Local Government and Communities Committee
Planning (Scotland) Bill
Submission from South Lanarkshire Council

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?

Response:

The Council supports a number of the measures contained in the Bill; the move to a 10 year period for the renewal of LDPs; the replacement of the Main Issues Report with a proposed plan; and the introduction of Action Plans. These are positive measures that can improve community engagement and streamline and refocus the work of planning authorities, enabling them to play a more active role in the delivery of the kinds of development that can improve the quality of places in their area.

Similarly, proposals to widen the scope of the fees regime and introduce an infrastructure levy will improve the resources available to authorities for delivering positive outcomes.

However the Council is concerned that a number of the proposals may lead to the control of some planning matters pass from Councils to the Scottish Government. These include the preparation and approval regional strategies through the National Planning Framework, the increased role of Scottish Planning Policy in setting policies formerly set out in Council approved LDPs; and the opportunity for Minsters to require Councils to prepare Simplified Development Zone schemes, and to direct how performance improvements are to be made by Councils. The extent to which Councils will participate meaningfully in these decisions needs to be considered.

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

Response:

The delivery of new housing developments is influenced by many factors, of which planning is only one. Changes to the way in which we plan for housing may modify the context within which the development process takes place but it cannot, in isolation, secure an increase in the number of homes being built. The factors which influenced the sudden reduction in the number of house being built were primarily economic and financial. Consequently, while the planning system can make a contribution towards improving the number of homes being built it is changes in these factors that will play the most important and significant role in securing an increase.
Streamlining the Development Plan process, as described in the Bill, the introduction of Action Plans and a greater focus on the role of infrastructure in delivering development can ensure that plans are in place which set a more established and consistent framework within which decisions can be made by both businesses and investors. Nevertheless, the decision to invest will still depend on economic and financial factors which are not controlled through the planning system.

In addition, the proposals to ensure that communities can prepare Local Place Plans and the route by which they are given status, and thus influence planning decisions, will have the potential to introduce further complications into the planning process which may impact on development decisions. Particularly if, as suggested in the Bill, LPPs are ‘to have regard to’, but not accord with, the existing LDP then communities may seek to consider but subsequently reject the wider development strategy set out in a LDP. These potential conflicts in land use planning strategies would have to be addressed if the system is to be robust and reliable in its decision making.

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

Response:

The Council remains of the view that a spatial land use strategy is needed at the strategic level - particularly in city regions - a view also supported by the Glasgow City Deal Cabinet.

The proposal to include a regional ‘dimension’ in the NPF does seek to address the need for a planning framework to be set at this level. However as it will be approved by central government it does not provide a mechanism which can ensure a meaningful and effective regional scale land use plan, which the local community and stakeholders have prepared and approved, is put in place. In Glasgow and the Clyde valley this process has successfully delivered strategic development plans which have spelt out a clear approach to the region’s physical, economic and social development. This regional strategy has been successfully reflected in LDPs; and the joint working of the region’s local authorities, as an established partnership, combined with effective engagement with external stakeholders has influenced the way in which the city region has developed. The Bill’s failure to give the preparation of a land use strategy by Regional Partnerships (however they may be constituted) any formal or recognised status is therefore regretted. In the absence of a formal status for a regional land use plan, prepared locally and which a local body can be held accountable for, by its communities/stakeholders, it is considered there will be a material and significant gap in the credibility and long term relevance of the land use planning system.

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

**Response:**

The proposal to move to a 10 year period for the renewal of LDPs; the replacement of the Main Issues Report with a proposed plan; and the introduction of Action Plans are positive measures that can streamline and refocus the work of planning authorities, thus enabling them to play a more active role in the delivery of development.

The Council, however, has found that the option of being able to prepare and consult on statutory supplementary guidance is an effective means of clearly establishing detailed policy guidance directly relevant to our particular local circumstances and environment. This has been especially relevant to guidance on both minerals and renewable energy proposals – particularly onshore windfarms. It is considered that the removal of this option will add considerably to the ‘complexity’ of the LDP itself and that both communities and developers will not have the advantage of being able to access a document which comprehensively addresses these kinds of planning issues. Similarly, given the potential for the legislative, political and social climate surrounding these and similar kinds of issues to change and evolve relatively quickly, supplementary guidance provides an effective, efficient and inclusive means of responding to and taking account of these fluctuations.

The introduction of the gatecheck process and the need for the production of an Evidence Report will also require careful consideration when more detailed legislation is produced. The Council is concerned that this process may result in certain matters (e.g. housing land) becoming the subject of detailed and prolonged scrutiny at two separate stages in the plan making process – when the Evidence Report is considered and at final examination sage. This will complicate and potentially lengthen the existing process.

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

**Response:**

The Council is concerned that the wider application of the SDZ concept – for example to housing proposals – will require the preparation and assessment of significant amounts of very detailed information, particularly if they are to include road construction consents, listed building consent etc.

Consequently, whilst the Bill does seek to ensure there is effective and meaningful community engagement in the consultation process needed to cover all of these factors it remains the case that this will have very significant resource implications for Councils. These must be taken into account when subsequent legislation is being prepared and the resourcing of Authorities is being considered.
The Council however does not support the proposal that third parties can request a Council to designate a SDZ and that if this is rejected the ‘applicant’ can ask Scottish Government to direct a Council to prepare a SDZ scheme. The identification of Zones, given the potential impact on communities, is a decision that should be made at a local level and not be one which is imposed on Councils. In addition given the very significant resource implications which would be attached to the process of designating an SDZ, and in the absence of any clear obligation on those requesting a SDZ be designated to pay an appropriate fee (rather than the proposed ‘discretionary charge’) then the Council does not consider it is appropriate for Scottish Government to compel planning authorities to undertake this work. The provisions in the Bill requiring planning authorities to periodically report on how they have considered making schemes provides an adequate and appropriate mechanism for ensuring that, where appropriate, Zones are identified and designated by Councils.

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

Response:

The proposed changes to the pre-application consultation procedures will improve the quality and the relevance of this part of the application process for communities.

The replacement of the Main Issues Report by a Proposed Plan will also provide a clearer and more effective basis for consultation with communities and other stakeholders.

With regard to Local Place Plans the Council notes that the Bill states these can be prepared by a ‘community body’. This is defined as either a community council or a ‘community controlled body’. The Bill, however, does not address how a local authority should respond to competing requests to prepare a local place plan or the nature and extent of the consultation community bodies would be expected/required to undertake. The policy memorandum suggests that the process for preparing a plan should be defined by ‘the capacity and preferences of the communities themselves’. However the Council considers that a failure to provide a framework within which plans must be prepared may result in them being neither inclusive nor representative of a community’s view.

Not clear how, if at all, the Bill ensures adequate financial and technical support for community bodies wishing to develop local place plans. In the absence of adequate provisions the Council considers that further consideration needs to be given to the potential significant impact on planning authorities of requests from communities for guidance, assistance and support. Relying solely on individual communities to ‘self-finance’ work on plans is likely to discriminate against those
poorly placed to access expertise, knowledge and funds from their own resources.

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

Response:

The proposed increase in fine levels is welcomed; as is the opportunity to charge an increased fee for retrospective applications and attach charging orders to properties.

Nevertheless, an increase in the fine levels can only be effective if the Procurator Fiscal and Courts take a robust approach to prosecution and punishment of planning offences.

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

Response:

The Council supports this suggestion as it would provide greater certainty and clarity over the provision of some of the resources required to fund essential infrastructure. It would be important, however, to ensure it was used to support the delivery of new development and not as a means of replacing central funding of ‘mainstream’ infrastructure.

Provided the method of securing the levy is clearly spelt out in the subsequent legislation it can be factored into any negotiations which developers have regarding the purchase of land at an early stage in the development process. It should not therefore significantly impact on levels of development.

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

Response:

Yes

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

Response:
The existing arrangement requiring the voluntary submission of a Planning Performance Framework has proved to be a successful vehicle for delivering improvements in the delivery of the service. The shift to a formal statutory requirement to prepare an annual performance report should build on this success. However when regulations setting the form and content of the report are prepared they should take account of the resources required for its preparation.

The Council, also consider a planning performance co-ordinator could play an important role in ensuring there is more consistent and effective sharing of good practice.

However, the Council has concerns over the Bill's proposals for the Scottish Ministers having the power to separately appoint someone to assess authorities and subsequently direct performance improvements by Councils. The application of a power which in effect introduces a new scrutiny and inspection function and allows Scottish Ministers to take over, at least in part., the operation of a Council service has significant implications for local accountability and governance.

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

Response:

The Council welcomes the option of being able to charge for some services such as pre-application discussions. The Council also supports planning fees being set at a level which covers the cost of the Service.

The Council, however, does not favour authorities being given the option of waiving or reducing planning fees for processing applications. This part of the fee regime should be applied consistently across Scotland and a regressive approach, in effect giving ‘wealthier’ authorities the opportunity secure a development advantage by undercutting neighbours, should not be pursued.

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

Response:

No

Gordon Cameron
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