Local Government and Communities Committee

Planning (Scotland) Bill

Submission from the Federation of Master Builders Scotland

Introduction

About the FMB

The Federation of Master Builders (FMB) is the largest trade association in the UK construction industry, and with over 8,000 members, it is the recognised voice of small and medium-sized (SME) construction firms. Established in 1941 to protect the interests of construction SMEs, the FMB is independent and non-profit-making, lobbying continuously for members’ interests at both the national and local level.

About this submission

Our submission is based on the questions put forward by the Local Government and Communities Committee.

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?

Broadly, yes. The Bill’s emphasis on the delivery of development, and objectives to reduce complexity and improving accountability in the planning process is welcome. This should all serve to support the diversification of housing delivery in Scotland.

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?

Sections 1 to 8 of the Bill aim to ensure that development plans bring a far greater focus to the delivery of development. This should stimulate higher levels of house building. Many of our SME house builder members have commented that the planning system has become too bureaucratic and complex. The time it takes to navigate the planning system and the consequent delays to decision making by planning authorities jeopardise the cash flow of SMEs: resulting in a collapse in their confidence in the planning system.

The FMB would welcome further changes to support SME house builders. In reality, most sites suitable for SME house builders may typically be considered too small to be allocated within local plans. This means that SMEs are largely reliant on bringing forward non-allocated sites on which the risk is significantly greater. If Scottish planning policy can make the application process for these sites less onerous, this would assist such applications. Ultimately this would diversify and increase housing supply in Scotland.
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?

The FMB does not currently take a view on this matter.

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 FMB supports the policy objective in the Bill of significantly strengthening Local Development Plans (LDP’s) through giving them a greater focus on place and delivery. The extension of the timescale for LDP’s from five to 10 years will impart a more settled vision of how an area should develop in the future. Through this, developers of all sizes should have greater certainty and confidence to invest in bringing forward more sites and building more homes.

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

We agree that the zoning of land through SDZ’s could unlock more areas for new housing. However, any pipelines of development-ready land must encourage a diverse range of house builders, including SMEs and smaller-scale house builders. SDZ’s must be used in supporting the development of smaller sites, not just in enabling through master-planning, what are effectively very large developments. SME house builders provide greater diversity in housing design, scale and quality, and are also critical players in delivering self and custom build housing. The cumulative potential of SME builders building more homes on smaller sites across Scotland is considerable. Stimulating more small sites and more custom and self-build will be assisted via the frontloading of scrutiny, for instance through greater use of design code-type arrangements and the alignment of consents.

Given that SME house builders build within their local area, they will have an understanding and respect for community interests. They are part of their community, employ locally and have a stake in the local environment.

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?

The FMB believes that local development plans need to consider community planning, but the primary focus should be on the development plan agreed by the local authority.

We support the view set out in the consultation that introducing a third party right of appeal would have a detrimental effect. The impact on planning timescales would lead to further delays which would slow down housing
delivery and disincentivise many SME house builders, who already cite planning delays as a major obstacle in developing smaller sites.

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?

Planning authorities must be adequately resourced, otherwise it will be difficult to achieve better compliance with planning control.

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?

The FMB believes that any levy should not apply to the smallest sites, as viability varies much more sharply on smaller, particularly brownfield sites. The land market does not operate in the straightforward way assumed by viability models when it comes to these kinds of sites. Additionally, there must be a review of planning policy relating to current planning obligations, especially the use of section 75 and how these will relate to the proposed new levy. Developers of all sizes may view that potential developments are no longer viable, owing to the perceived and actual risk of excessive charging. Planning authorities need to be encouraging, not discouraging, appropriate development in Scotland.

In terms of lessons which can be and should be learnt from the experience in England following the introduction of the Community Infrastructure Levy, we would suggest that the following are all important points to consider.

1. The inflexibility of a levy type arrangement on large developments has been a hindrance to the development of more bespoke agreements necessary to deliver complex and extensive infrastructure required to unlock large sites.

2. At the same time, the inflexibility of a levy type arrangement, when applied on top of already-applying developer contributions, will make the economics of small scale development much more difficult and prohibitive in many instances, unless accompanied by a lower threshold for one or the other of these contributory streams. In response to this concern, the Westminster Government introduced a ten unit threshold for the application of Section 106 obligations in England. We would suggest either the extension of a similar threshold to the new Levy or to the already-applying section 75 agreements.

3. It should be normal practice that any levy is payable at least from commencement, but preferably from completion of the property, as this will make little difference financially to local authorities, but it will make a very significant difference to SME developers.
4. **Surveys of FMB house builder members in England and Wales suggest that the greater transparency and certainty which CIL was meant to deliver has not in fact been delivered and that most developers see no greater certainty in CIL than they do in the section 106 agreements.**

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, the FMB supports this. Those who sit on planning committees or on local review bodies should be sufficiently trained in planning law and their legal responsibilities.

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

A major factor in the delays and uncertainties experienced by SME house builders is the inconsistent and poor performance of planning authorities. Excessive bureaucracy and unnecessary delay in the planning system are major burdens for SME developers. Therefore, the FMB supports the package of three broad measures introduced by section 26 of the Bill:

- Statutory requirement to produce annual performance reports
- Appointment of a national planning performance co-ordinator
- Powers to conduct assessments of planning authorities’ performance and to pursue improvements.

Local authorities should share good practice and gather feedback from users of the planning system. The FMB is optimistic that the statutory role of the planning performance co-ordinator will help make both happen. Moreover, local authorities could derive efficiencies through pooling resources, thereby helping the planning system to become more effective at assisting appropriate development.

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?**

It is the FMB’s view that planning services need to be sufficiently resourced to ensure they are efficient and effective. FMB supports the principle of local discretionary charging for service provision in section 21 of the Bill, provided we can be reasonably certain that this extra revenue generated will be used to adequately resource and improve the performance of planning services. Flexibility in charging fees can be a positive thing; if this is used to rationalise the resourcing of planning services. If the flexibility of charging fees can be justified, applicants are more likely to accept paying higher fees; especially when this results in demonstrably improved performance. However, if flexibility becomes code for hiking up fees in order to fund other services, this
will further stymie development and the FMB would not support this. The provision for authorities to reduce or waive fees could be especially encouraging for SMEs, if this is used to encourage greater diversity of supply in new housing.

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

Scottish Government housing statistics demonstrate that housebuilding in Scotland has declined by around 40% since 2007. There are many factors contributing towards this, but one important factor is the decline in the number of and the output of SMEs building new homes. Research by the FMB has consistently highlighted the lack of viable land as one of the key barriers to SME house builders' ability to build more homes. A more strategic approach to establishing the number of homes required at a national level is welcome, as is the drive to diversify housing provision. SME house builders are key to this, especially through their role in the delivery of custom and self-build homes.