Local Government and Communities Committee

Planning (Scotland) Bill

Submission from David Sutton

This individual response continues my previous comments on the Planning Review. It does in general endorse the responses from IHBC (Scotland), SE LINK, BEFS, and Planning Democracy. My comments seek to reflect my experience as a professional planner who has been involved with Strategic and Local Plans, Supplementary Guidance, as well as with Community Councils and the growing public disillusion with the Planning System in Scotland. However the serious damage that the Bill will cause to Planning in Scotland is best summarised in the attached pdf file - "THE DESTRUCTION OF PLANNING IN SCOTLAND?"

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?

(A) NO. Unfortunately, the Bill does not reflect the concerns previously raised by myself and others in the planning review process. Rather - in trying to accommodate property and volume house building interests - it would appear that the planning process in Scotland will be destroyed. The Bill fails to set out a vision for planning. The major flaws in the proposed Bill are:-

(i) TOKEN COMMUNITY ROLE: By failing to recognise and strengthen the role and input of local communities the Bill is certain to fail - if not amended. Local Place Plans will not address the way communities are typically ignored in current Local Development Plans and individual decisions. They are no substitute for Equal Rights of Appeal (ERA). This is the only way that communities will be able to ensure their voice is heard and taken seriously at the early LDP stages. Plus transparency.

(ii) REDUCED ENVIRONMENTAL PROTECTION: We are already seeing (eg through reducing the need for the EU Directive required EIAs on major schemes - via a useless "Scoping Report") the environmental impact of major new developments weakened. The Bill is silent on how it relates to Heritage, marine, and other Environmental policies & objectives. The Bill needs to reinforce Environmental protection and stop it being undermined. It needs to promote high quality sustainable development. Why is the Planning Bill not embracing Sustainable Development, Good Quality Design, and Heritage goals?

(iii) CENTRALISATION: The removal of regional planning expertise - and centralisation inherent in the Bill - will inevitably reduce the local Council planning role - and related expertise. This will increasingly lead to the bypassing of local democracy and accountability. The Bill is notably silent on the proposed Regional bodies - including how they will ensure community input, and how they will be accountable. It is a missed opportunity.

(iv) INHERENT LEGAL CONFLICT: The Bill fails to address the inherent legal conflict of the Minister aiming to determine BOTH the Scottish wide planning policy (enhanced Scottish National Planning Framework and Policy) - AND being at the root of the appeal system (with 177 cases considered by the Minister over
the past 5 years). The Bill needs to set out a way of separating these distinct roles - ideally by allowing local Councils to retain greater planning powers.

Indeed the focus on streamlining planning to facilitate faster development consent and a simplified process fails to recognise that Scotland already has the highest level of planning approvals in the UK (94.2%) (comparable to N Ireland - but typically 3% to 5% better than England and Wales).

(B) FAILURE TO ADDRESS ENVIRONMENTAL & HERITAGE PROTECTION

The Bill as tabled will do little to prevent developments occurring in environmentally sensitive, protected areas or greenfield sites. Indeed, it represents a greater threat to the environment through loss of Supplementary Planning Guidance (including Conservation Area and biodiversity protection), reduced consultation opportunities, and the widening of the definition of areas that can be made into Simplified Development Zones, including designated sites, where scrutiny of development proposals could be significantly reduced.

Existing Scottish Planning Policy states that “The planning system should promote the care and protection of the designated and non-designated historic environment” but legislation only provides protection for designated assets – listed buildings, scheduled monuments and conservation areas. Undesignated heritage assets may not be of national importance but they are what makes local places distinctive and are often what communities value about their local environment. The Bill is a missed opportunity to set out a clear vision for Scottish planning, and to strengthen the protection for Scotland’s non-designated cultural physical heritage, which contributes to the preservation of all of Scotland’s tangible, and intangible cultural heritage.

Indeed we are already seeing how the "Scoping Report" approach is allowing developers and Council’s to by-pass European Directive EIA requirements for major sites. This will inevitably lead to additional frustration and conflict with local communities where proposals are controversial. The Bill (as worded) will further weaken environmental protections and, without the context of the secondary legislation and policy guidance, fails to demonstrate how the balance between development and community interests will be achieved. Without an outline of this secondary legislation, confidence in this Bill, and public trust in the planning system is very low. The decision to amend the already amended Town & Country Planning (Scotland) Act 1997 is a missed opportunity to create new planning legislation that has vision, clarity of purpose, and is kept simple. The Bill also fails to align the Scottish planning system with international obligations, such as the UN's Sustainable Development Goals (SDG) (required by 2030), and to strengthen efforts to protect and safeguard Scotland’s cultural and natural heritage. Equally the New Urban Agenda was agreed by the United Nations in 2016 as a step towards implementing the international framework that the Scottish planning system should align with to ensure development is sustainable.

(C) NATIONAL PLANNING FRAMEWORK:

The existing National Planning Framework is an important background policy document. It sets out a long term vision for how Scotland will change over the next 20 to 30 years. It identifies nationally important infrastructure projects, which are sometimes needed but are
almost always highly controversial. It has had a huge impact on the economy, communities and the environment. The reforms proposed in the Bill will make it an even more powerful document, with more detail on what should happen at a regional level and an opportunity for full revision only every 10 years. Yet, despite the importance of the NPF for all of us in Scotland, Scottish Ministers only have to “have regard” to the views of the Scottish Parliament on the Framework. For such a critically important document, this is inadequate scrutiny. It should not be possible for Scottish Ministers to just impose their vision. There should be a requirement for parliamentary scrutiny and approval of the NPF.

(D) NEED FOR EQUAL RIGHTS OF APPEAL: This Bill is an opportunity to right a long and deeply resented injustice in planning, by introducing appeal rights for communities of place and interest. This would

- Create a level playing field to ensure meaningful public engagement;
- Strengthen the plan-led system by the incentives that ERA at the end of the planning process would encourage;
- Enhance public trust in the planning system;
- Improve plans and decisions by ensuring that complex and often highly contentious decisions to grant permission are subject to the same level of scrutiny as decisions to refuse permission.

ERA would be a powerful mechanisms for making a plan led system a reality in our highly discretionary planning system. There is strong and growing evidence that demonstrates the huge lack of public confidence in planning and planning decisions. The Government’s own Barriers to Engagement research demonstrated this. The issue of appeals was raised throughout the planning review. In addition the National Trust for Scotland’s survey of the general Scottish public concluded:

- 60% felt they had no influence on planning decisions affecting their local area;
- Only 41% of those surveyed felt their local historic environment has been protected or enhanced by the planning system.
- Fewer than half (47%) felt that local greenspaces and natural heritage had been protected by the planning system.
- Local communities’ priorities for protection and future improvement go much further than the current focus on enabling housing development – 49% prioritise outdoor areas, 47% housing, 46% public facilities and shops, 40% transport.
- AND IMPORTANTLY 90% want local communities to have the same rights of appeal in the planning system as enjoyed by developers, indicating dissatisfaction with the balance of power in the system at present.

Introducing an equal right of appeal has been shown to have strong public support. Research in Ireland has shown it did not lead to vexatious appeals. A commitment to Equal Right of Appeal would be a major indication that the Scottish Parliament was committed to fairness and equality - and to ensuring local community views were taken seriously. It would see appeals reinforce the plan-led system by providing a
means of appeal against decisions that depart from the development plan. Far from undermining the goal of engaging people ‘upfront’ by focusing undue attention on objecting to planning applications (as is often argued) right of appeals for communities would in fact **create a powerful incentive for individuals, community groups and developers to get involved early in the production of plans** to make sure they reflect their aspirations.

Furthermore, it would provide a strong incentive for LPAs to ensure that plans were clear and up-to-date since any ambiguity could lead to an increased number of appeals that might undermine their strategic priorities. The proposals coming from the planning review lack concrete solutions for tackling the gap between the plan and the decision. Without ERA - there is no incentive for anyone to get involved up-front in plan-making when they know it will not necessarily influence the outcome.

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?**

(A) The proposals will make it far easier for the Minister to set increased local Housing targets. So yes - this will potentially increase the land allocated for housing (without all the worry about heritage or sustainable environment mentioned in Q.1). But the Bill lacks clarity on how such housing will be delivered. It suggests there will be an Infrastructure Levy - but fails to include any details as to how this would work (see Q.8). More critically, the narrow "housing numbers" vision of the Planning Bill, poses serious concerns about its failure to integrate and link to the wider infrastructure, transport, environment, heritage and quality issues and policies that proper land use planning needs to embrace.

But as the history around Glasgow has shown - allocating land for new house-building in development plans and the granting of planning consent for housing sites - does not currently deliver the actual housing (see 12.C for related aspects - to address the growing "non-adoption" and "fleecehold" problems). The Planning Bill is unfortunately silent as to how the granting (or re-granting) of planning approval will be used to trigger the "infrastructure levy" requirement - with no enhanced "land value tax" being linked. The private housing developer has no incentive to provide up-front funding towards the required infrastructure - and the Bill is silent on how this link will be made. There are strong historical reasons to doubt that the private sector are either willing or capable of building housing at the levels required to meet projected need. There is also considerable evidence to suggest that the business models of ‘volume’ house-builders make it unlikely this will change. Subsidies by way of zero VAT and "Help to Buy" are simply not helping. So new house buyers get expensive tiny houses, with extensive snagging lists, on non-adopted low density estates, with little "local Place" character. Existing residents suffer road closures and delay as overloaded infrastructure is improved "piecemeal".

(B) The extent to which perceived planning constraints have actually been a significant factor in restricting housing development is questionable. The automatic assumption that it does is a clear example of the negative view of planning that runs throughout the planning reform agenda. Many others have commented in detail on the relatively limited role that planning plays in restricting housing delivery (see
recent example from the Scottish Land Commission). But for the Planning Bill to be silent on how not only more housing - but good quality housing, at well-connected locations (linked to transport strategy), and with more diverse tenure (eg including self-build and co-housing) - is to be delivered, shows a distinct lack of joined-up government thinking.

The reduction of housing development to a purely quantitative ‘numbers game’ also risks ignoring questions of the type, tenure and quality of housing (inc density of development and minimum floor areas) required to efficiently and effectively meet housing need. Relying on the private sector to fund affordable housing and infrastructure from s75 contributions means allocating large quantities of market housing on low density sites that are currently considered deliverable, rather than in the most sustainable locations. Settlements blur together without distinction (Edingow/ Glasburgh). Destroying planning for private housing fails to recognise the important role required for social & affordable housing, and indeed more self build and co-housing. This is an inefficient means of addressing real needs. Why does the Bill does not set a new build housing quality standard (like the Glasgow Standard) to apply across Scotland (via NPF or Scottish wide Supplementary Guidance)? To set both minimum space standards, minimum density of at least 30 dwellings per hectare to maximise the effective use of the land, environmental performance or wider place quality - as achieved elsewhere in Europe. Whilst the planning system is only a small part of this challenge - it should be embracing - and be linked to - reform of building regulations, land values and property finance - to deliver the reforms required.

A more positive vision of planning would focus on planning as a key means of ensuring the delivery of high-quality new housing as part of genuinely sustainable settlements. Models of public sector land assembly, infrastructure provision and housing delivery in countries like Germany and the Netherlands suggest the potential for planning to play a proactive and positive role in meeting housing need. Scottish traditions of New Town building and large scale regeneration suggest that this is a lesson we once learned but have since forgotten.

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?

(A) NO. The removing of regional planning - and transfer into the NPF will - as the Financial Appraisal set out - **seriously reduce effective strategic planning** - as well as related expertise and funding. **It will effectively destroy Strategic Planning in Scotland.** Further - to suggest that a “10 year LDP” will only require strategic planning expertise for a period of 2 years - is simply nonsense. Not only will there likely be periodic "Reviews" (as per planning Bill), NPF "amendments", but there is a danger of the loss of accurate annual data (as is already the case where housing "completions" includes some 20,000 "non-adopted" houses). The suggested removal of Strategic Plans fails to recognise or address two key roles they play:-

i. the collection and analysis of annual data (on housing and industry - which may be part complete) , and

ii. the juggling of housing targets then allocated within the region.
The removal appears to pander to the volume house builders. They won't have housing data experts to stand up to them at plan Examinations. To challenge and debate regional housing numbers and appropriate "level of optimism". This loss appears to be the main objective of removing Structure Plans from Scottish Planning. This is not to say that SDP (Strategic Development Plans) cannot be replaced or improved. But it appears that loading more detail into the NPF has not been properly thought through. How will the NPF balance a national vision for Scotland, "Scotland Performs" targets, and include coherent regional strategies - without becoming both excessive in size and unwieldy? Thus the suggestion of 3 tiers of Supplementary Guidance (see 12.E). The pressures on the NPF to operate at BOTH a strategic Scotland wide level - and at the same time provide a detailed enough REGIONAL framework for LDP will be severely challenging. There will be a democratic deficit.

(B) OPERATION OF REGIONAL PARTNERSHIP? Further the Planning Bill fails to set out:

i. how the "duty for local authorities to co-operate" will actually work.
ii. how the structure and accountability of the proposed "bespoke Regional Partnerships" or "Regional Agency" will operate. The danger is that it is populated by politicians and volume house builders - with key agencies - repeating the City Deal problems. How will it employ staff with appropriate expertise? How will community input and accountability at the regional partnership level take place. The proposed legislative changes seek to enhance the status of the NPF while making no statutory provision for how planning and delivery will operate at the regional level.
iii. how local community and elected Councillor input to the NPF will be facilitated.
iv. how will Regional Partnerships be funded? With Council funding stretched - will they fund a non-statutory activity?.

(C) NO CLARITY FOR WHAT REPLACES STRATEGIC PLANNING: As proposed, the Bill will simply remove Strategic Regional Planning (and Supplementary Guidance) - with little clarity as to what it is to be replaced with. The strategic role in agreeing infrastructure priorities & on allocation of housing numbers between Council's will be lost. Few will stand up to support the existing form of regional planning - but a lot more clarity is required to provide assurances that co-operation and accountability at a regional level will actually happen - not least to ensure that infrastructure and major environmental issues (as well as housing numbers) are able to be addressed at the regional scale where necessary. The failure of some of the Strategic Development Plans (SDPs) to tackle these issues is partly why their value has been questioned by some. But there are equally major accountability issues with "City Deal" teams - which appears to be the direction of travel.

(D) MORE CENTRALISATION: Indeed far from being strategically empowered or partaking in a regional agency, planning authorities are to be obliged to work collaboratively “to assist the Scottish Ministers in preparing the NPF” (para. 31). This will thus result in an increasingly centralised Scottish planning system. Flexible arrangements for cross-boundary working could be achieved without merging national and regional scale planning into a single document (para. 33). This might be
avoided, for example, if the Bill were to make provision for partnerships of planning authorities to prepare plans at the regional scale.

**(E) LINKING TO OTHER POLICIES:** The Planning Review set out the importance of bringing together Scottish Government policies across all sectors, including Energy, Climate Change, Land Use, Digital Technologies and the Marine Environment. Yet there is a real danger that making the NPF part of the development plan could work against this holistic perspective, reducing its ability to address strategic spatial issues beyond the statutory definition of 'development' in Section 26 of the TCPA (Scotland) Act 1997. There is also the need to ensure consistency between regional planning, regional land use strategies, regional marine plans - as well as Transport, Environmental and Heritage strategies. It is unclear how the Government will cope with all these.

There is a case that high-level regional spatial strategies - formed through regional partnerships with agreed strategic outcomes - could inform the NPF, and go some-way to protecting and enhancing the value of the NPF. The NPF was originally conceived as a light-touch national spatial strategy. It is now unclear how the National Planning Framework (NPF) can be a long-term strategy for Scotland, if it is also the spatial expression of the Government Economic Strategy, and of the Scottish Government's plans for development and investment in infrastructure. Yet the Government proposes (para. 28) that Scottish Planning Policy, which is not spatial and not concerned with strategy, should be incorporated into the NPF. The proposals risk the NPF becoming a shapeless general repository of planning policy that could quickly fall out of favour.

**(F) WHAT IS REQUIRED?** If Regional Plans are to go, the Bill should require that the NPF at minimum sets out regional planning priorities - linked to the Land Use Strategy, and consider priorities across all land uses. It will need to allow for much greater participation - including examination - if it is to have any credibility. A stronger duty for regional partnerships to collaborate on certain issues will also be required. This should include the duty to plan for place quality, heritage management, and the creation, protection and enhancement of green infrastructure and associated development.

Regional Partnerships should be made up of planning authorities reps, alongside a range of statutory and non-statutory bodies - but also with an equal input of business and community representation. Even then - the accountability (and funding) of such Regional Partnerships will be difficult. The danger is that the Scottish Government is failing to learn from the City Deal problems - with their lack of accountability and focus on individual projects - rather than on a Spatial Strategy (as per your Committee's previous report).

At the very least, green infrastructure, built heritage, and other "Scotland Performs" targets (e.g. on energy efficiency and sustainability) need to be added. This might help public bodies meet their various duties. Cumulative pressures and potential compensation sites for impacts on designated sites also need to be considered at a regional level. The Bill fails to set out how the residual Regional Planning is to be resourced; how democratic and public participatory processes will be improved; or how the new processes will create high quality sustainable places. It is indeed
notable that the current Planning Bill ignores the conclusions of the Scottish Government's own 2014 "Review of Strategic Development Plans". This Review made a series of recommendations that bear revisiting. Rather than abandoning the SDP, the Review identified the need:

- to reinforce its role, significance & validity at different levels;
- to promote a positive community-building approach that uses integrative place-making to address the main geographic areas of change over the next generation;
- to advocate and deliver update awareness training & Continuing Professional Development; and
- to facilitate more effective outreach and engagement with the communities that may be affected.

In 2014 the Scottish Government gave a commitment to strengthen strategic planning and set out a series of actions for Strategic Development Planning Areas, for Scottish Government's Planning & Architecture Division and the Minister for Local Government & Planning to follow. But rather than go down this path - we have wasted time on "Planning Reviews" - ignoring the actions identified. Rather the centralisation carrot has proved too enticing. No doubt aided by those who will be celebrating the removal of Strategic Planners who have the data and understanding of the housing market. SDPs have only been operational for 8 years and substantive evidence for the need to abandon them has simply not been produced.

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?

(A) NO. There is little in the Bill that actually helps focus on "delivery" - with in particular little clarity as to how the Infrastructure Levy will be applied (see 8 below). The inherent centralisation will see more key decisions move from local democratically elected Councillors to the Scottish Minister. Developers will benefit from not having to argue with skilled Housing Stats people at Strategic Plan examinations, and will be freed from the need to comply with the good practice set out in Supplementary Guidance. They will no doubt hope to add to their zero VAT concession and "Help to Buy" funding with a reduced infrastructure contribution (e.g. already questioning the funding of school places). Communities will continue to be ignored and by-passed. "Planning in Scotland" will become a joke. The perception of good and effective planning will disappear. Until the anger of local communities forces this Planning Bill to be replaced with one that works.

(B) 10 YEARS? Plans with a 10 year review cycle do not necessarily improve matters. Communities and organisations have less opportunity to input, not only with the loss of the main issues report but with the extended length of the development plan cycle. Indeed the "Review" process cited in the legislation will likely ensure that LDPs very seldom last 10 years unchanged. But will the Review process will include full publication, Community consultation, or an independent examination? Or be used by bypass local views?
Whilst 2-way dialogue and links between Community Plans and land-use Planning is welcomed - there is an immediate difficulty in that Community Plans are not currently working to a 10-year cycle. This will mean that the Land Use Plan (LDP) will potentially be out of alignment with the Community Plan for substantial parts of the 10 year period. Unless of course this triggers a “Review”!

Equally aligning the LDP with the timescales of the “Local Outcome Improvement Plan” (as per section 3 of Bill) will be challenging. Not just in aligning timetables - but where all too often local development planning is subordinated to a top-down community planning regime which, in practice, prioritises links and effective working between Council, Police, NHS and other official bodies - but fails to adequately empower communities. In turn, Local Outcome Improvement Plans will need a step change to move on from a list of fine bullet points, to embracing Land Use Planning - including “quality of place”, infrastructure requirements, and better community engagement.

(C) FRONT-LOADED INPUT: One of the key changes introduced to support ‘frontloaded’ public participation in local development plans in 2006 was the ‘Main Issues Report’. The intention was to enable real ‘engagement’ in the early identification of key issues rather than just consultation on a draft plan. By dropping the MIR the Bill proposes a significant move away from this approach and a reduction of opportunities for front-loaded public participation. No one objects to a move away from a "Main Issues Report" (MIR) - as the process has got blurred with "Invitation to nominate Sites" - and often struggles to engage communities. The question is whether the changes will actually improve anything. Currently, far too many LDPs literally ignore community comments at both MIR and pre-Examination stage (eg at Dundee and Midlothian) - leaving communities frustrated at the unaccountability of the LDP process. The move towards a ten-year plan review cycle, with likely ad-hoc reviews, will also make the plan production process less transparent and less predictable for communities who already struggle to understand when and how they can influence the LDP. Communities either require a statutory role in the LDP process, or an Equal Right of Appeal - to ensure that their views are taken seriously. The current proposals are flawed. Fine words with no weight. Whilst the broad strategic vision for community and land-use planning should be compatible and co-created, it is also important to ensure that a strong and distinctively spatial vision and purpose underpins Local Development Plans. And that ignoring community views (as all too frequently happens) has consequences.

(D) MEANINGFUL COMMUNITY ENGAGEMENT? - NOT WITHOUT ERA. It is considered that the Bill fails to address the inadequate and toothless - "meaningful community engagement" - at LDP stage. The suggested "simplification" of LDP's will mean nothing if the current poor community engagement in LDPs and LDP Examination is not addressed. Equally - as we are already seeing with "Scoping Reports" - we need EIAs and environmental assessment to be strengthened rather than weakened. There is thus strong concern that the removal of the main issues report (MIR) stage will reduce the already poor community engagement - and further alienate communities from early debate in the plan making and SEA process. Only with an Equal Right of Appeal (ERA) will community input at LDP development stage be taken seriously (if only to try and avoid subsequent appeals).
5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

(A) NO. SDZs are an unnecessary complication that flies in the face of a “Keep It Simple” approach. The Bill would be all the better for removing SPZs all together. Insofar as the "SDZ" objective may be required there remain the options - whether Planning Permission in Principle (PPiP) or through a localised "Masterplan". Permitted Development has already been successfully extended in 2014 (Residential) and 2016 (Business) - in a balanced way. There is no factual evidence to assess the success (or otherwise) of SDZs elsewhere - including assessing whether they have actually speeded up development, or harmed community and environmental interests. At root - this unnecessary complication symbolises the deregulatory agenda underpinning the Planning Bill. Deleting the whole section from the Planning Bill would be a great improvement.

(B) FURTHER EXPANSION OF PERMITTED DEVELOPMENT RIGHTS: There is concern at the way Government consultants are already seeking to expand PD rights further (again with no factual review as yet of the impact of the 2012 and 2016 changes). This now specifically includes seeking to weaken protection in designated Conservation Areas. Indeed - at the PD consultation - it is clear that in order to prevent the modern equivalent of "satellite dishes" with telecommunication and "charging points for electric cars" - as well as modern highway signage etc requirements - a form of "good practice" Supplementary Guidance or notification process may be required, if the character of designated areas is not to be destroyed by such clutter. The danger is that SDZs will be used by-pass a plan led system and could cause lasting harm to Scotland's natural and built heritage. Indeed it is noted that the Law Commission - in reviewing the planning system in Wales - recommends the withdrawal of simplified planning zones and the greater use of local development orders. Why add an un-necessary complication?

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?

(A) No. As argued above in relation to the loss of SDPs and changes to the LDP process, the Bill undermines the claims of the Government to be encouraging the ‘frontloading’ of engagement at the earliest possible stage in the process. Without Equal Rights to Appeal (ERA) communities, and Community Councils, will simply continue to be ignored and not taken seriously. They are increasingly finding that all the hard work put in to try and shape the LDP Plan is ignored when it comes to the formal LDP Examination (e.g. Dundee and Midlothian). We have no right to be heard by the Planning Committee. No right to appeal (even if the decision is contrary to the LDP). So called "community engagement" is increasingly “tokenism”. More and more communities across Scotland are angry at the lack of democratic accountability found in Scottish Planning - from an over-complex system; hiding documents on the non-transparent ePlanning system; to failing to revoke applications with basic errors
in the application form or Certificate of Ownership (see Q.12); to stopping communities speaking to the Planning Committee (South Lanarkshire allowed 1 presentation to the planning committee in each of the past 5 years!). The Planning Bill does nothing to address or improve the current failings. The Bill does not require planning authorities to engage with communities on the identification of community aspirations and relevant community assets at the evidence gathering stage. Indeed the Bill fails to apply its own recent 'Shaping better places together: Research into facilitating Participatory Placemaking” research, which highlights the investment required in time and expertise for good community engagement.

(B) LOCAL PLACE PLANS are a potentially worthwhile means of enabling more proactive and inclusive engagement in the formulation of planning policy. But they are a token that will not compensate for the loss of Supplementary Guidance. However, excluding LPP from the statutory development plan seriously weakens their likely influence over decision-making. They are subservient to the LDP. They are in turn required to comply with the LDP. The Financial Assessment of the Bill seriously underestimates the cost of preparing LPPs (suggesting £13k - when existing charrettes are costing £30k to £40k each (Strathclyde University research) - or some £35k (Leith Place Plan). Even if funded, it will take 7 years just to produce a LPP for each Scottish Conservation Area!. The Bill fails to set out or confirm how it will fund LPPs. Or provide a formal role for Community Councils.

Given the time and effort that will be required of even the most well-prepared communities to prepare LPPs, it is critical that adequate funding is available, and that the legislation provides meaningful powers to ensure that they are actually applied and implemented. There is a worrying lack of detail or intention to provide support for communities and Council's to ensure that LPPs are effective. How will communities be provided with access to necessary specialist expertise in environmental impact assessment?. Without targeted support it is likely that only well-off communities will be able to make use of this power. The likelihood is that LPPs will simply “fade away" unless the LDP is required to endorse and apply Local Place Plans.

The Bill states that LPPs are reliant on the “capacity and preferences" of a given community (para 77). The reliance on community capacity coupled with the intention that Planning reflects the views and aspirations of the communities it seeks to serve (para 75) will be challenging. But with the one-way hierarchy of LPP being required to comply with the LDP – it will be tokenistic. In due course communities will simply give up. The LPP needs to be embedded in and influence the LDP. Otherwise communities will increasingly give up on "quality place-making".

(C) REMOVAL OF SUPPLEMENTARY GUIDANCE: The removal of all statutory Supplementary Guidance (all consulted on) will in itself have a serious adverse impact on providing guidance and support - both to developers and to communities.

(D) GATECHECKS: The Bill proposes to introduce a series of "Gatechecks" during the preparation of the LDP. However it fails to set out who these will be undertaken by, or to whom the "Gate-checker" is responsible. Again this reinforces the suggestion that they will be appointed centrally by the Minister in line with the overall "undermining of local democratic planning process". It cites a role to "simplify" LDP
Examinations - but NOT to ensure Community concerns have been addressed. Again this nibbles away at local community engagement and any lack of accountability. In fact - DPEA does already usually do a "pre-Examination" review of the key issues - albeit that few community groups are invited to partake.

(E) There is a concern at **the practical difference between** the requirement to “take into account” the National Planning Framework and the requirement to “have regard to” any Local Place Plan in Section 20AA.

(F) **PRE-APPLICATION CONSULTATION:** It is unclear how the legislative amendments relating to **Pre-application consultation (PAC)** will move it beyond the current (and useless) “tick box exercise”. Time and again it is found that such PAC fails to accurately report on the local views made. The Policy Memorandum states that regulations will require two public events (but not necessarily in the affected area). But unless the consultation is required to accurately state the views of the community, and meaningfully responds to community issues, it will remain a useless and unsatisfactory process.

**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?**

(A) Effective enforcement is critical to the credibility of an effective Planning system. But it also requires a "KEEP IT SIMPLE" approach in the complicated legislation (see Q.5 above). Enforcement is not necessarily one that requires legislative change - but there is a lack of published annual statistics to indicate whether enforcement is being applied robustly and effectively. The ability to apply "charges" and expenses against the property will greatly help. Further, whilst the increased level of fines will also assist - it is simply false to suggest that a £50k max accurately reflects the enhancement value derived from unauthorised works - when unauthorised demolition or other works (e.g. to create vehicular access) can add considerably greater value.

(B) The discretionary nature of enforcement action needs shaking up. Enforcement is too easily seen as "discretionary", rather than statutory. So even when there is a serious breach of a planning condition, or a Bond in force from the developer, Council's have declined to call in the Bond. This simply devalues the use of planning conditions. By way of further comments:-

- It would assist to make investigation & reporting of breaches mandatory and not discretionary as at present.
- The Annual Performance Report should include a section on Enforcement data - covering at least the number of complaints received, and the number and % resulting in action actually being taken.
- There are specific concerns at the failure to ensure new housing estates do have their roads, street lights, and drains properly completed and adopted in a timely manner. Too often the Council declines to enforce compliance with the formal planning conditions - even where a Bond exists. Equally Council's have failed to address flooding of adjoining properties by new development. This mirrors the past failure to adequately monitor open cast coal mines and the
bonds and other financial mechanisms intended to deliver restoration, with disastrous consequences for many communities and local environments. An appeal system could be introduced to allow those affected by such failures to challenge a Council's failure to enforce planning conditions, and to facilitate compensation. What is the point in requiring a Bond when Council's seem reluctant to "call it in"? If Council's continue to fail to enforce planning conditions or call-in Bonds then it may be necessary to create a separate Appeal route via DPEA or the SPSO Ombudsman.

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?**

(A) **PROBABLY NOT - BUT IT MAY BE A START.** The Infrastructure Levy proposals are insufficiently detailed to really comment meaningfully. It is for example unclear who the levy will be payable to; when it will become payable; how the amount will be calculated; and who commissions the infrastructure works (the developer? the Council? or a national agency?). Will the current requirement of section.75 contributions being limited to the site in question also apply? Will the Levy reflect actual infrastructure costs (typically it was £10k per new house - falling sometimes to ~£6k per house) related to the site - or be balanced out across the Council area or region? How will the Levy sit in relation to, or in place of, section 75 contributions?

(B) **LEVY NEEDS TO LEARN FROM ELSEWHERE:** Indeed, rather than looking at the Community Infrastructure Levy (CIL) mechanism in England and Wales, Scotland would be better to look at the Scandinavian (inc Holland and Germany) models - where infra-structure is typically funded by a enhanced "Land Value Capture Tax" (as being looked into by the Scottish Land Commission) following promptly on from the grant of permission. CIL contributions in England are not ring-fenced for particular mitigation measures - but the funds are at the discretion of the Council - so could be spent on other infrastructure such as roads. However the CIL Regulations have severely restricted the ability of planning authorities to require 'pooled contributions' (i.e. contributions from more than one development towards strategic mitigation) other than through the CIL. Equally the “financial viability” reports (used to assess contributions and determine affordable housing requirements) have until recently often been "hidden" as “financially sensitive” under ePlanning - leading to a number of Councils now having to insist that the Viability Report are made public, and with adequate time to be commented on.

Further, contributions towards wider community benefit will be welcome - but will the Levy fully fund the required infrastructure costs, or only contribute a percentage? How will economic differences between authorities (potentially as challenging as land-value), affordability thresholds, and house prices be balanced with complex infrastructure needs). A report presented to UK Government in early 2017 notes several concerns found with the English process. Namely:
• cost of implementation, • low impact on housing numbers, • disparity between areas of economic effectiveness, • increase in exemptions over time, and

The CIL in England has also struggled to address ecological mitigation measures. It is important that the provisions for a new infrastructure levy in Scotland do not make ecological mitigation and compensation measures less certain or more difficult to secure. In considering the funding of infrastructure, the Scottish Government needs to avoid locking the system into a mechanism where infrastructure funding is increasingly dependent upon development, or into a system that fuels a land or housing market that is assumed to be continually rising.

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?

(A) TRAINING: Most Councillors (and indeed the Minister) are already trained in planning matters via CoSLA, HoPS and within their own Council, and have qualified expert advisors. Yes, this might usefully be made more consistent. However - adding an exam and preventing elected Councillors taking decisions until they have been trained and passed the exam is considered a step too far. It is an attack on local democracy - and would potentially delay decisions. Ongoing CPD training and greater clarity on dealing with day-to-day planning issues need to recognise the quasi-judicial nature of planning decisions. Issues such as dealing with Conflicts of Interest, limiting party whipping on Planning matters (not just on Development Management), and the importance of facilitating community input, are probably more useful than an exam. The Bill unnecessarily seeks to control the training provider - reflecting the "excessive centralisation & control" aspects in the Bill. There would indeed be benefit in providing planning training for all Councillors and MSPs (not just those on Planning Committee), as well as CC members.

(B) REGISTER OF EXPERTISE: Given the budget & staffing pressures there should be a requirement for Councils to list their sources of expertise - whether directly employed, bought in, or though joint use. This should cover at least transport, parking, drainage, noise, structural, design, heritage & conservation, archaeology, habitat, open spaces, forestry and environment (SEA, EIA, HRA and environmental issues). How do Council assess Agency comments? Do Council's still actually have the expertise to review specialist reports on flooding (SW), habitat (SNH), drainage (SEPA) or heritage (HES)?

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

(A) NO. The Bill will harm local democracy - and likely reinforce budget cuts. It fails to recognise the already high approval rate in Scotland (94.2%) compared to the rest of the UK. The concern is that performance frameworks currently prioritise speed and efficiency indicators - not the quality of outcomes or of public engagement. Why not measure the % of approvals that are contrary to the LDP? Why not require all non-minor applications to be submitted by a qualified person - an approach that
would both directly improve the speed and quality of planning decisions? Or the average cost per Council for handling each planning application per year? The abuse of loose "performance" definitions is perhaps best shown by the growing problem of "non-adopted" new housing (now > 20,000) - because of the inadequate definition of housing "completion".

A much wider - and ongoing open debate (with LPAs, HoPS, CoSLA, Developers, and Community Councils) - will better assist promote good practice and good performance. Why are so many community objections ignored going in to LDP Examination? The lack of a statutory purpose for planning - against which performance is assessed - could help. However, it is easy to measure what is measurable. It is much harder to measure quality. In England for example - a key comparative indicator frequently used is the average number of cases determined in a year, per qualified planning officer (i.e. excluding planning managers or administrative officers). Very few Scottish LPAs achieve the English "sustainable workload" average of 150 cases, per planning officer, per year (let alone in practice often up to 170).

(B) NATIONAL PLANNING PERFORMANCE CO-ORDINATOR (£86k!) The centralising nature of the Bill is clearly reflected in this proposal. Is an approval rate of 94.2% not enough? It is a wholly un-necessary cost - seemingly more aimed at giving the Government Minister more "non-minuted" clout with Councils - rather than encouraging debate and joint sharing of information. Indeed, given the way Council's and CoSLA already monitor performance, it is more a question of better publicising the existing data to a wider audience. However, the Annual Performance Reports, and the proposed powers to the Minister "to conduct assessments" and "pursue improvements" (para 145) are a direct Government attack on local democracy.

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?

(A) UNLIKELY. Councils remain unlikely to cover all the costs of an effective high-quality planning service through planning fees (even with the rise in fees and reduced staffing). Indeed we have seen fees creep in for all Conservation Area applications (where Conservation Area Consent used to be free). Will charges for Listed Building Consent now be brought in? So much for protecting our Scottish heritage! And now the Scottish Government wants itself to charge for it intervening! Should all applicants not be entitled to have at least one free "pre application" meeting?

It remains vital that planning departments and statutory advisors are adequately funded and resourced to ensure planning delivers high quality sustainable development. Improved resourcing in needed for expert advisors within planning authorities and the key agencies (as per Register of Expertise - see 8(B) above). The danger is that the financial pressures - and lack of expertise - are indeed already allowing certain types of planning application (such as major housing schemes) to use inadequate "Scoping Reports" to bypass proper Environmental Impact
Assessments (as per EU Directive requirements). Presumably the LPA and Minister will budget to refund the owners affected by flooding or "sink-holes" over the next 5 to 30 years. Further, whilst additional flexibility within the charging system initially appears positive - it could prevent a level playing field across Scotland. Such flexibility could also appear unfair, or to benefit certain types of planning applications, if not scrutinised and monitored appropriately.

(B) DETERRENT VALUE: Whilst the proposed increase in charging orders and enforcement fees will assist & improve enforcement these do not (as suggested) always properly reflect the enhanced value deriving from the unauthorised works. The suggested £50k limit will in many cases already be inadequate to act as a deterrent to unauthorised works.

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

YES See attached pdf file - "THE DESTRUCTION OF PLANNING IN SCOTLAND?"
The existing Bill fails to address:-

(A) Practical strengthening of COMMUNITY Council roles e.g. through ERA (Equal Rights of Appeal); providing a legal right for public and CCs to address the Planning Committee; allowing Community Council's to take concerns to the Ombudsman; and a statutory role at Local plan Examinations. The growing number of examples of the Minister and Council's simply ignoring community views is leading to a growing anger and sense of helplessness about the existing planning system in Scotland. This Bill - if un-amended - will simply make it worse.

(B) Embedding TRANSPARENCY in the planning process. With more and more environmental and viability reports - as well as basic communications between Council and agents - being hidden (as "sensitive") on the ePlanning system, there is an urgent need to embed transparency - not just in regulations - but in the essence of the Planning legislation. This must also mean actually using the Powers of Revocation (from current 1 or 2 a year) and a legal requirement to act - when the frequent errors in Planning Applications and Certificates of Ownership are identified.

(C) The need to embed QUALITY OF DEVELOPMENT requirements in the main legislation. Whilst the proposed "Local Place Plans" may work - they are subsidiary to the LDP, and a poor substitute for the numerous existing Supplementary Guidance good practice notes, The Bill fails to address the current failure of the "Design Review" system is all but a few Council's, and the alleged "focus on Delivery" is silent on both Design Quality and Energy Efficiency. Why is there no minimum density requirement? (to ensure the efficient use of land). Why is there no minimum floor area policy? (as per Glasgow Standard - to move Scotland away from having the "smallest houses in Europe" UK label). Why are so few new houses energy efficient? At the output end of the housing delivery system there is also an urgent need to tackle the growing "un-adopted" scenario (some 20,000 households at present), by :-
• extending the current "2 year" minimum warranty period on new housing (ideally linked to reducing the currently excessive sub-contracting and lack of training),
• applying more effective housing data monitoring (and current inadequate definition of "completion"),
• facilitating the with-holding of say 10% of the house purchase price by the new owner - until roads, street lights and drainage have all been adopted;
• requiring all common space & leaseholds to be community based - ruling out the emerging (yes - including Scotland) "fleecehold" scenarios;

(D) The need for the main Planning legislation to provide a stronger legal framework for the Infrastructure Levy (if it is to actually work). The planning process does - when permission is granted - generally lead to a substantial increase in land value. But the need for an effective "land value tax" to be paid from this enhanced value - and used to fund the full infrastructure costs - is not embedded in this Planning legislation. Indeed, all too often - once planning permission is granted - the enhanced land value is siphoned off to off-shore companies. See Q.8 above.

(E) Supplementary Guidance The total removal of statutory supplementary guidance will have numerous unintended and harmful consequences. At present for example - Conservation Area protection is mainly through SG (some statutory - some not). Indeed the fees now introduced for work in Conservation Areas (that used to require a free Conservation Area Consent) reflect the growing confusion over SG. There is also inconsistency across local authorities as to what and how "Supplementary Guidance" is used. The loss of formal Supplementary Guidance will inevitably lead to much larger Planning Policy documents and less succinct guidance. It begs many questions around the protection and care of conservation areas, listed buildings, battlefields, designed landscapes - which will all be diminished by the removal of Supplementary Guidance. All because the Scottish Government needs 5 days to review and assess each SG document? The simplistic attempt to remove statutory Supplementary Guidance will (with the loss of Regional Plans) create a void at the heart of planning in Scotland.

Indeed - rather than remove SG entirely - there would be many benefits of actually restructuring Supplementary Guidance to a 3-tier approach - cascading from (A) SCOTLAND wide (set by Minister), to (B) REGIONAL level (set by the proposed Regional Boards), and (C) COUNCIL level. Where each lower level is required to be consistent with the levels above.

The proposed removal of all Supplementary Guidance will harm planning in Scotland. There is at the very least a need for the Scottish Government to clearly set out its understanding of which SG is of a statutory nature and what is local planning guidance - so that the weight to be attached to the SG is clear. Removing its statutory role will likely lead to wider problems.

DAVID SUTTON, MA, Dip Arch, RIAS, RTPI, IHBC
Across Scotland communities are working to respond by 2nd February (26 Jan for Financial comments) to the Scottish Government’s Planning Bill. Planner Dave Sutton asks some awkward questions as to where this is leading.

**YES - THERE ARE PROBLEMS WITH PLANNING NOW**

All too often community input - whether to individual planning applications or to planning policy - is nodded at sagely, and then ignored (see right). There is a growing anger from communities at why their input to a complicated planning system is simply not being listened to.

This is not helped by the increasing lack of transparency of the planning system. You used to be able to go in to the Planning Department and view the whole planning file - with all the documentation. But increasingly "ePlanning" is used to hide up to some 50% of the documentation on controversial applications. It is typically on controversial housing schemes where documents are most often treated as "sensitive" and hidden. Discussions between the Council & agent, on "viability" (treated as commercially sensitive?), and the growing evasion of proper Environmental Impact Assessments, are usually now hidden.

For all the talk about "protecting the environment" the Scottish Government has also introduced "Scoping Reports" to increasingly allow developers of major schemes to bypass European Directive 85/337/EEC (and amendments) on Environmental Impact Assessment (EIA). This will inevitably exacerbate the flooding problems on new housing estates and lead to more "sinkhole" incidents over the 30 to 50 year period.

Everyone wants to see more, good quality, new housing across all tenures. But the Scottish Government has not used the Scottish Planning Framework to introduce minimum densities (to say 30 dwellings per hectare), or minimum floor areas (where the UK has some of the smallest new houses in Europe). Instead developers have benefited from zero VAT, and more recently from the "Right to Buy" assistance - shown to increase both the house price and the house-builder's profits - and lead to silly levels of remuneration. New private housing is all too often riddled with faults created by the sub-contract culture - leaving new purchasers chasing up endless "snagging lists".

Even the conservative UK parliament has now consulted on legislation to tackle the "fleecehold" approach to new housing

In the proposed 180 page Dundee Local Development Plan - as in Midlothian last year - ALL community submissions at the PROPOSED PLAN stage have been ignored and not led to one single change in the Plan.

Planning Authorities in England (e.g. Bristol) have started to insist that all "viability reports" are made in good time, and are published on-line, prior to making a decision. In Scotland these reports are usually hidden.

A major proposal in South Lanarkshire was granted without an EIA despite being proposed for a site with flooding problems, a mining history, and habitat issues. The "Scoping Report" allowed different reports from the past 12 years to be used - without any EIA overview. This is happening more and more.

A 2006 development in South Lanarkshire was allowed to connect to the adjoining drainage system - directly leading to ongoing flooding of pre-existing properties adjoining the site. So near-by residents now get flooded every year.
- whereby it is increasingly not sold with unfettered freehold title - but with leasehold charges that double every 10 years. The Scottish Government jumped in to suggest that this did not happen in Scotland. This is simply not true. As Council's have declined to adopt open spaces, developers of new housing estates typically now create a separate Management Company to manage the common areas. But these Management Companies are NOT owned by the local community - and reports of silly charges and fees are starting to emerge.

SO WHAT NEEDS TO CHANGE?

We need a planning system that is

• rooted in transparency, community engagement, and local accountability. The Scottish Government has shown it's contempt for meaningful engagement by specifically ruling out Equal Rights of Appeal (ERA). So developers can take a decision they don't like to appeal (and indeed threaten Council's with claiming costs for unreasonableness) - but communities are prevented from doing so.

Communities are expected to get involved "at the early stages" of the Development Plan. But why should they waste their time doing so - if they can simply be ignored and bypassed. Research in Ireland has shown that such ERA rights do not lead to excessive or vexatious appeals. Indeed all too often we now see Local Development Plan (LDP) policies over-ridden (the latest being Aberdeen Football Club) - posing why anyone should waste their time trying to get the LDP right in the first place. Community input is increasingly disregarded.

Given the way the SNP has specifically ruled out ERA - the Scottish Government has shown it's contempt for meaningful engagement by specifically ruling out Equal Rights of Appeal (ERA). So developers can take a decision they don't like to appeal (and indeed threaten Council's with claiming costs for unreasonableness) - but communities are prevented from doing so.

Requests to the Scottish Government to amend their definition of "completion" (of now some 16,498 houses pa in 2016) from completions "when a building inspector deems the property complete" to take account of the non-adopted houses have been ignored. These residents had no help in dealing with the recent snow and ice issues.

SO WHAT NEEDS TO CHANGE?

We need a planning system that is

• rooted in transparency, community engagement, and local accountability. The Scottish Government has shown it's contempt for meaningful engagement by specifically ruling out Equal Rights of Appeal (ERA). So developers can take a decision they don't like to appeal (and indeed threaten Council's with claiming costs for unreasonableness) - but communities are prevented from doing so.

Communities are expected to get involved "at the early stages" of the Development Plan. But why should they waste their time doing so - if they can simply be ignored and bypassed. Research in Ireland has shown that such ERA rights do not lead to excessive or vexatious appeals. Indeed all too often we now see Local Development Plan (LDP) policies over-ridden (the latest being Aberdeen Football Club) - posing why anyone should waste their time trying to get the LDP right in the first place. Community input is increasingly disregarded.

Given the way the SNP has specifically ruled out ERA - the Scottish Government has shown it's contempt for meaningful engagement by specifically ruling out Equal Rights of Appeal (ERA). So developers can take a decision they don't like to appeal (and indeed threaten Council's with claiming costs for unreasonableness) - but communities are prevented from doing so.

Requests to the Scottish Government to amend their definition of "completion" (of now some 16,498 houses pa in 2016) from completions "when a building inspector deems the property complete" to take account of the non-adopted houses have been ignored. These residents had no help in dealing with the recent snow and ice issues.
the question is now whether the other political parties will unite to ensure the new planning legislation includes ERA. But we also need a ePlanning Professional Good Practice Note that ensures transparency - so that 99.5% of planning documentation is actually publically available.

- **kept it simple - and based on factual evidence of what works.** The Planning Bill seeks to expand "Simplified Planning Zones" and increase Permitted Development rights. But instead of adding such complexities - there is a strong case for "Keeping it Simple". There is no research on how SPZs have helped improve planning anywhere, or how wider PD rights helps create good quality places.

The Bill proposes doing away with Supplementary Guidance. This was actually introduced to try and help keep Development Plans simple and short (under 80 pages). But this fails to recognise that statutory Supplementary Guidance is the glue that - amongst other things - protects the 663 Conservation Areas across Scotland. Why is the Scottish Government using the Planning Bill to undermine statutory Conservation Area protection? It's tweaks in the last few years already mean that planning fees apply for all works in Conservation Areas.

Ironically - a structured 3 tier approach to Supplementary Guidance - at national Scottish level, strategic Regional level, and Local Government level could actually address many of the existing concerns about the planning system.

- **which uses the increase in land value from planning approval to properly fund the required infrastructure.**

The Bill proposes to introduce an Infrastructure Levy - but is silent on how this is to be calculated or applied. It seeks to go down the failing English path - rather than learn and apply Scandinavian best practice. We have already seen the £10,000 contribution per new house reduced to £6,200 in recent developments. Homes for Scotland have even complained about the costs of funding new school places. Do we want the ongoing disruption arising from overloading the existing strained infrastructure? Or is there the vision to build the Infrastructure required? able to address the Planning Committee (as there is in England). So in South Lanarkshire Council the Planning Committee has only been addressed on average once a year over the past 5 years. Why are Community Council's also banned from taking complaints to the Ombudsman?

The owners of most of the open space around Glasgow already have planning approval. They are "paper millionaires". But unfortunately they see only the high land value - and make no allowance for the costs of the required infrastructure (e.g. South of Cumbernauld). So the land lies undeveloped, with endless discussions on who should fund what. The Scottish Planning Bill seeks to create an Infrastructure Levy - as per the English "CIL" (Community Infrastructure Levy). Nut increasingly CIL is struggling to even deliver the required social or affordable housing. We should instead look to Scandinavia - linking infrastructure funding to a land value tax. It is sad that this appears too radical for the current Scottish Government.

The Planning Bill wants to not only ensure all Councillors are trained - but that they take an examination BEFORE they take a decision. Yet such
training already takes place (usually via CoSLA). Indeed the Minister himself (Kevin Stewart) had undertaken formal training on the Planning system in Scotland in his previous capacity as a Councillor. All Councillors are advised by qualified officers.

THE SCOTTISH PLANNING REVIEW

Over two years have been lost though endless and repeated consultations. Many sensible comments have repeatedly been ignored. Rather we are seeing the views of the volume house builders, property interests, and consultants drown out everything else.

Thus the key Scottish Government objective is clear - to centralise Planning to the Scottish Government Minister - and to remove and destroy Strategic Planning in Scotland. Anyone who has ever observed a Strategic Plan Examination will be aware that it is only a few Strategic Planners who have the facts and data to argue back with the house builders legal and specialist consultants. Arguments about "optimistic" versus "pessimistic" forecasts for housing requirements. How much easier to kick all this out of the way - and allow the Minister to impose (no doubt via un-minuted lobbying) the housing targets that the volume house builders want.

Indeed we already have Professor Roy Thompson of Edinburgh University state that he expects Scotland’s two largest cities to amalgamate within the next few decades. Whether Geddes's "Clydeforth" becomes Edingow or Glasburgh remains to be seen. We already have AirBridge/Coatrie and nearly Ruther-Kilbride/Kilbridglen.

There does not seem to be any recognition of the inherent legal conflict being created. Suggesting that the Scottish Planning Minister can legally determine the Scottish Planning Framework, set national and Regional Housing targets, and at the same time determine individual applications (177 considered over past 5 years). It is now suggested the Minister can send in Government consultants or a "national planning performance co-ordinator" to Councils who do not jump as high as asked. Another blatant conflict of interest. Indeed the planning Bill is a direct attack on the democratic rights of Local Councils - whether in its "training & examination" requirement for democratically elected local Councillors - or ability to send in external planning auditors.

Scotland already has (with a 94.2% approval rate) the highest planning approval rate in the UK. Northern Ireland had a similar high approval rate (prior to decisions moving from DoE to local Council’s). But this is still some 3% to 5% above the planning approval rate in England and Wales. Why?

A lot of emphasis is placed in the Planning Bill on "Local Place Plans". But as the experience in Linlithgow already shows - as these have to comply with the Local Development Plan - they can simply be overridden. Without a stronger role for Community Councils, and ERA, effective Place Plans will be too costly - and Scotland will likely continue with the poor quality of most new development.

Scotland no longer has a "Planning Minister" - but now a "Minister for Local Government & Housing" (Kevin Stewart MSP). The toadying of the Planning Bill to the volume house builders is perhaps best reflected in the Bill's silence.
The Scottish Government needs to decide whether it is going to centralise all planning policy (as it appears to be suggesting) or whether it actually values local democracy and the decision making role of local planning committees (and increasingly the often conflicted Local Review Bodies). At present it appears intent on destroying local democracy. The occasional suggestions of "early community engagement" are simply not backed up by any details. That is why at the very minimum - Equal Rights of Appeal is essential. To stop communities being marginalised and to give them the same rights as developers to challenge poor decisions. It is somewhat ironic that this Scottish Government is not at present prepared to give communities an equal voice.

The Scottish Government is already employing consultants to seek to expand "Permitted Development Rights" further. This is not based on any factual assessment of how the changes in residential PD (2012 - updated 2016 - with useful on-line guide) and other PD (2014) have actually worked. Indeed they are specifically exploring how PD in the historic environment can be expanded (to satisfy tele-communication companies). So much for caring for Scotland's heritage!

These are the personal views of Dave Sutton RIAS, RIBA, RTPI, IHBC - who is a registered Architect and Planner. He is also on the Conservation IHBC (Scotland) Committee and some BEFS Committees (Built Environment Forum Scotland). He is also involved with Planning Democracy and numerous community planning campaigns. He used to work in Strategic Planning (Town Centres & Design & Heritage) in a Scottish Council.