. A key finding of our work with Shelter Scotland on SHIPs is that people's needs across the country are not being met. A key gap is older people's needs. There are a range of models to utilise, but the key issue is having choice for older people. Homes need to be affordable, accessible and in places where older people want to live. Sometimes, that will be in bespoke retirement places; sometimes, people will want to be in the wider community, which might be in town centres and rural communities. We want there to be a range of options, including innovative co-housing, traditional affordable housing and housing for older people across the tenures.

Part of the solution is about making the connection at the local development plan level, so that the issue is not missed. That is about joining up the research on SHIPs and the work on housing needs and demand analysis, so that we have a much better grasp of what should come next.

On the issue of innovative design of new developments, accessibility and digital inclusion need to be planned in from the start. In addition to the building, the support services that come with it are a key part of the package, but affordability becomes more of a challenge when considering the care and support that we need at different times in our lives. However, having accessible buildings is vital from the start. I very much agree that affordable housing needs to be part of the proper process at the local level.

**The Convener:** Thank you for making reference to the local development plan and all that—it is helpful for our scrutiny.

We have three other witnesses who have not yet had an opportunity to make a final comment. They should not feel that they need to make one, but this is their opportunity to do so, if they so wish.

**Gordon Nelson:** Notwithstanding earlier comments that I and other panel members made about resources for planning authorities, an aspect of the bill that our members welcome is the proposals about monitoring the performance of planning authorities and improving it.

Feedback from our members tells us that a major factor in the delays that they experience as house builders is planning authorities' inconsistent and poor performance and management and leadership issues. The measures in the bill take note of those things and would seem to address them, but we would welcome further discussion

and guidance on how the proposals would drive up the performance of planning authorities.

Again, I repeat the point that many of our members understand that resources are a major constraint in planning departments around the country. We noted that that was evidenced in the RTPI's submission from earlier this week.

**The Convener:** Although that was a lengthy evidence session, we have not covered everything in the bill—it was simply impossible to do so. I thank all the witnesses for their time here this morning.

We will move to our second witness panel shortly, but first I will suspend the meeting for about 10 minutes. The meeting will not reconvene until at least 11:20. Unfortunately, I must ask people in the public gallery to leave at this point, although they are welcome to come back after the suspension.

11:10

*Meeting suspended.*

11:25

*On resuming—*

**The Convener:** We continue with our first agenda item, which is the Planning (Scotland) Bill. I have the pleasure of welcoming our second panel of witnesses: Kate Houghton is the policy and practice officer at RTPI Scotland; Malcolm Fraser is a consultant architect; Professor Cliff Hague is emeritus professor of planning and spatial development at Heriot-Watt University; and Stuart Tait is manager and Dorothy McDonald is assistant manager at Clydeplan. I thank you all for taking the time to come and give evidence this morning.

I understand that each organisation seeks to make a brief opening statement. We will go from my left to my right, beginning with Malcolm Fraser.

**Malcolm Fraser:** Planning should be a wonderful, joyful thing. It unlocks enormous societal potential and resources. It also unlocks enormous financial resources. It is damning that, in the context of these discussions, it is always seen as a problem to be fiddled with, rather than an opportunity to take radical measures to adjust the harvesting of money and potential. That potential may come from communities, but also from land value. At the moment, we accept a system in which all the benefits and potential of planning accrue to landowners. We need to use bigger levers from outwith immediate planning discussions to unlock that. I am concerned with taking more radical measures.

**Kate Houghton (Royal Town Planning Institute Scotland):** The Royal Town Planning Institute is a membership organisation. It is a chartered institute responsible for maintaining professional standards in planning. We are also a charity with the charitable purpose of advancing the art and science of town, country and spatial planning. We have 25,000 members worldwide, 2,000 of whom are here in Scotland. Our views on the bill and the wider planning review are very much informed by conversations with our members over the last couple of years.

We view the bill and the wider review as opportunities to move away from a reactive planning system to a more proactive one. We believe that, with the right tools and resources, planners can make and deliver plans that result in better outcomes for Scotland.

**Professor Cliff Hague (Heriot-Watt University):** As well as being here in my academic capacity, I am chair of the Cockburn Association, which has also submitted comments to the committee and there is a degree of congruence between my views and those of the association. Reviewing the planning system is a once-in-a-generation opportunity. The Parliament has two choices. One is to assume that things will carry on pretty much as they are and to look backwards to what has happened in England and how well that has worked over the past 15 years or so. The other choice is to look forwards by considering the international obligations that the Scottish Government has signed up to, take account of the likely impact of disruptive technologies on our places and think about how we deliver inclusive growth in a society in which it appears that household incomes have stalled and there are widening inequalities. The choice of looking back at the English experience would be a good one if it had worked. However, recently, the Prime Minister herself stated that there is a housing crisis in England. I propose that we shift the gaze and begin to engage with a different agenda.

11:30

**Stuart Tait (Clydeplan):** I thank the committee for inviting Clydeplan to give evidence. For those of you who are not aware of Clydeplan, we are the strategic planning authority for the Glasgow city region. Clydeplan encompasses eight local authorities and covers a third of Scotland's population as well as a third of its economic output.

We have a small team that supports a structure of governance, including a joint committee of members and a senior management team. We are at the end of a process with our second strategic development plan, as part of the current system,

but we recognise that regional planning is a long-term aspiration for the west of Scotland and has been since 1947, when the Clyde valley plan was published.

The statutory role of strategic planning has been integral to the planning system in Scotland for many years, and we are now at a crossroads as to where that will position itself as we move forward, given the terms of the Planning (Scotland) Bill. However, as our economic, land use and transportation patterns have evolved, it has become increasingly important to think about delivering economic growth across city regions. Even the independent panel acknowledged the value of planning at the city region scale, and the Scottish Government recognises that strategic planning is an essential element of the overall planning system.

Taking that in context, the question is how that is delivered. Obviously, the bill seeks to remove the statutory duty to prepare a strategic development plan. Clydeplan does not wish that to happen. We think that there is still a role for the statutory nature of the plan, although processes around it could be changed to expand and enhance it. However, if things are going to change and the preparation of an SDP is to be removed from the system, we firmly believe that a regional spatial strategy is critical to economic delivery and that any role in that regard as part of a regional partnership should be a statutory duty.

**The Convener:** I suspect that we will look at that matter in some detail, Mr Tait.

**Monica Lennon:** I remind everyone again that I am a member of the Royal Town Planning Institute.

A logical place to start, perhaps, is the purpose of planning. I note that RTPI Scotland, Malcolm Fraser and Professor Hague have all argued in their written submissions that the bill should establish a clear purpose for the planning system. Should a statutory purpose for the planning system be set out in the bill? If so, what should that purpose be?

**Malcolm Fraser:** That is stated under the United Nations sustainable development goals, which the First Minister has committed Scotland to achieving. Goal 11 states:

"Make cities inclusive, safe, resilient and sustainable".

We could argue that that is a bromide if it is not delivered further down the line but, as a strapline to have at the top of everything that we do, it cannot be bettered. It clearly ties in with statements that have been made on behalf of Scotland that have already been accepted, so I do not see why that should not start off all our

considerations and why everything should not follow from that and refer back to it.

**Kate Houghton:** There is absolutely a place for stating the purpose of planning in the bill. The review has been going on for about two years now and there has been a lot of detailed conversation, and we have ended up with this proposed primary legislation, which makes some fairly procedural changes to the system. It is therefore important at this stage to step back and remember what we want the planning system to achieve for Scotland. The committee's questions as part of the invitation to give written evidence were very telling, because you asked whether the bill provides a balance on issues X, Y and Z. That was an interesting question, because we need to ask whether that really is what we want the planning system to achieve. It is important for all stakeholders involved in the system that we are all absolutely clear what our end goal is.

**Professor Hague:** What is the alternative to having a purpose? There are presumably two possibilities. One is that there is no purpose, in which case why are we doing it? The other is that there is a purpose but we are not prepared to say what it is, and that is not a great piece of administration. Logically, there has to be a purpose, and it can be helpful to look at what is done elsewhere. I agree with Malcolm Fraser that we should start with sustainable development goal 11. Target 11.4, for example, is about conservation of the natural and cultural environment. Those things need to be picked up and recognised.

In South Africa, the Spatial Planning and Land Use Management Act 2013 talks about providing for

"inclusive, developmental, equitable and efficient spatial planning",

and among its objects are the promotion of "social and economic inclusion". Zambia has an explicit set purpose in its planning act's preamble, which uses that kind of language. It can be done, so I do not see why Scotland cannot do it.

**Stuart Tait:** I agree with my colleagues. The fundamental issue is the use of land in support of a purpose, and the system has to be created in support of the use of that land for the greater purpose, which can go beyond planning, such as a Government, regional or local purpose. The purpose of planning manifests itself in the use of land.

**Dorothy McDonald (Clydeplan):** In our written submission, we comment on the potential alignment of the bill with the Community Empowerment (Scotland) Act 2015, which references the Scottish Government's national outcomes. There is a case for regarding planning

activity as an integral part of our public activities—I was taken with Malcolm Fraser's eloquent introduction in that regard. The national planning framework could become the spatial expression of the Scottish Government's programme for government, and other levels of the planning system could be seen more fully as the spatial expression of corporate planning and community planning activities. That alignment under the 2015 act and Scotland's performance framework would bring greater alignment of planning with community planning, which is an integral purpose of the planning review.

**Monica Lennon:** Last week, the committee heard evidence from Petra Biberbach from Planning Aid for Scotland. I pointed out to her that, in her evidence on what became the Planning etc (Scotland) Act 2006, she said that a lot of people do not know what planning is or what the planning system is for. Would a clear statement of purpose in the bill help to educate the wider public better about why we have a planning system and why it matters to them?

**Malcolm Fraser:** Absolutely, yes.

**Monica Lennon:** Great. I am happy to move on, convener.

**The Convener:** Would you like to take up the next line of questioning?

**Monica Lennon:** Yes, if you want to skip ahead. I will pick up on strategic development plans. Under the bill, not only would Clydeplan's jobs disappear but strategic planning as we know it faces the chop. In the previous evidence session, Homes for Scotland said that strategic development planning has not worked. I do not know whether witnesses heard any of that evidence, but do you understand where that criticism, which is about not just Clydeplan but other strategic development planning authorities, is coming from?

**Stuart Tait:** First and foremost, we are at the start of a new system. SDPs are in only their second iteration, and building relationships and trust is part of the process to deliver those documents. The critical element is the process of joint working. From the perspective of the west of Scotland and Clydeplan, we were fortunate in that we had a long legacy of joint working, so the transition to the new system was relatively straightforward for us. Other areas of the country for which the transition was a different and newer experience will take time to develop the relationships and trust to deliver their plans.

Another thing to recall is that the strategic development planning authorities are there to perform one function only: to deliver the strategic development plan. Processes were set up to do that, and the Glasgow model was rolled out across

the SDPAs in the city regions, so we probably had a better starting point. Our documents have been produced on time and on budget and have set a clear spatial strategy. They have involved a fair degree of consultation and examination. We have involved local authorities because, first and foremost, the documents are theirs to submit to ministers. That process takes time and trust needs to be established so that people will come on board and get an understanding of the processes that are involved.

Criticism is to be expected with a new system, but the principles behind the purpose of the documents remain valid.

**Monica Lennon:** Let us put aside all the process points. Regional planning is not new. As far as outcomes are concerned, what has regional planning achieved?

**Stuart Tait:** Sorry?

**Monica Lennon:** By “outcomes”, I mean better places, better communities and better infrastructure. What does regional planning achieve?

**Stuart Tait:** First and foremost, it is about setting out a vision—a spatial strategy—across a metropolitan city region, which involves eight authorities coming together and reaching an understanding of what they want to achieve, particularly with regard to economic development and housing. The scale of the demand for housing needs to be examined, and that needs to be disaggregated across the geography of the region. That sets the context for local development plans and the delivery of green networks. The way in which the transport system operates needs to be looked at, too, as well as what is required to make it work more efficiently in support of the broader strategy.

**Monica Lennon:** If we strengthen the national planning framework and provide a clearer focus on delivery in local development plans so that local authority planners are not in a constant cycle of producing five-year plans, will that not free up people to be more focused? Could we lose the layer in the middle that you currently occupy?

**Stuart Tait:** In my view, it would be unwise to lose that layer. From my experience, it would be better to keep it as part of the statutory development plan process, which allows the local authorities to come together to consider with other stakeholders and partners what is the best way to plan for their city region. We do not live and work within one small local authority area; we work on a cross-boundary basis. Housing, infrastructure and green networks all transcend local authority boundaries and have to be considered in the appropriate geography. As we have seen over

many years, the appropriate geography is the regional scale.

The disconnect between plan and delivery is symptomatic of the system that we have set up, because the strategic development planning authorities have been set up solely to deliver the SDPs to the Scottish ministers on behalf of the authorities. Any new system could still have the SDP as a statutory document, but it could be enhanced with regard to delivery through the provision of resources and continuity around delivery plans. We could move to a 10-year cycle. An aspect of the SDP that I have always found frustrating is that, once it has been approved, four years later another document has to be submitted. As SDPs are statutory documents, that is a long-term process. That cycle of replacement does not allow for the holding of discussions of the kind that you referred to. However, the space is there for local authorities to come together and think about how they plan for their area.

**Kate Houghton:** With regard to the value of regional strategic planning, as Stuart Tait has pointed out, people and the natural environment do not strictly obey political boundaries, if they obey them at all. It is important to acknowledge that what happens with investment and development on one side of a border will affect what happens on the other side of that border.

It is instructive to note that, in England, where regional planning was dismantled in 2010, the UK Government is making available to local authorities funding to produce joint core strategies through multi-authority arrangements. In effect, that is an acknowledgement that some statutory regional planning is a good thing.

**Professor Hague:** Somebody once said that the regional scale is the scale at which you try to solve the problem above the scale at which you last managed to solve it. There is an ambiguity about what a region is, but there is undoubtedly an increasing emphasis internationally on the importance of functional city regions and the geography of that. That is why UN-Habitat now talks about urban and territorial planning, which was originally a French term, although we can use “regional” and get away with it. It is basically an issue of subsidiarity. Problems are best addressed at the lowest feasible level, and there is a strong case for saying that, in Scotland, the region is such a scale, and that a plan, rather than just a partnership, gives a mechanism to do that.

11:45

**Monica Lennon:** I want to throw in the topic of city region deals. Before I was a member of this committee, the committee held an inquiry into city region deals. We are seeing more of those being

introduced in Scotland. We are trying to achieve inclusive growth at the level of the city region, so is it an odd time to abolish strategic development planning authorities? Do you have an alternative view?

**Dorothy McDonald:** I want to respond partly to your previous question about outcomes. We have provided a very clear context for the local development plans, additional context for development management decisions and a platform for collaboration. That does not sound like much, but I can expand on that briefly. I am thinking of partnership working at the level of the functional housing market area. That is important because cities cannot plan for their housing needs and demands within the confines of their own boundaries. Finally, as another outcome, we provided a context and a platform for the city region programme of infrastructure projects. That was the basis for the city region funding that came to the table on which key infrastructure projects have been based. Many authorities used that as their first point of call in developing the projects that are part of the infrastructure bids.

**Malcolm Fraser:** It is not sustainable. Scottish local authorities are cut off from their hinterlands—Edinburgh from the Lothians, Dundee from Angus, Aberdeen from the shire, and so on. Local authorities need to be bigger to be able to plan better—they need to be the same size as health boards or at least the city regions. However they are already too distant from their citizens. It begs the question of the need for community councils or parish councils to be reintroduced, empowered and given responsibility. Subsidiarity should allow communities within Edinburgh to take more responsibility for their own affairs—as they are doing under the Community Empowerment (Scotland) Act 2015—and should allow local democracy to be reintroduced. I am all for larger local authorities that can plan better as city regions and for re-empowered local community councils all around our towns, villages and settlements within cities.

**Professor Hague:** The city region deals strengthen the case for regional-scale planning. The risk of city deals is that they take a project-driven approach to development. There can be a series of pet projects, which may be valuable, but the question is how they are integrated. That is part of the role of the plan.

**Stuart Tait:** That is the point that I was going to make. It is important that the projects do not sit in isolation and that there is a delivery mechanism for core components of a strategy for the city region—projects must sit in the context of maximising the investment and the economic value of what comes out of them.

**Graham Simpson:** Do you think that we should have a model that is based on the city deal? Should the authorities involved in city deals or growth deals become planning authorities in their own right?

**Malcolm Fraser:** That is the case, although I take Professor Hague's point that city deals are too focused on projects such as bypasses, relief roads and things like that. They would need to be re-linked to proper regional planning. Part of the reason that regional planning does not work is that it is undermined by land speculation markets, so we end up with land to the north of Edinburgh not being built on and speculation around getting the green belt of Edinburgh built on instead.

**Kate Houghton:** It almost needs to work the other way round. We want to encourage local authorities to work together to agree the outcomes, which could be done through something like a regional spatial strategy. We would like local authorities to choose their geographies using that strategy so that, when something like a city deal opportunity arose, there would already be an agreed set of outcomes that would feed into a wider corporate strategy. It is not just about special development; it is about economic growth, health outcomes, education and so on. When that funding became available, local authorities would be able to target it at pre-decided priorities.

**The Convener:** Would Stuart Tait like to add to that?

**Stuart Tait:** It is perhaps a semantic point, but local authorities are the local planning authorities for SDP purposes and they are still such authorities when they work with their regional partnership city deal hats on. The problem occurs when those things come together, because two separate governance processes are emerging.

The Planning (Scotland) Bill seeks to remove the strategic development plan joint committee, which would take out one level of governance, which could be replaced by the city region partnership process if that would align governance more effectively. However, within that governance structure, such a partnership would have to be charged with doing things to support proper planning in the area. That is why we talk about placing a statutory duty on such partnerships to continue regional planning and to develop spatial strategies that can shape future city deal investment—or future investment generally—and also feed into the national planning framework.

We could have the same conversation here, but we are starting to look at two separate statutory processes of governance, and it is a question of whether the Parliament wants to align them in order to co-ordinate planning and delivery in a way

that is perhaps missing under the current arrangements.

**Graham Simpson:** We certainly could align them. In your case, I think that that would involve the same local authorities.

**Stuart Tait:** Whether the process would be the same across the whole of Scotland is a different matter.

**Graham Simpson:** Yes, but it would pick up a number of local authorities that are not in strategic development plans at the moment. We would mop up quite a lot more of the country by doing it in that way.

I have another question, which is about the flipside of the argument. As a local councillor for 10 years, I found that, when we set up the city deal, which I support, there was a bit of a democratic deficit in that local councillors were not really involved in any of the decision making. I can speak only about the Glasgow deal, in which my council was involved. If we are going to have regional partnerships, it seems to me that we need to involve councillors more rather than involve just one body of officials and the council leader. What are the panel's views on that?

**The Convener:** I see some nodding heads.

**Malcolm Fraser:** Yes.

**Graham Simpson:** Good—there is agreement.

**The Convener:** I have dug out some of the recommendations from our city region deal report. We drew attention to the fact that there was an enterprise and skills review, and we name-checked a few examples of regional co-operation and strategies that have emerged. Those are separate from what the legislation seeks to remove. It would be reasonable to contend that regional strategic planning will continue, because it does so in a number of forms irrespective of the strategic plans that will be removed by the bill. I wonder whether Mr Tait or Ms McDonald thinks that the local authorities that make up the Glasgow region would stop talking and co-operating if the bill were to be passed. That is the contention.

**Stuart Tait:** I cannot speak on behalf of all eight local authorities. They have come together in a number of forms, such as on the basis of the city deal funding and the strategic development planning authority as well as under the auspices of the Strathclyde partnership for transport and the green network partnership.

For me, the critical question is about what guides the form of development that they are all trying to achieve. They are all doing different things, and they all want to deliver certain aspects of growth in the city region. At the moment, what binds them together, from a planning perspective,

is the strategic development plan, so its removal could undermine broader consideration of planning issues. They could still work together on various elements, but, as far as planning is concerned, having a statutory duty to produce a plan and to think about growth aspirations and the environmental impacts of that plan across the city is critical to ensuring that the other pieces of work on which they come together are joined up in a meaningful way. They should not think about transport, green networks or economic development in silos but should go to where those issues actually arise.

**The Convener:** I appreciate why you say that, but, as this our final evidence-taking panel today, we are trying to tease out whether there is a need for a statutory duty to do that or whether we would expect them to do that anyway.

**Stuart Tait:** That depends on whether you want it to happen, whether you wish to make it happen or whether you hope that it happens. A statutory duty would ensure that something happened.

**The Convener:** That is helpful. I think that Ms McDonald was about to say something similar, so I will bring in Professor Hague before we move on.

**Dorothy McDonald:** You are absolutely spot on, convener.

**Professor Hague:** We all recognise the need for more integration, so it seems perverse to propose a measure that would make integration powers weaker. The key aim is to take the strategic level of planning closer to the budgets and closer to the investment priorities of the different stakeholders who will deliver the development on the ground.

I see the regional plan as the basis of negotiation for that approach, which would then be followed up by the partnerships, the city deals and so forth. I see that as being a dynamic process between them. However, I do not see how removing the strategic development plan—especially as there is little evidence that it is seriously broken; we need think only of the work that Kevin Murray Associates did a couple of years ago in that regard—would help us to deliver more developments on the ground in the places where we want them.

**The Convener:** That is helpful. It is best that we move on, because there is a lot in the bill.

**Kenneth Gibson:** I welcome everything that Malcolm Fraser has said about strategic development plans, because I have been arguing those points for years.

Let us move on to simplified development zones. Professor Hague's submission says:



“Simplifying the planning system could make it more equitable and expeditious, and less reliant on the time consuming appeals system. However, the SDZ proposal does not deliver such change and again misses the point that the role of the planning system is more multifaceted than just regulating development.”

He says that we should

“use the planning system to promote innovation that contributes to the SDGs”—

sustainable development goals—

“whereas what is proposed seems just a way of making it easier to deliver mediocre development.”

Will you expand on that, and will others on the panel give us their views?

**Professor Hague:** If the aim of SDZs is to deliver what we want, why do we not have them everywhere rather than just in certain areas? The problem is that we do not want just more housing planning permissions; we want a wider array of things. That means that, at some stages, we want to conserve areas or landscapes rather than simply develop them.

The difficulty is that a fix has been suggested, in the bill and in the review, on the basis that the real issue is that planning is blocking the delivery of housing planning permissions, which equates to housing on the ground and housing of the type that we want. There are question marks over all those points. Is planning the sole blocking factor? It clearly is not. Are we getting the housing that we want? As was mentioned in the previous session, we want affordable housing, mid-market rent housing and housing for an ageing population. We also want quality of place in design terms. We risk going down a track that misses the main point, which is that quality development—which may have a strong element of conservation to it—is often a more sustainable option than new development. Therefore, how the SDZ proposal is couched risks sending us on the wrong track.

It is logical for a plan to identify areas where special action would be taken. Indeed, there is long history of that approach in planning. That—dare I say it?—takes us back the old days of comprehensive development areas. Yes, you can use the plan to identify areas where you want to do special things, such as encourage innovation in design, products, energy or whatever, but to see it simply as a way of speeding up development really misses the point.

**Kate Houghton:** I very much agree with Professor Hague’s comments that SDZs have the potential to focus proactive planning. For example, a site would be allocated in the plan and the SDZ could have a valuable role in saying that the challenges with the site—whether access, utilities, contamination or financial viability—give a focus in getting the site delivered.

Without the proper resourcing, however, that aim will not be achievable. SDZs require a lot of up-front work from local authorities in terms of master planning and work with stakeholders, but, because an SDZ does not involve a planning application, there is no planning application fee. To ensure that SDZs deliver the right development, it will be important that the resources are available to frame them properly.

12:00

**Kenneth Gibson:** Some of the witnesses on the previous panel gave interesting submissions. For example, Homes for Scotland stated:

“Fundamentally, Simplified Development Zones will not be an alternative to a properly functioning planning system and will only be a supplement to the functions of a proactive planning authority.”

Given what you have just said, how do you feel about that statement?

**Kate Houghton:** It almost agrees with what I just said. I am saying that SDZs could be a way to concentrate efforts on delivery of certain sites, and what the bill as a whole is supposed to achieve is delivery—full stop—of all sites that are allocated in a development plan and that have been through the proper scrutiny. What SDZs offer on top of that, with particularly challenging sites, is an incentive in the clarion call that it is a site that we want to see developed.

**Kenneth Gibson:** On balance, do the panel members believe that the introduction of strategic development zones enhances the bill?

**Malcolm Fraser:** If the system can be simplified, it needs to be simplified everywhere. Simplifying it in certain places would just create a whole level of argument over where those places should be, and it may prevent something sensible from being done elsewhere. If there are good measures that can be taken, they should be taken across the board. We should not be drawing lines round something and saying, “You can make a mess of this but not of that.” If we’re going to make a mess, we need to make a mess everywhere—that is equal opportunity.

**The Convener:** I am not sure that that is the official terminology in the bill.

**Kate Houghton:** It depends on the policy purpose of the SDZs. If they are about giving planning permission in principle on sites that are easy to develop, I am not sure that they add much. If they are about rallying people round and getting tricky sites delivered with the correct resources, they could help.

**Kenneth Gibson:** Basically, you are looking for more detail from ministers about what SDZs will deliver.

**The Convener:** Graham Simpson will explore that a little more. The matter was discussed in detail at the communities conference that we had in Stirling, and the contention was that it sounded good and that changing the name to simplified development zones made it sound like good master planning that involved lots of up-front work in speaking to people in a community about what they wanted to see on land that was not being used. However, Kate Houghton and Malcolm Fraser are asking why that would not be done everywhere.

Going back to the policy intent, all MSPs know about bits of land in their constituencies that we are desperate to see developed because it would be the final piece of the jigsaw for place setting, but we cannot get the market to bite. We can think of lots of reasons why simplified development zones could really work with massive community support. I am saying what my vision is, but, without a clear policy statement or clarity about the purpose of the bill, I am getting a lukewarm response from the witnesses. Would that change if there was greater clarity as to the bill's purpose?

**Professor Hague:** The purpose must be more diverse than it is presented as being. That comes back to one of the big issues hanging over the whole thing, which we have not yet touched on—trust. There needs to be a sense of trust between communities, the system and the development industry. The difficulty is that the bill is presented in such a way that it will primarily be about speeding up development for housing without its having to go through as many hoops as normal in a planning system and without necessarily having the great vision that Mr Doris has, which is one of the factors that reduces public confidence in the process.

**Graham Simpson:** I look forward to hearing Mr Doris's vision later.

I have a simple question on simplified development zones. Simplified planning zones, as they currently stand, cannot be set up in certain areas, such as conservation areas, the green belt and national scenic areas. That provision does not exist in the bill for simplified development zones. That may be an oversight, but do you think that those restrictions should apply?

**The Convener:** Feel free to refer to my vision at any point during your answer, Professor Hague.

**Professor Hague:** That is the point that I just made. It is the kind of thing that makes people feel suspicious and that less value and priority will be attached to things such as conservation areas, which are much loved in Scotland—if any systematic research was done, people would see how valued they are. People also feel that a hands-off approach to approving development will

be prioritised. If we see the bill as being about not just speeding up development—which we are all in favour of—but addressing the issue of public trust, that is a bit of an own goal.

**Kate Houghton:** On the potential role of SDZs in what we call market making—making a site more attractive to development—it is important, from the point of view of heritage and nature conservation, to think about how we can develop in a way that is sympathetic to those objectives. Again, it goes back to the policy purpose of SDZs. If they are resourced to enable good planning that, for example, allows a listed building to come back into use and to be refurbished as part of a sympathetic scheme, that is obviously a good thing, but it is important that they are not used as a way to get around the proper scrutiny that is needed for other consents.

**Dorothy McDonald:** I have a generic point to make about the purpose of development planning. In a very real sense, development plans deliver just one thing—the ability to grant planning permission to land. SDZs might fall into similar territory.

My more substantive point is that, if we—by which I mean the big “we”—want to front fund infrastructure and achieve development delivery, we should fund it and resource it.

**Monica Lennon:** The bill will give third parties the right to request a simplified development zone, but it will also give ministers the power to make an SDZ, and there would be no restriction on that. How appropriate is that in a plan-led system?

We have talked a lot about the provision of certainty in the plan, front loading and the public having confidence that their views will be taken into account. If we do all that, sign off our LDP or local place plan and ministers then come along with a simplified development zone, how does that fit well with the package of the bill? Is that a good thing? Is it a symptom of the fact that planning is broken and ministers know better? How would that fit with the views of communities? Do we expect that power to be widely used?

**Kate Houghton:** The RTP's position is that SDZs should be linked to allocated sites and development plans, whether the local development plan or the NPF. An amendment to the bill to that effect could significantly strengthen the role of SDZs and improve accountability.

**The Convener:** Do other members of the panel have thoughts on that? I see nodding heads. Malcolm Fraser agrees. Stuart Tait wants to make a comment.

**Stuart Tait:** The context is about facilitating development. Delivery programmes are a key element of the new system, as they will set out

how local authorities will work with others to deliver the sites in the local development plan, the strategic development plan or the national planning framework. Therefore, there is a mechanism for having a discussion about how things will be taken forward. Community engagement could take place through the delivery programme discussions.

**Monica Lennon:** We heard from the previous panel about planning being a barrier. We were told that a third of applications that are refused are taken to appeal. I think that the Homes for Scotland representative talked about “planning by appeal”. If we get to a point at which the Scottish Government—whoever is in power—gets fed up that it is getting it in the neck because it is not delivering the homes that we need, would it be tempting for ministers to come along and designate simplified development zones to make sure that development happened?

**Malcolm Fraser:** We have to set up a system that delivers development and allows it to happen in the right places. We cannot set up a system and then countermand it further down the line because we do not like the outcome. We talk a lot about getting things right upstream, and then we add more processes and upend things further downstream. We need to take away the later chances to upend the process in order to focus and get things right upstream.

As an architect, I have been told many times by planners that they are going to turn something down but I will win on appeal. That is simply unacceptable. It extends the process, allows developments to become worse, allows lawyers and consultants to make money out of the tail end of the process, and holds back development.

We say that we need to get things right upstream, but we need to apply that and not undermine it. We need to tell ministers that they need to get their simplified processes in early. We need to get the right land ready for development and then not let that go further down the line.

**Kate Houghton:** I was going to say something similar. I am sorry, but would Monica Lennon repeat her question, please?

**Monica Lennon:** I was exploring the risk of ministers using the simplified development zone power if it looks like planning is not delivering and we are not getting the homes that we need. Is designating a simplified development zone an easy fix? Is that appropriate? Is that where we want to be?

**Kate Houghton:** As Malcolm Fraser said, it is about getting things right upstream. We are trying to design a system that prevents our ever being in that situation. It is also important to remember that the Government is democratically accountable, so

its choice of whether to use those powers is in that context.

**Monica Lennon:** Does the RTPI agree that ministers should have that power? Should that be in the bill?

**Kate Houghton:** As I said, we think that SDZs should be linked to the plan-led system so that any SDZ that a minister introduces is linked to a site that is allocated either in an LDP or in the NPF.

**Professor Hague:** The discussion highlights the extent to which there is systematic distortion in the logic of the bill. On the one hand, it is all about front loading community involvement and rebuilding trust; on the other hand, when the chips are down, people can still lose out at the last stage through an SDZ or the appeals system.

I totally support Malcolm Fraser’s view and agree that the example that he gave should not happen. However, in the end, 95 per cent of planning applications are approved.

**Dorothy McDonald:** More than that.

**Professor Hague:** Okay—more than that. I am corrected.

The real problem is in the appeal system. Basically, most of the system ticks over okay. It could be better, but we would not have such a planning bill if there were many more problems there. The real issues are in the appeal system—the inequalities in it, and the extent to which, after all the front loading, the real decision can come at the final stage and not be locally accountable.

**The Convener:** We will consider the appeal system in more detail later on. We are not ignoring it; we are just going through a flow of evidence.

**Graham Simpson:** We will come on to appeals but, to stick to what we are discussing, it could be decided that we need X houses across Scotland and Y houses in certain areas, that a bit of land should be green belt, that an area should be a conservation area, and that that is what is in the local development plan. It could then be said that land has been allocated for housing, so a simplified development zone can be set up there, but not in another place because it is green belt. Is that the sort of system that you would see working?

**Kate Houghton:** Yes—exactly. If SDZs were linked to the plan-led system and to allocations in the plan, logically that is how the system would work. There would be an SDZ, whether for commercial or residential development, based on the allocation in the plan.

**Graham Simpson:** That would then mean that the minister could not override that, because the land would already have been allocated for housing and local communities would already

know that there was a potential for housing in the area.

**Kate Houghton:** Yes.

12:15

**Professor Hague:** There are some similarities with the zoning systems that are in place in most other countries, particularly in continental Europe. In essence, there is a zoning allocation and, if a development conforms with that, it can go ahead. The difference is that those systems tend to be much more prescriptive than just a basic zoning system. We would not just want to say that any housing on a particular site is okay—that comes back to questions about place making, quality and mix and so on. If the process involved master planning the site in that way, that would be different. As we have said, the approach could work well, but it requires resourcing and probably a mechanism for land assembly. There would also have to be a way to ensure that the development will actually go ahead and will not just be a set of planning permissions sitting in a house builder's account.

**Graham Simpson:** As I said in the earlier session, we have to think about how we can improve certain parts of the bill if we want to, and your answers are useful in that regard.

**Dorothy McDonald:** To follow on from my earlier point, development plan allocations, including SDZs, can be a very blunt tool. They can achieve that delivery and focus if the actors work collaboratively and if the process is resourced.

On development delivery, I would perhaps challenge the inference behind the question and proposition about SDZs. Social sector house-building programmes are currently at their most buoyant level in the past 10 years or so, because we are funding that, whereas private sector house-building programmes are at their lowest levels historically, certainly in our part of the world. That is not because we did not allocate sites in development plans and did not have SDZs; it is for many complex and different reasons, on which I am sure the committee has taken evidence from other panels.

**The Convener:** That is helpful. We turn to a new line of questioning.

**Alexander Stewart:** A number of the witnesses gave us views in their written submissions on the infrastructure levy, but I would like to tease out that issue a bit more. To what extent can the infrastructure levy raise funds to unlock the potential for development?

**Kate Houghton:** As the RTPI said in our written submission, the research that the Scottish Government commissioned showed that, in the

best-case scenario, the figure would be about £75 million annually, which would be helpful but is not on the scale that we need to overcome the infrastructure challenge. Dorothy McDonald alluded to some of the complexities that prevent development and which have nothing to do with planning allocations or permissions; indeed, the issue is about getting infrastructure that can service development. That needs a lot more than the quantum of money that we are talking about with the infrastructure levy.

**Professor Hague:** The evidence shows that the answer to your question is that it will be to a limited extent, although it will be more in some places than in others. In places where the market is strong, the levy is likely to generate more and in places where the market is weak, it will probably not generate much. Therefore, with the best will in the world, it is overoptimistic to rely on that and see it as a game changer that will fundamentally alter and remove the blockages in the system. In the end, we need an approach that ties the plan more closely to budgets and investment—that means public sector budgets, including those of bodies such as the health service and other significant public sector landowners, as well as the investment priorities of the range of infrastructure providers.

In the end, we will have to accept that the cost of providing infrastructure for the public good should come primarily out of the public purse. However, the value that is then created by that infrastructure should also be recouped by the public purse. That seems to me to be a fairly equitable and potentially more efficient way of doing it. I repeat the point that that is what is being talked about in, for example, the South African system.

**Malcolm Fraser:** The infrastructure levy is fiddling where radical change is needed. I go back to my opening statement—massive public good could be unlocked in new development, but there are also massive financial benefits to be unlocked.

It is calculated that, in Edinburgh in the next 20 years, more than £8.6 billion will be released. Even if there is public investment in places that need regeneration in the north-east of Glasgow, for example, the land value goes up around that public investment and all the gains are harvested by the landowners and consultants. We need to use a different system, in which we make a positive decision that the riches that are unlocked in the built environment accrue to the people of Scotland who need houses and new communities, and not to the landowners who own the land. That is how the new town in Edinburgh was built and how the post-war new towns were built in Scotland. It is how the most active Asian economies work.

If land is designated for housing within a strategic development or a local development plan, the value of that land leaps up from £15,000 an acre to £2 million an acre. A massive amount of value is released and that value needs to be harvested by the local authority for the benefit of the people. The local authority can then borrow against that rise in value to invest in public infrastructure such as schools, health facilities, and roads, so that house builders can get on with doing their bit, and we can also designate land for different types of housing such as co-housing, and different ways of managing housing for intergenerational care, collective self-build, and that sort of thing. Harvesting that value would truly deliver a plan-led system that is not just plan led in name but has the financial resources to deliver.

House builders would like it because it would let them get on without having to wait for the drip of section 75 money or the infrastructure levy, which will just be a micro-managed fight all the way down the line. It would be an absolute game changer. It is a matter of regret that discussions around planning do not recognise that these bigger discussions are going on about land reform in other places. We are sitting in a wee silo and not understanding that, behind planning, the issue of land and who benefits from land is of enormous import.

**Alexander Stewart:** You have identified many of the issues for unlocking potential and making it happen. It has happened elsewhere, in other nations and countries. What could we do through the bill that would make such an impact and achieve that goal?

**Malcolm Fraser:** I do not know whether that is possible through the bill that you have in front of you. However, the discussion needs to at least recognise that, outwith the immediate planning discussion and planning silos, there are bigger undercurrents and issues in Scotland with the land reform commission, and there are alternatives to the infrastructure levy and section 75 agreements.

In an ideal world, the bill could introduce such a system, but perhaps it needs to acknowledge that there are other methods and talk about the potential value of doing it. For example, if Edinburgh invests in putting the tram down to Newhaven, which it should do, the value of all that land around Newhaven will leap up and again, we will be unable to build on it and there will be cries for public subsidy or for land from the green belt because we cannot deliver houses around the tram stops.

The market is a wonderful machine for extracting value out of all public subsidy that goes into it. As Churchill established and said very eloquently, we need to use the market but find a way to adjust it so that it delivers for people in the

communities and not just for landowners and market speculators.

**Professor Hague:** I agree with what Malcolm Fraser has said. We need to recognise that the issue goes to the heart of the idea of inclusive growth or exclusive growth. A situation in which somebody can make a staggering fortune by the standards of teachers, nurses, firemen and police officers is a major driver of exclusive growth. We now know that one of the challenges that we face is how to make the pattern of growth fairer and more inclusive. If we disregard the issue, we are not being neutral but are reinforcing the pattern that drives inequality.

There are some substantive things that we can do if we go back to the original purpose. We need to have a sideways reference to land reform and the aims of the land reform programme; the planning bill must state that it aims to support, facilitate and integrate with the land reform programme. We also have to look at the Land Compensation (Scotland) Act 1963, which gives the landowner the hope value in any transition to public ownership. Those are the kind of changes that could be made.

**The Convener:** I want to check something. The Planning (Scotland) Bill includes the power to introduce an infrastructure levy, but the Government has said that it does not intend to do that yet. The Scottish Land Commission is looking at innovative ways of using land, including land value capture. Would it be helpful if the bill included the option of taking the power over some of those things in the section that deals with the infrastructure levy, given that we do not know what will be the end point of the Scottish Land Commission's review? Would it be appropriate to ensure that the contents of the bill and the commission's conclusions dovetail, in case those conclusions are similar to suggestions that have been made by witnesses today? Would that be a reasonable approach to take to the bill?

**Malcolm Fraser:** That would be the definition of joined-up thinking.

**Professor Hague:** Integrate, integrate, integrate!

**The Convener:** I thought I heard you say, "In't it great?" [*Laughter.*]

**Andy Wightman:** I have a brief follow-up question on land value. The bill follows a 70-year-old tradition of town and country planning. Section 48 of the Town and Country Planning Act 1947 contains a provision for public authorities to acquire land at its current-use value. That provision was included in order to enable Britain to rebuild after the war. A similar provision was also built into the "Basic Law of the Federal Republic of Germany", for the same purpose. However in the

United Kingdom, the provision was repealed in 1959. If we were to amend the bill in order to reintroduce that provision, that would go to the heart of planning legislation. Would that help? One of the problems is that it would devalue the land on the balance sheets of landowners and developers across the country, so there might be an argument for restricting it to simplified development zones, for example. Cliff Hague talked about public land assembly at a fair price, master planning and passing on development to those who want to procure housing.

**Professor Hague:** That could be a way of trialling it. We could see what happens with simplified or special action zones, for example. There is no doubt that the proposal that we have been floating would be controversial and would have the impact that Andy Wightman suggested on the values of assets of various house builders and the investors behind them. However, in the end we are talking about a system that is designed to deliver quality places for the Scottish people. We are not talking about a system that exists to protect and enhance the asset values of companies.

There is, however, not quite such a divide as that suggests, because we depend on those companies investing to provide a significant part of the built environment. I accept that. That is why we could look for a transitional arrangement.

To go back to the convener's question, we should still hold out the option in the legislation that things could be done differently. I will go back to where I started. Basically, we have a rerun of what has happened in England over the past 10 or 20 years, which has not worked and has not delivered the types of places and houses and access to housing to which people aspire. Why repeat that model if we know that it does not work?

**Kate Houghton:** It is important to make the link to the Scottish Land Commission to ensure joined-up thinking. The commission's approach recognises the importance of land for development in the strategic plan. As we consider the issue and seek a long-term solution to the problem, it is important that we work with the Scottish Land Commission to model and carry out more research on the impact on Scotland more broadly, and therefore on how the policy could be implemented successfully.

12:30

**Malcolm Fraser:** That research is on-going. To answer Andy Wightman's question directly, I suspect that repealing that particular part of the 1947 act would not be a complete game changer, but it would at least demonstrate to the Scottish

Land Commission and others that, if other laws were changed, planning would have already taken place to recognise that fact and planning would be aligned with that potential. Therefore, I think that that would be a very worthwhile thing to do.

**The Convener:** We need to move on.

**Andy Wightman:** I will move on to the national planning framework. I think that most people welcome the fact that there is a national planning framework. We are on NPF3 and NPF4 will start soon. The framework was introduced as a light-touch spatial expression of ministers' economic strategy. The proposal in the bill is quite radical in the sense that it makes that framework part of the development plan. It also raises questions—in my mind, anyway—about process. In March 2014, Parliament signed off NPF3 by a motion that merely noted, I think, three committee reports as being the response of Parliament to ministers' national planning framework, so it remains the property of the Government.

In the earlier session, I raised a speculation to which no one had a response. The Conservatives could win the next election, form a minority Administration in the Scottish Parliament and use the national planning framework to reintroduce fracking. Parliament might disapprove, but fracking could, nevertheless, be in the national planning framework—which belongs to Government, not Parliament—and so become part of the development plan, and we could then have fracking all over Scotland.

I have two questions. Do you approve of the national planning framework being part of the development plan? If it should be part of the plan, or if it should have a strengthened role, how should we sign that off, because it is not signed off in the way that the local development plan is signed off, which involves a lot of participation and, ultimately, democratic sanction by elected members of a local planning authority?

**The Convener:** I point out that Mr Wightman has raised the spectre of a Conservative Government in Parliament twice today.

**Andy Wightman:** I do so merely to illustrate the fact that planning legislation lasts a long time.

**The Convener:** It is worth noting that a Conservative Government is something that even the Conservatives are not speculating on, at the moment.

**Kate Houghton:** The simple answer to Mr Wightman's question is yes—we welcome the enhanced status of the NPF, but on the understanding that scrutiny will be improved. I know that the bill states that scrutiny will be extended from 60 to 90 parliamentary days. We think that scrutiny should go further than that. In

particular, we are exploring the possibility that the NPF could be subject to parliamentary approval. An alternative, or additional, form of scrutiny would be to require the minister to report on the NPF and its implementation perhaps annually or biennially.

**Stuart Tait:** I concur with what Kate Houghton said about a requirement for a different process of ownership by members of Parliament such as yourselves. The national planning framework being part of the national development plan makes it a different document all together. The ability of that document to raise the value of land is critical, which I am sure the committee will want to consider.

The question for us is how that document relates to the regional dimension: what the NPF asks of the regional partnerships, if they are created, and what the relationship is, and rules of engagement are, between the strategic development plan and the national planning framework at national and regional levels. At the moment, those rules of engagement are unclear. Would the national planning framework set out housing numbers, for example? How would that be disaggregated to the relevant geographies? What would be the role in that of the strategic development plan, or of regional partnerships if strategic development plans are removed? The document is going to be radically different, so the committee should have a strong think about the processes around its scrutiny and approval, and about who has ownership of it.

The other element that I want to mention in relation to the NPF becoming a statutory document is that it is the wish of the Government that it should deliver for Scotland. We must ask how that document influences budgetary spend and how we align elements of Government spend to support what is in the national development plan, because its status has changed.

I will go back to the example of the strategic development plan. When it is approved by the Scottish ministers, we get a letter that says that no part of the plan is guaranteed grant funding or expenditure, so we have to work on different ways of implementing it. There is nothing that commits the minister to funding the strategic development plan, even though it has been signed off by the Scottish ministers. There is a similar debate on the role and function of the NPF. Does it drive ministerial spend in support of delivery, or is it something that is nice to have but that we will worry about later? There are a couple of points there for committee members to get their heads round because of the enhanced status that the NPF will have in the development plan hierarchy.

**The Convener:** Are there comments from other witnesses on that?

**Professor Hague:** I am watching the time—I know that there are other points that we need to get on to.

**The Convener:** I suspect that we are drifting towards ending at 1 o'clock. I did say that 12.45 was ambitious. I promise that we will get on to other points.

**Professor Hague:** I will say that that the NPF has worked pretty well. I have not, to be honest, thought much about the suggestion in Andy Wightman's question, which seems to me to be quite a parliamentary question.

However, one concern that I have is whether, if we tie the NPF into the development plan system, that will restrict the capacity of the NPF to range widely and address matters that might fall outwith the scope of the statutory system at the moment—especially if we do not have a declared purpose of planning that takes on the points that we were talking about earlier this morning.

**The Convener:** We might move on now, if that is okay with Andy Wightman.

We also certainly want to look at local place plans. In earlier evidence, we have heard concerns about their having to be resourced properly and about ensuring equivalence of capacity throughout the country and across communities. I will start by asking our witnesses the following question. Having said that—witnesses may make reference to it in answering, if they wish—are there opportunities in relation to local place plans in terms of front loading community engagement with the planning process right at the start? How might those link—or not—to local development plans, which I am sure we will come on to look at as well?

**Professor Hague:** There is an issue, which was touched on in the previous session, about local plans' timing in relation to the 10-year review. Should they come before the review, as inputs, or run concurrently with it? Alternatively, should they come after the review—should there be another 10-year wait before they are adopted or should there then be another review because there is a place plan? The resourcing and timing issues are connected—

**The Convener:** I apologise for interrupting—I have chastised other members for cutting off witnesses—but my understanding as regards timing is that local place plans can be delivered whenever communities are ready. Do you have a preference on timing, or do you think that it is right that plans should be delivered when communities are ready? Even if development plans are then set with nine years, 11 months and 30 days still to run, should they still take cognisance of local place plans?

**Professor Hague:** I am slightly making this up as I go along, because I have not fully thought the matter through, but what might work, and what I will float as an idea is that after the announcement that there will be an LDP or an LDP review, there should be an opportunity for communities to bid for having an LPP in their area. The LDP process should review those and consider its own priorities and where it thinks particular action would be appropriate. It should then identify areas that will have LPPs in the subsequent part of the process. That might get over some of the problems in resourcing, prioritising and integrating the process. However, I am happy to be shot down for that idea because, as I said, I have not fully thought it through.

**The Convener:** That is a helpful suggestion. The committee is wrestling with what local place plans will look like and what the dynamic with development plans will be.

**Kate Houghton:** Local place plans certainly could be helpful, provided that they are resourced. Resources will be needed for capacity building in communities, for relevant technical expertise and to make sure that LPPs are tied into other local authority corporate strategies. As Professor Hague said, we need to make sure that the timing is right as far as the LDP—which will remain the strategic plan for the local authority area—is concerned.

Another condition that is extremely important is to make sure that local place plans are properly tied in with other measures that are coming through—for example, on community empowerment. We know that, as part of community planning, local authorities are consulting on locality plans as part of locality boards, and that conversations are taking place with communities. We need to make sure that local place plans strengthen the ability to take outcomes from those consultations and turn them into statutory spatial planning, rather than adding another layer, which might be quite confusing.

We need to be clear about what outcome we seek when we talk to people about their places and ask them for their say. They might talk about a host of issues, some of which might not be to do with statutory spatial planning. Local place plans offer the ability to take the things that are relevant and to pull them into the planning system, but it is not yet clear how that process will be aligned with community planning.

**Malcolm Fraser:** As someone who has led several towns' charrettes, which are a form of local planning, I know that there is great frustration at the sharp end of communities about the fact that the outcomes are almost universally set aside when it comes to planning applications. The applications that come in are at variance with outputs from the charrettes, and there seems to be

no appetite in planning departments to apply the outcomes of charrettes to incoming applications. How that should be strengthened is perhaps a question for Kate Houghton.

I understand that, at the moment, local planners have to "have regard to" local place planning and charrettes. Are they told that that regard has to be material? Is there a form of words that would make planners listen? At the moment, they are not listening. They are taking sustainable development as an imperative, whereby they will say yes to any application that comes in, but without applying processes that have been paid for with public money and into which local people have put time and effort. Those processes just seem to be set aside.

**The Convener:** It would be helpful if Kate Houghton could answer that. The bill asks planning authorities to "have regard to" local place plans, but it does not say what that should mean. Should there be a clear process by which local authorities must consider local place plans that would give them an evidence base for explaining to what extent the plans had been incorporated into their development plan, or should the two just dovetail? What is the best way of resolving that?

**Kate Houghton:** That highlights the point about alignment and timing. For me, the proposed evidence report that forms part of the LDP process will be even more important than local place plans when it comes to front loading community involvement in planning decisions. A lot of what happens will rest on making sure that the evidence report is transparent and truly participatory, and that community inputs are heard at that point. There are already community action plans and urban regeneration forums. The outcomes from those processes should feed in at the evidence report stage.

I am in the same position as Professor Hague in that I have been trying to synthesise my thinking. A way of doing it might be to use the evidence report to highlight the big strategic issues for all stakeholders, including communities. Those issues could feed into the development of the LDP, which covers a bigger area and is a more strategic document, while the local place plans could look at some of the finer-grained detail at neighbourhood level.

**The Convener:** It would be helpful to hear any views that the witnesses may have on what that evidence report should look like if it is to be meaningful. We have not asked whether front loading the system is the right approach.

12:45

**Professor Hague:** We all recognise that evidence-informed policy making is important. It



worries me that the motif running through the bill, particularly in its supporting technical paper, is that it is all about saving costs. Evidence costs money, and we need to respect that. We need a solid evidence base—that used to be the approach in the old days of regional structure plans and the regional council research and intelligence teams.

Qualitative evidence is needed. The debate should not be about just the modelling of housing numbers; we need to take in community views about identity, qualities of place and so on. I like the idea of an evidence report, but it needs to be done in an inclusive way. The message in the technical paper is that there is a lot of distrust—that communities will be unrepresentative individuals who will demand unrealistic things and who need to be held back. That worries me. In relation to the whole bill, the only place where “inclusive” has been used is in the technical paper, which puts a duty on the community that has prepared the LPP to demonstrate that it has been inclusive. The balance has to be right, which means going towards a crowd-sourcing approach to tap into and respect local knowledge.

**The Convener:** I will take Malcolm Fraser next, but if he has reflections on the relationship between the local place plans and the development plans—including the evidence report and the gate check, which is supposed to be another safeguard in the system—I ask him to include them in his answer. That would be helpful, because we might not have time to cover those issues otherwise. He does not have to answer that point, but I leave it out there.

**Malcolm Fraser:** What I was going to say, convener, is that the words “have regard” in the bill are not strong enough. Something like “must regard local place plans or charrettes as significant material considerations” would strengthen the bill so that communities do not feel duped by processes that are not listened to.

**The Convener:** Do other witnesses have sympathy with that point?

**Kate Houghton:** Partially, certainly. If local place plans are prepared, they should be taken seriously. I again highlight the point that local authorities will need to be a stakeholder in their production. They should be community led, because that will be an important way to improve community trust in the system, but the local authority will also be preparing the LDP, which will be the statutory development plan. I therefore think that it is important that, throughout an LDP’s preparation, there is a conversation about constraints and context with the local authority, so that what the community puts down in the LPP is deliverable.

**The Convener:** We will move on in a second, and I will give a heads-up on the next line of questioning.

On alignment, we would all like to see local place plans having a substantial role in the process. We have looked at resource and capacity issues and we are now talking about whether they will dovetail with the local development plan.

The previous evidence session had a strong focus on housing. I know that planning is not just about housing, but we talked about building the right number of homes in the right places and of the right tenure types for the right demographic—and getting all of that right. Local authority housing needs assessments and the SHIPs inform that process.

I do not want to constrain local place plans, but what is the balance between flexibility for local place plans and saying to communities—whoever they are—that there are other things that they must take into consideration? They may need to consider wider strategic interests or the need for housing in an area if their local place plan is to be a material consideration in the planning process.

How much flexibility will there be in areas where perhaps the local place plan goes off in one direction but the area’s strategic needs go off in another? That was not a very succinct example, but I hope that you understand my point. If they are going to be a material consideration in the planning process, how much flexibility should local place plans have?

**Malcolm Fraser:** The processes need to be seen as complementary. Obviously, you can imagine a situation where a community says in its local place plan, “Not in my back yard,” despite there being a clear strategic requirement to strengthen and fortify that community. You just have to rely on planners and the planning process to be able to balance both as material considerations. I am not suggesting that Mrs McGlumphy saying, “Not in my back yard,” should trump regional and national requirements; I am saying that the planning profession needs to be able to weigh both.

**The Convener:** Of course, Mrs McGlumphy is allowed to say that, as long as there is a mechanism by which it can be dealt with in the planning process.

**Malcolm Fraser:** Absolutely, yes.

**Professor Hague:** You have put the dilemma very well, convener. The more I think about it, the more I realise that the system is quite robust in that respect, as I said about five minutes ago. If the propositions for the local place plan could be tendered or pitched—“This is what we want to do”—there could then be a process of negotiation

and the local place plan could be prepared in negotiation with the local planning authority. That should avoid the situation that Malcolm Fraser is hypothesising, which I do not think that any of us wants to see. We want an inclusive system.

Thereafter, the closer the process is tied into the development plan, the more crucial it is that it is respected as it goes through the latter stages of the system. We absolutely must not get into situations in which a community organisation, with the support of the council, has committed a lot of time and effort to preparing the local place plan, and then two years down the line permission for a development is granted at appeal that contradicts the plan and in which the community has had no say. In such situations, people will be scunnered, and we must not get into them. The more the local place plan is integrated, the more robust it must be and the more strength it must have as it goes through the system.

**The Convener:** This will be the witnesses' last opportunity to talk about local place plans, and then we will move on.

**Kate Houghton:** I have mentioned this briefly, but it is worth repeating. The statistics show that, since 2009, local authorities have lost 23 per cent of their planners. For local place plans to succeed and to be influential, and for people to be properly involved in preparing them, they will have to be resourced. It is impossible to overstate the importance of that.

**Stuart Tait:** There is another point about the relationship between the national planning framework and the development plan hierarchy. Will the communities that are involved in the production of local place plans understand something that is set up through the national planning framework that might have a direct influence on their local place plan? Will they engage in that national planning framework process sufficiently to understand the implications as it flows down through the regional and local levels to their specific area? I am thinking particularly about housing numbers. There could be a real disconnect between the two.

**The Convener:** That is helpful. We will now move on to the next line of questioning.

**Graham Simpson:** I want to look at the system of appeals—I would appreciate a whistle-stop tour. I think that the witnesses all have different views on the issue, so this should be interesting. Should we have a system of appeals? If so, what should it be?

**Malcolm Fraser:** The system is clearly iniquitous. On the other hand, long attritional processes are a public disaster. I have never seen a development get better during appeal. The only winners I have seen are lawyers and planning

consultants. The development is usually built, but with much of the value taken out of it and it is worse than when it started off.

The simple solution is to allow nobody to appeal. That would have the very radical consequence of making sure that we got things right upstream, and it would take away the planners who tell me that they are turning down an application, but that I will win on appeal. It would make sure that the right decisions were made upstream so that development happened more quickly. It would reduce the processes and administration in the system and focus on what we say and think about getting planning right. It would also make sure that local communities were involved earlier on, and it would strengthen the democratic process by requiring planning committee members to consider the economic impact and the impact on communities at the same time. To me, that would be a win-win situation.

**Kate Houghton:** We have talked about a lot of things today that are really significant in scope. We have talked about the purpose of the planning system, local place plans—which for the first time offer the public the chance to write their own plan—and public infrastructure. What we have on the table here is the opportunity to make some transformative changes to the planning system that will make it proactive and deliver for everybody, as I have said. It is more important to focus on that than to tinker around the edges with appeals. We want to make sure that we have a positive system up front that is working properly.

**Professor Hague:** I heard the discussion at the end of the previous evidence session. One thing that struck me was the assumption by Scottish Renewables, Homes for Scotland and other industry representatives that something like an equal right of appeal would mean that fewer permissions would be granted on appeal. It seems that if someone has faith in the rightness of their development application, the fact that it is subjected to an appeal by objectors or third parties should not reduce the possibility of that application being upheld.

I think that the appeals part is the Achilles' heel in the system. It is the point at which there is maximum distrust and delay, and at which the system is most inequitable in terms of the costs that people can incur and the investment that they put in. In many international systems, the appeal either goes back to the authority that took the original decision or it goes to a tribunal that takes a decision but then goes back to the executive of the authority.

Everybody agrees that, by increasing the certainty, we can probably speed up decisions and increase the amount of development that we can

deliver. The system needs to be simplified as a matter of both efficiency and equity. There is a strong case for looking at some of the models that Mr Wightman's earlier questioning opened up.

**Dorothy McDonald:** My experience is that, when collaborative working is operating well in planning authorities and local authorities, development proposals usually have a very happy and smooth journey. That is very evident in the case of applications for housing developments from registered social landlords, which tend to work very collaboratively with local authorities. However, that is sometimes not the case with private sector development, and there is something to be said for developers and others with development proposals working more collaboratively with planning authorities upstream.

**Graham Simpson:** Malcolm Fraser suggests that there should be no right of appeal—clearly, that would treat people equally—but organisations such as Homes For Scotland would argue that if the right of appeal were removed, developers, for example, would be scared away from Scotland. How would you answer that point?

13:00

**Malcolm Fraser:** The answer would have to be that this is about focusing on the process upstream and getting better results from that. It should not mean that applications that would win on appeal are turned down. The point would have to be that those who win an appeal should have won originally. I admit that that would require a bit more professionalism from planning committees, but it would also require a bit more realism about the importance of development. I hope that that could be advertised to those who were investing in Scotland as a measure that Scotland was taking to make sure that its planning process was more robust, clear and open, and that it would produce good results for good development more quickly.

If you tell people that the right development—that is, a development that is in line with development plans and in the right place, and which delivers what people want—will get planning permission more quickly, more simply and without the agony of appeals, that should be regarded as an attractive thing and not as something that would hold back investment.

**Graham Simpson:** I have a question to put to all the witnesses. In the current system of appeals, the decision ultimately goes all the way up to a Government minister. Should we remove the right of a Government minister to have any say in local planning applications? Should the matter be dealt with locally?

**Kate Houghton:** As we have talked about, geography is complex, and even a local planning

application might involve matters of national significance. Recourse to the minister is a long-standing feature of the system, and the minister is democratically accountable.

**Graham Simpson:** Who is he democratically accountable to?

**Kate Houghton:** The minister is elected, as part of the Government.

**Graham Simpson:** A local councillor is definitely democratically accountable for local decisions, but a minister is not. If a minister who is, for example, a member for Inverness, takes a decision on a planning application in Glasgow, he is not accountable to the people in Glasgow.

**Kate Houghton:** The minister would be likely to use such power only when there are issues of national significance involved.

**Graham Simpson:** That is just not true. The minister is using the powers left, right and centre, and not just on major applications.

**The Convener:** You are absolutely allowed to disagree with each other. Getting people's views is the point of having evidence-taking sessions.

Do you have any further follow-up questions, Mr Simpson?

**Graham Simpson:** No, because I know that others want to come in.

**Monica Lennon:** I am having a member's business debate—I hope that it will take place next week, but it might be moved, given the changes to parliamentary business—on the issue of incinerators, planning and public health. To illustrate my question, I will use the example of energy-from-waste plants in Lanarkshire, where I am based. Back in 2013, there was a lot of front loading and up-front engagement before a planning application was made. The communities, in the widest sense, were heavily involved across different council ward boundaries and so on, because the environmental impact of such applications does not respect local boundaries.

The local planning committee, on a cross-party basis, refused the application. The developer used the right of appeal and, irrespective of Scottish planning policy—the development was not acceptable under SPP guidelines—the application was approved on appeal anyway. The approval came 12 months after the appeal was lodged, so a lot of uncertainty and tension were created in that time. The developer was entitled to have that appeal, but the application violated the local development plan and was not consistent with Scottish planning policy. However, the developer has gone back in and now wants a bigger and bolder facility.

That has been a route for developers to get more out of the system, and communities feel really let down when that happens, when they have acted in good faith and engaged with the process. When we talk about equalising the system, I keep thinking about the situation that I have described, because that is an example in which a community got involved and gave up their Saturdays and evenings but, at the end of the day, the people who could afford the planning consultants and lawyers were able to appeal and win. What does that say for democracy? Is that the kind of planning system that we want?

**Kate Houghton:** That is why we are here. We are trying to make the system work better.

**Monica Lennon:** But are we not defending the status quo if we say that we should leave appeals as they are because we hope that the bill will be transformative, even though we have no evidence that any resources will be put into planning to make sure that that is the case? There seems to be a feeling that we should leave appeals to one side. Last week, Petra Biberbach said that we could have a conversation about appeals, but not necessarily in the context of the bill. Why should we put the issue aside to deal with later?

**Kate Houghton:** The example that you are talking about, which illustrates the general situation, took place in the existing system. We are talking about trying to bring in a new system that has a new focus, that involves things such as local place plans and which is, crucially, more collaborative. That collaboration involves not only local authority planning and communities but all of the stakeholders. The fact that decision making will be upstreamed from the outset should lead to more certainty that proposals in a development plan will be those that will move forward. That is a radically different approach.

As I said, achieving that approach and committing to it is a lot more radical than tinkering with appeal rights.

**Monica Lennon:** In a situation in which, for example, a development plan zones a piece of land for incineration, and there is certainty in the plan—in the context of Scottish planning policy and the criteria about the proximity of incinerators to people's homes—are we saying that the route by which the community can have its voice heard involves coming up with a local place plan that tries to argue that something other than incineration should happen in that area? We are not changing the plan-led system. We will still have a plan-led system and national guidance. Therefore, what in the bill will give our constituents a different experience from that which they have under the present system?

**The Convener:** If other panel members would like to come in on that question, they can do so. I know that Mr Wightman has a question, and I want to make sure that he has time to ask it.

**Kate Houghton:** Local place plans are important but, for me, even more important is getting the engagement right in the local development plan and ensuring that a priority in the early stages of the local development plan is getting collaboration from all stakeholders, including communities of place and of interest.

**Monica Lennon:** We are still settling for a situation in which an appeal could overturn all of that at the end.

**Kate Houghton:** In an ideal world, there would be no need to appeal, because there would have been collaborative decision making up front. We want to focus on getting that part of the system right.

**The Convener:** I think that there is simply a divergence of views here, which is absolutely allowed. Does anybody want to add any reflections on the issue before Mr Wightman asks the final question?

**Professor Hague:** I will diverge from Kate Houghton. I would like to believe that the system could work in the way that she describes but, in the real world, I do not think that it will.

Looking at the bill and what is in the technical paper, we can say that the offer on the up-front bit is the local place plans. However, as we have seen, none of us is quite sure what they will be or how they will work. Without being disparaging, relying on them is a bit like going on a wing and a prayer. They might be great, but we do not have rock-solid information on what they are yet.

With regard to the pre-application consultations, the idea is that there might be a move from one public meeting to two. That is how the scales go on that side. On the other side, we know from the example that Monica Lennon gave that the scales are heavily weighted. I do not see how that amounts to balance.

In the end, a lot of this comes down to subsidiarity. As Mr Simpson said, the extent to which ministers make decisions on the basis that something is a matter of national significance stretches the definition of what really is nationally significant. At the moment, it is too easy for local views to be overridden.

**The Convener:** I will let Mr Fraser speak in a second, but because we have to close this evidence session imminently, I will cheat a bit by asking Mr Wightman to ask his question at this point, so that we can roll it together with Monica Lennon's question and enable the witnesses to

give us any final considerations that they might have.

**Andy Wightman:** I have a specific question for Clydeplan and a brief point on appeals.

As Petra Biberbach said last week, when the 1947 act was passed, it nationalised development control. Prior to that, landowners could build a house on their land without the consent of anybody else—that is not strictly true, of course, because there was some planning control before that. Naturally, in 1947, many landowners were concerned about decisions being made by people who had not made those decisions before. It was therefore conceded that they would have a right of appeal on the merits of decisions. However, that was to be a temporary arrangement—Petra Biberbach suggested that the idea was that it would be in place for 10 years—while the system bedded down. I simply observe that, although the right of appeal is part of the system, it need not be, and it is not a part of the system that was ever intended to be permanent. What was intended to be permanent was good plan-led development, so that people knew what was appropriate and what was not appropriate, and then the application would follow.

**The Convener:** Do you have a question, Mr Wightman?

**Andy Wightman:** I have a technical question for Clydeplan. In paragraph 8.2 of its submission, Clydeplan says:

“The level of human resources available to the four SDPA’s has significantly reduced since the commencement of the Planning Review, from 15 professional planners to a resource today of 7.”

Can you clarify that? Are you saying that just seven people are responsible for the production of all strategic development plans in Scotland?

**Stuart Tait:** That is the core resource in terms of those who are employed in the strategic development planning authorities, but those authorities rely on joint working with local authorities to supplement that resource to deliver the plans, working with the wider stakeholders. Because of joint working, we can reach into local authorities to pull in expertise as we require it.

**The Convener:** Given the time, we must end this session. I say to all our witnesses that they should continue their relationship with the committee and write to us if they have additional observations. There is much to discuss about the bill. We could have discussed equal rights of appeal or place planning for the entire two hours. Unfortunately, however, this is just how it works. Thank you for your patience and your time on what is now this afternoon, not this morning.

We now move into private session for agenda item 2.

13:12

*Meeting continued in private until 13:14.*



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