Local Government and Communities Committee

Planning (Scotland) Bill

Submission from the Scottish Community Development Centre (SCDC)

SCDC understands that the Planning (Scotland) Bill is focused on delivering great places, and is intended to strengthen the planning system's contribution to inclusive growth and empowering communities.

SCDC is a non-government organisation with a specialist function in supporting community development and community empowerment practice and policy. We have had substantial involvement in the consultation phase, development and implementation of the Community Empowerment (Scotland) Act, which directly relates to this proposed legislation.

Our area of expertise does not include technical spatial planning processes, but is concerned with community empowerment and how communities (and community organisations) and public and private sector partners can work together, at a local and national level, to tackle inequality and achieve positive outcomes across all policy areas.

The key features of the Planning (Scotland) Bill in respect of our area of interest and expertise relate to the alignment of spatial planning processes with community planning processes (specifically the Local Outcomes Improvement Plan (LOIP)), and the introduction of a new right for communities to produce Local Place Plans (LPP).

Our response therefore primarily addresses questions 1 and 6 of the consultation;

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

‘Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?’.

Our response, under ‘any other comments’ concludes with commentary on the issue of equal right of appeal and its relationship to the principles of community empowerment.
Question 1: ‘Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?’

1.1 Alignment between spatial planning and other processes: The proposals in the Bill to seek alignment between spatial planning processes and local outcome improvement planning processes are welcome. The Community Empowerment (Scotland) Act contains duties for community planning partnerships to engage with communities and the right for community bodies to make participation requests. These parts of the Act have come into force within the last 12 months, and implementation is therefore in its (relative) infancy.

Legislation and policy in a range of other arenas, for example, the Children and Young People (Scotland) Act 2014, Community Justice (Scotland) Act 2016 and health and social care integration, are all creating participation opportunities for communities and service users, some of which will have a place based dimension. Separate legislative duties and their implementation have created different thresholds in different service areas in terms of the involvement of local people. Early experience suggests that different participation opportunities, championed by different agencies or stakeholders, are currently operating in parallel, rather than on an integrated basis.

This presents a co-ordination challenge for public bodies, but also creates opportunities to develop new, holistic community engagement and independent community development processes, which can potentially improve coherence across community planning, service planning and spatial planning systems.

1.2 Lack of progress in embedding community engagement: Although the duties outlined in the Community Empowerment (Scotland) Act are new, community engagement has been a requirement for CPPs since their inception, and for local authorities since the Local Government (Scotland) Act in 1973. Despite the legal imperatives for community engagement, progress in embedding community engagement processes into service and community planning has been slow. Prior to the introduction of many of the duties in the Community Empowerment (Scotland) Act, there has been little evidence generated of a ‘clear line of sight’ between the results of local engagement processes and the content and delivery mechanism of the Local Outcomes Improvement Plan (previously Single Outcome Agreement).

In its update paper on community planning published in March 2016, Audit Scotland stated that ‘The Statement of Ambition was clear that communities have a key role to play in shaping local public services, but involving communities fully in planning and delivering local services still remains at an early stage in many CPPs.’

1.3 Overall, the proposals within the Bill should make progress towards the balances sought. The extent to which the views of communities are heard, or influence planning outcomes, will **depend on the quality of the engagement process** at development planning stage, and the **weight local place plans are given in the planning process** (see next section).

**Recommendations:**

*The proposed legislation will help reinforce the requirement for community engagement across CPP and local authority functions. However, the policy guidance must acknowledge the fact that systems and processes to support good quality community engagement are not well supported and require resourcing.*

*At operational level, guidance should advise integrated spatial and community planning teams for the purposes of skill sharing, maximisation of resources, avoidance of duplication of effort, and avoidance of consultation confusion and fatigue on behalf of communities.*

*The financial memorandum should further stipulate that resources are required at a local level to prioritise actions to reduce barriers to participation experienced by some communities. This should be a key feature of policy guidance.*

**Question 2:** ‘Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?’

2.1 **Local Place Plans:** It should be acknowledged that communities have always had a right to plan for themselves independent of any statutory process. Arguably, better links, whether formal or informal, to statutory processes should lead to more gain and should reduce conflict at implementation stage, resulting in better end outcomes.

Support for communities to produce local action plans has increased in recent years, provided through national programmes, some local authorities (notably East Ayrshire Council), the National Park Authorities and Coalfields Regeneration Trust. **Despite support being made available, and evidence of independently generated plans,**

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there is currently limited evidence of local community action plans influencing, or being acknowledged within LOIP processes.

Community-led action plans usually come about because a specific issue or need arises, or because there is pro-active local organisation around a shared aspiration. Communities plan to independent timescales, when a need or opportunity arises, and when and where there is energy and support amongst community members to engage with the initiative.

There is a danger that, if the development of a LPP is catalysed through the planning system, or any other agency-led process, this may bend the plan and the efforts of the community, or community body, towards agency priorities and agency timescales at the expense of a developing a locally-led plan designed to address community priorities and to achieve wider outcomes.

It is important that the value of an authentic, autonomous community response to place is recognised. However, there is also a need to try to support community-led initiatives to:

- Be rooted in genuine, robust and ongoing local dialogue
- Linked to national and local efforts to reform and improve public services
- Include a focus on the needs of all members of communities, including minorities whose needs are not widely recognised and planned for
- Help to create better and more preventative solutions, especially for the most vulnerable.
- Ensure that planning decisions, and decisions about prioritisation of need and commitment of resources, are taken in the wider context of interrelated plans rather than on the basis of a single process.

**Recommendations:**

*Guidance is needed, both within the spatial planning system and within community planning, about how both systems might collaboratively engage with community-led planning processes to avoid the danger of duplication, and to avoid ‘the system’ co-opting community-led planning processes.*

*Guidance is also needed, for communities and planning authorities, on how the LDP and LPPs or Community Action Plans might relate, for example, to health, inclusive growth or tackling inequality, and how tools such as the Place Standard and the National Standards for Community Engagement could be used to support this.*

*It would be useful to provide real life examples from Scotland and elsewhere, for example, on how a good planning decision has improved health, or a where a bad planning decision has been detrimental to health.*
2.2 Community capacity: Capacity and confidence across communities is not equal. This signals the need for support to develop general community capacity in some areas in Scotland, mainly the most socio-economically disadvantaged areas. The financial memorandum (paragraph 61) sets out the support available at a national level to community organisations wishing to engage with the planning system, either through developing LPPs, or through engagement processes such as charrettes. SCDC’s experience is that the applications, or expressions of interest, that are submitted for support resources are not representative of a diverse range of communities, and are generally monopolised by the most confident and best networked community organisations.

Recommendations:
The financial memorandum should acknowledge that there is a need to drive professional support, participation costs and support resources, into those areas currently experiencing gaps.
The financial memorandum, and policy guidance, should make prominent that it is the responsibility of local authorities, and other public sector partners, to make those resources available and accessible, and that resources supplied centrally by Scottish Government should be complementary.

2.3 Democratic processes in community action planning: There is currently a lack of analysis of the nature, extent or quality of the democratic processes used to form local community action plans. The proposed legislation uses the same definition of a community body as set out in the Community Empowerment (Scotland) Act in respect of ‘ownership’ of LPPs, but not all community bodies undertake wider democratic processes in the context of their work. Capacity can be one of the main reasons for this and, in some cases, it will be a challenge for some community bodies, who do wish to conduct wider engagement and seek views from diverse groups, to encourage involvement in a process which is complex and legalistic.

Recommendation:
Guidance, and support measures, are needed to ensure that any community-led action plan or LPP can evidence that a robust democratic process has underpinned its development.

2.3 Terminology: the language in the Planning (Scotland) Bill of the LDP process regarding the need to have ‘due regard’ to Local Place Plans prepared by communities is problematic. Without clear guidance the term ‘due regard’ will be open to wide interpretation by all parties. If LLPs are to have any influence they need to be given sufficient weight within the legislation.
As outlined in the previous paragraphs, communities often undertake their own community-led planning processes and the plans which result are often referred to as community plans, community action plans, or similar. Although ‘place’ may not feature in the terminology, many plans will have either explicit, or implicit, spatial elements.

**Recommendations:**

The Planning (Scotland) Bill should recognise the differences in terminology used by communities in preparing their own plans. The legislative language of ‘due regard’ should be reinforced with ‘significant weight’. The policy guidance should set out criteria to define both terms, to help achieve clarity on the weight of influence the LPPs will have within the development planning process.

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

3.1 Equal right of appeal (ERA) for communities, and its relationship to community empowerment principles: The proposed legislation does not include any mechanism for right of appeal by communities. SCDC is aware that the issue of equal right of appeal, from a community perspective, remains unresolved\(^3\).

Opponents of ERA suggest that it is anti-development, that it adds a layer of uncertainty regarding potential developments, and that it would slow down the planning process to a damaging extent. SCDC is unaware of the extent of evidence to either support this assessment, or to contradict it.

In this context, ERA would arguably strengthen trust in the planning system (and government), both symbolically, and because it would go some way to redressing the ‘power’ imbalance between communities and developers. It could be argued that ERA would encourage good early engagement processes with communities on behalf of both planning authorities and developers, and that it would:

- help ensure professional planners give the best possible advice to their councillors
- enable the appeals system to establish precedents which take account of the views of all those concerned with planning outcomes
- ultimately lead to better and more carefully thought through planning decisions.

From a community development perspective, introduction of ERA is consistent with community empowerment principles. The Community Empowerment (Scotland) Act

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gives communities a legal right to request land and asset transfer process, which includes the ability to appeal to ministers if requests are turned down locally. It also gives community bodies rights to request to participate in a local outcomes improvement process.

Participation requests under the Community Empowerment (Scotland) Act have already been used by communities to influence how planning decisions are implemented. This suggests a need to clarify and strengthen community rights in the planning process.

Recommendation: Consideration should be given to the adoption (and adaptation) of similar processes and definitions within the context of the proposed planning legislation. For example, ERA could be open to community bodies as defined in the CE Act, with the community body being required to demonstrate that the ERA has the interests of the wider community at its core. It should also be considered that ERA might not be appropriate for all applications and that some should be excluded, for example, householder applications for single houses, extensions, and similar.

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4 [https://consultationhub.edinburgh.gov.uk/bi/westbank-street-development-1/](https://consultationhub.edinburgh.gov.uk/bi/westbank-street-development-1/)