1. Introduction

I have had a 38-year career in Town & Country Planning, the first part of which was as a planner, then senior planner in Glasgow City Council working on development plans, transportation, and then as Senior in Development Management Teams in the City's West End and City Centre.

In 1999 I moved to the private sector, first as Associate Director in McInally Associates, then Glasgow office director at Turleys, and then set up my own business (PPD) in 2012. In this second part of my career I have been involved in a wide range of large planning projects in the housing, commercial, retail, city-centre office and regeneration sectors: such as Glasgow Harbour, the Heartlands project at Whitburn, the Commonwealth Games Athletes' Village, Govan Central Area Masterplan, City of Glasgow College redevelopment, Baillieston / Broomhouse / Carmyle and Larkhall “Community Growth Areas”, and Granton Harbour redevelopment.

I therefore have a wide range of council and private sector experience across the planning system, and of large and small projects.

2. Questions asked by the 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?

My view is that the planning system has become too cumbersome, a vast and complex monolith which acts as a drag on the Country’s economic advancement. Its effectiveness in achieving the best development to take Scotland forward must seriously be questioned. Dis-proportionate time gets spent on trivial matters such as small extensions to buildings, small-scale land-use changes, and advertisements; while we still end up with thoroughly depressing major developments, examples being Glasgow’s St Enoch Centre, most out-of-town shopping (even those approved very recently), and everything that has happened in Aviemore and Fort William over the last 20 years. The system has been hi-jacked by sections of the community to resist all change and new development, but the quality of many new developments does not assist in countering these attitudes.

The Bill will make some small-scale improvements and one area which will be detrimental (which I will discuss below), but not produce the planning system for Scotland envisaged in the question.
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?

Shortening the time-period for the preparation and approval of Local Development Plans will assist, as new sites will reach a stage where detailed planning permission can be sought and obtained much quicker than at present. I am concerned that the change to a 10-year production cycle will take the focus off the need to review and maintain an effective housing land supply. Perhaps there needs to be statutory review of key matters (rather than complete restart) every three years. In effect this would be a 'rolling plan'.

There remains a need for a national debate on affordable housing. There is too much confusion between affordable housing and social housing. The ‘affordable’ housing requirement of some councils is acting as a restraint on development. In some cases those trying to get onto the owner-occupied ladder are subsidising social housing organisations. Private sector housing designed to be sold at and stay at an affordable price in relation to the local housing market (such as the model pioneered by Tweed Homes), should be encouraged.

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 provisions of the Bill are worth trying: there are serious deficiencies in the present regional planning system and trying to achieve something better is certainly welcome.

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 Bill’s emphasis on reducing preparation time and removing parts of the process which have proved less valuable is very welcome. I am relieved however that the process still ends with scrutiny by a Reporter and approval by the Ministers. Removal of Supplementary Guidance from the statutory Development plan is also very welcome. Many planning authorities over-do Supplementary Guidance – out of all proportion to its real need, and treat it as policy. The voluminous Guidance tomes produced by Edinburgh and Glasgow are cases in point – there seems to be an attitude that every conceivable element of any development should be ‘regulated’ by Guidance – cynics would say so that they can be refused!

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

I have first-hand experience of the Clydebank Enterprise Zone (which extended into the Yoker area of Glasgow), as I was a planning officer dealing with that area. It had a very deregulated planning environment (a Development Order issuing a general
grant of all planning permission with only two exceptions – the airport flightpath and the Finnart – Grangemouth oil pipeline): which would be considered ‘politically unacceptable’ today. Looking back, very few ‘horrors’ arose within the Zone. Other environmental legislation still applied.

The choice of boundaries will be important. There are potential Zones where there are no existing communities, and where a ‘light touch’ community involvement process would be appropriate. It is unlikely that Zones would include areas where there is a stable residential population. Some form of overall community involvement could be required as part of the initial designation process, perhaps involving the production a Masterplan which would then be ‘embedded’ in the simplified approval regime.

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?

My reading on LPPs has not revealed how they could work, and I have significant misgivings about them. I am concerned that they would become a tool of stable, middle-class areas to prevent development. They could also raise community expectations on funding new facilities and environmental enhancements, quite separate from Council funding priorities.

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?

The proposed changes are reasonable.

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?

This is the hardest question! Developments I have been involved in had sufficient critical mass to fund substantial off-site infrastructure works (such as the roadworks associated with Glasgow Harbour, Woodilee, Heatlands), but the relevant developers accepted that these works were required to manage the development impacts. I accept that in the present public-sector financial environment a mechanism is required to fund wider improvement works. The main problem is that such a levy would come on top of existing developer contributions for schools, roads, affordable housing, etc; and could easily result in profit margins becoming too low for housing developers (particularly smaller businesses) to continue building new homes. Perhaps the Levy would need to replace all existing developer contributions and in effect be a ring-fenced development tax organised by each Council (e.g. the ‘roof tax’
in the Community Growth Areas), which would be spent on a publicised range of projects perhaps on certain levels.

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?

Absolutely, I have just experienced a most awful Local Review Body meeting at which the so-called 'independent adviser' failed to properly explain the appellant's case, the councillors were therefore unable to understand key facts presented on behalf of the appellant, and their subsequent debate centred only around the delegated officers refusal reasons. My client (who only sought permission for a small garden storage shed) took the view that the process was a travesty of justice.

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

I very much doubt it. Too much time is spent by planning authorities on irrelevant minutiæ and dis-proportionate detail. The Proposals in the Bill do not address the fundamental reasons for poor performance.

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?

I very much doubt it. Looking back on my career in both sectors I come to the cynical conclusion that more funding will not make any appreciable difference to performance. People will just have more time to dig into greater and greater detail, and have more time to procrastinate and say 'No'!

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

3. Final comment

One aspect of the Bill's provisions will have serious adverse consequences. Section 16(2) delegates applications for Certificates of Lawfulness (of existing or proposed use or development) to officers, and consequently that appeals against decisions on such applications will be dealt with by the Local Review Body.

Applications for Certificates of Lawfulness (of existing or proposed use or development) are essentially technical and their decision-making process does not follow the logic of other applications which are: the development plan, 'other material considerations', amenity and public safety. Instead, these applications are decided on the evidence presented, and all other matters are irrelevant.

The present arrangements whereby such appeals are dealt with by Reporters appointed by the Scottish Ministers works very well. In my experience all Reporters understand what is required in dealing with such appeals and make excellent professional judgements accordingly.
My experience of Local Review Bodies is that elected members will not be able to make the required technical / professional judgement and will be unable to ignore irrelevant matters. This is compounded by the fact that the appellant is at a clear disadvantage in Local Review. The planning officer’s views are effectively represented by the so-called ‘independent person’, but in my experience it is very unusual for the appellant to be allowed to directly address the Body. It will not therefore be possible for the appellant to effectively present his technical argument on such applications.

I therefore call on the Committee not to bring applications for Certificates of Lawfulness (of existing or proposed use or development) under the ‘delegated applications’ procedure, and to retain these applications under the provisions of the present Act.

John Paton