Introduction

Colliers International welcome this opportunity to respond to the Planning (Scotland) Bill.

Overall we approve of the endeavours of the Bill to achieve necessary change in the planning system. We welcome its focus on delivery and its aspirations to change the reputation of Planning from a regulatory function, to a facilitator of high quality development and places by supporting investment. However, whilst we support the ambitions of the Bill we remain concerned that the resourcing challenges faced in Local Authorities represent a significant obstacle to realising these objectives.

We also consider that the Bill is lacking finer detail at present and we look forward to considering much of the detail at the secondary legislation stage.

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?

The level of engagement undertaken by the Government in preparation of the Bill to date should ensure that the Government is moving towards a more balanced planning system for all.

However, at this early stage the finer details surrounding many of the proposals and how they will work in practice are still to be determined through the secondary legislation stage, which currently provides us with no certainty that the aspirations of the Bill can be achieved.

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?

The elevation of the role of the National Planning Framework to directing the delivery of new homes, and the required supporting infrastructure, has the potential to improve the rate and level of house building. Moreover, the proposed extension of the local development plan cycle from five to ten years, if given sufficient resourcing, could afford local authorities more time to focus on delivery rather than plan-making, although only if adherence to housing targets in the NPF are enforced. However, we would caution as outlined in our previous submissions that discretionary updates to
LDPs runs the risk of no updates being carried out which could thwart the ability for new housing opportunities to be presented.

Irrespective of this, the vast majority of planning applications for residential development face delays from lengthy negotiations around viability and the extent of developer contributions requested, as a result of the expectations of contributions widely surpassing the impact of the development proposed. In the absence of any commitment from Local Authorities and key stakeholders to the delivery and funding of essential infrastructure, we remain unconvinced that higher levels of house building can be achieved.

Moreover, the proposal to set out housing numbers in the National Planning Framework is welcomed, however, we note in the Bill that Councils are directed to “have regard to” these housing numbers, which we consider is ambiguous and not binding enough on the Councils. Consequentially, there remains a lack of certainty that Councils will be obliged to make concerted efforts to meet specified housing targets at present, let alone produce higher levels. In the context of a housing crisis, such requirements must be more robustly specified and we recommend that the wording is amended to “must recognise and provide for”.

The requirement to provide evidence as to a site’s effectiveness at the early gatecheck stage runs the risk of disadvantaging SME/land owner led site promotion. The financial implications of this requirement are vast and cannot be carried by those non-volume house builders.

We run the risk of disregarding sustainable sites on the basis that the level of detailed information necessary to prove effectiveness could not be provided due to financial constraints. The knock-on effect of this requirement removes the opportunity for bespoke products to be brought forward, which are key contributors to quality place-making.

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

The increased emphasis on provisions of the NPF should assist but we consider that the introduction of an Infrastructure Agency would help drive and ensure that the wider essential infrastructure is in place, thereby reducing the negotiation time for Section 75s and SIL.

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?
The changes in the Bill are welcomed, including the early gatecheck process, however to achieve the delivery aspirations outlined in the Bill we remain concerned that this will require additional resource and guidance, which does not appear to be planned for or available to some degree.

Heads of Planning should play an overseeing role in all departments which contribute to the planning process, and have the authority to compel departments to engage timeously and within the statutory timeframes. Alternatively, we advocate the introduction of a statutory chief planning officer in each LPA.

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

We consider that SDZs are unlikely to be used widely but irrespective of this, per our previous submissions to the Planning Review, we have concerns that the use of SDZs will result in oversight of the quality of development. SDZs would undermine the plan-led system in this regard which provides the appropriate checks and balances.

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?

We support the frontloading of the planning process through early engagement, however we consider that proposals for enhanced pre-application consultation on allocated sites does not produce meaningful or effective community engagement and therefore should be exempt from PAC.

With regard to Local Place Plans, as outlined in our previous submissions we consider that the views of local communities as to local needs and ambitions should be considered but a balance should be struck. Therefore, Local Place Plans should be required to take cognisance of and provide for the corporate objectives of local development plans.

LPPs should be led by and be required to fully conform to the statutory Local Development Plan which is based upon technical and environmental evidence that is prepared by qualified and experienced specialists. Therefore, to permit LDPs to be led by LPPs would undermine its position in the planning hierarchy and is not considered to be a conducive route to the successful planning of places.

The English experience is that Community Plans are a vehicle for the prevention of development and therefore the introduction of LPPs should be used as a positive mechanism to promote development.
We are concerned that the LPA resources required in developing local place plans may delay the development of an LDP, and moreover there will be significant costs involved in helping communities prepare a local place plan which is not achievable considering the ongoing LPA budget constraints. Furthermore, it remains unclear as to how the introduction of LPPs will help to streamline the planning system and improve efficiency.

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?

We have no comment on this matter.

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?

We are gravely concerned over the proposal of a Scottish Infrastructure Levy and further discretionary fees. Infrastructure delivery remains a key issue on the basis that a Section 75 is not sufficient to fully fund the level of essential infrastructure required to unlock development, however, the introduction of further taxation runs the risk of compromising the viability of development projects.

There is an absence within the Bill of a clear indication of how the SIL would work in practice. Given that the vast majority of delays experienced for planning applications for new homes stem from lengthy negotiations as to viability and the extent of developer contributions demanded, we are concerned that an additional SIL will further jeopardise delivery of much needed new homes.

A lack of commitment elsewhere in the delivery and funding of essential infrastructure will continue to thwart the delivery of new homes. The Infrastructure Levy must be appropriately ringfenced to reflect the impacts of the development for which it is associated. It should not be used to support essential national infrastructure elsewhere, given the vast extent of the S75 contributions already in place. There should be a distinct link between the level of contributions and the size and scale of the development involved.

The proposed collection and distribution of the Infrastructure Levy via the Local Authorities is of concern and although the introduction of a new National Infrastructure Agency I advocated by others, however we consider that there are sufficient bodies and forums in place to effectively police the funding sources across key agencies and ensure that the structure in place is fair and accountable. Albeit, realistic targets and outputs should be set and adhered to, in order to ensure change on the ground.
Experiences in England have thus far been mixed, with CIL working effectively in areas with high land values, but proving to be unviable in others. The onus local authorities to adopt CIL often undermines efforts to use the most appropriate mechanism for securing contributions. I.e. sometimes, a section 106 contribution is more appropriate to mitigate the impact of development.

Moreover, it is unclear at present what the criteria will be for establishing a contribution, which could have major impact on the viability of development projects.

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?

Yes, it should be a priority. We consider that in line with the licensing committee, Councillors taking decisions on a planning committee or local review body should be required to take a test/exam. The standardisation of training across authorities would also be welcomed, as would the presence of more Chartered Planners, Architects and Urban Designer on planning committees.

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

As prior mentioned, the lack of detail of complementary measures to be introduced through secondary legislation and policy and guidance makes it difficult to assess the implications.

However, importantly - without sufficient resources, and given the full extent of the proposed changes to the Planning system within the Bill, we deem it difficult to ascertain how planning authorities will cope and improve on their performance. The proper ring fencing of planning fees for re-investment in planning authorities is key to improving their efficiency.

Moreover, the self- monitoring and assessment of performance by Planning Authorities is not deemed to be transparent at present, and therefore the provisions of the Bill as they stand will not likely drive performance improvements. We recommend that performance is independently assessed in order to unveil any previously masked poor performance and inappropriate allocations of resources internally.

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?
Irrespective of the changes, to date we have still not seen proper ring-fencing of resources/ improvements to service delivery. Clients raise the concern that there have been large increases in planning fees yet the financial outlay is not proportionate to the service received. We have not seen any improvement in the planning service across Scotland following the fee increases since June 2017, which we attribute (amongst other issues) to the lack of ring-fencing of planning fees in order to support a planning service.

As outlined in our previous submission, aside from ring-fencing planning fees, there needs to be a greater appreciation of how non-planning departments within local authorities directly influence the timing and outcome of planning applications.

This prompted our suggestion that Heads of Planning should play an overseeing role in all departments which contribute to the planning process, and should have the authority to compel departments to engage timeously. We note that this is a Local Authority structure issue however.

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

There exists a great level of uncertainty about the transition arrangements associated with the Bill, and a lack of details for the introduction and working practice for the implementation of provisions.

As we see it, the proper resourcing of Planning Authorities remains a key issue and will directly impact upon the realisation of the aspirations of the Bill.