Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Susan Crosthwaite

I would like to draw your attention to the Planning Bill which is currently open for comment. We have concerns that Government policy is driving this Bill in a direction against the democratic will of the people. Empowerment and equality, Local driven plans, A right to be heard, Good enforcement rules, An Equal Right of Appeal, Better regulation, No guidance slimming, Careful special zoning, Adequate resourcing, Deliberative consultation, Land Value Capture, Environment protection, Amenity and Cost to the Economy all need careful consideration:

1. **Empowerment and equality**: We would love to see a Bill that really delivers community empowerment and equality. Unfortunately, this Bill fails to introduce mechanisms that will improve the quality and value of public engagement. In fact, alongside the introduction of a watered-down version of local place plans, there are several consultation opportunities being removed by the Bill resulting in an overall loss of community engagement opportunities (e.g. loss of the Main Issues reports, lengthening of the development plans from 5 to 10 years).

Fundamentally the Bill also fails to acknowledge the inequalities that people face in planning, this all needs addressed. Communities end up spending a lot of time working very hard for very little recognition and reward, we think the Bill can change that.

2. **Local driven plans**: We would like to see communities really empowered to make their own place plans. This means starting at the local level, not having local places dictated to by nationally driven priorities. Freedom of Information (FOI) has revealed that Local Development Plans and Supplementary Guidance are rejected by Government Reporters if they do not agree with Government Policy. There needs to be a way to deal with ‘conflict of interest’ when Scottish Government are the decision makers and the benefactors gaining millions of pounds from leasing public land to developers. (FOI revealed that as at 11 January 2018 10,639 ha of Forestry Enterprise Scotland land are leased to wind developers. The total income from leasing the land for wind farms from April 2010 until the end of December 2017 is £39.5m.) Obviously, national policy cannot be ignored, but we feel that local plans should be part of a conversation with policy guidelines set elsewhere, not a junior partner. Unfortunately, there is very little in the Bill that will enable people to influence national, regional or even local plan policy. We would like local place plans to have a greater status than this Bill grants and become part of the formal development plan. We want Local Place Plans to have regard for, but not be dictated to, by national policy. Additionally, we would like a statutory duty to involve community councils and bodies in NPF and LDP development.
3. **A right to be heard:** It is important that people are not just consulted but properly engaged, their input needs to be meaningful. People need to feel heard and have their concerns recognised and responded to. That doesn’t mean they need to get what they want but it does mean there needs to be a genuine conversation. We can achieve much better, quality engagement in local development plans if a new mechanism to involve communities in the gate-checking process is introduced (as was suggested earlier in the review process). It is also important to produce a modified plan after the draft plan has been consulted on, so that people can see where their views have been taken into account. Currently the only means of getting engaged in the LDP is by commenting on a draft plan, this is a huge retrograde step, from having a main issues report, draft and modified plan in the process. With all the emphasis being placed on “frontloading” engagement it is a bit curious that there seems to be less opportunity to get involved early on at the “front end” of the system.

4. **Good enforcement rules:** Planning conditions need proper enforcement. Greater resource and political will is needed to make sure developments comply with planning conditions and agreed environmental limits. Planning conditions make unacceptable developments more acceptable to the public, it is crucial that they are strictly controlled. We want planning authorities to be supported to take action and far greater resources to go to enforcement. The data for enforcement should be measured and monitored at a national as well as local level to make sure adequate resourcing is provided. There should be an increase in fines and fees for retrospective applications. SNH, SEPA and other enforcement agencies’ ability to fulfil their task in respect of our threatened landscapes has been seriously weakened by restrictions on which applications they can become involved. ‘Serving two masters’ by virtue of addressing the needs of the national heritage/environment and abiding by government policy has produced a situation in which imposing will is against the national interest.

5. **An Equal Right of Appeal:** If only politicians took the much needed step towards equality and provided for a right of appeal in this new planning bill. We are asking for the bill to include a right of appeal for communities under certain circumstances. We also want the developers right of appeal to be limited to applications that accord with the development plan. This would correct a glaring injustice whilst also strengthening the plan-led system.

6. **Better regulation:** What we would really like to see here is something done to prevent the commonly used developer tactic of putting in repeat applications. There is nothing to stop developers from coming back time and again with slightly altered applications, requiring communities to start all over again with their responses to the planning process. We think that when an application is refused because the principle of development is wrong for a site it should lead to the development plan being automatically modified. This would create a “presumption against” that form of development in that place. We also want the Bill to include a mechanism where there is a presumption against development in cases of repeat applications unless the applicant can prove material changes in the proposal or circumstances.
7. **No guidance slimming**: Cutting back guidance will NOT necessarily make the planning system any simpler for communities. We think the Government needs to show that it values good policy, not prioritise having less of it.

8. **Careful special zoning**: Strategic Development Zones (SDZ’s) look like they might just exacerbate the fat cat housebuilders’ gout. These new zones will have less restrictions than the previous Simplified Planning Zones, making it possible for SDZ’s to be made in conservation areas for example. The process for making and altering these schemes looks worryingly informal, with some centralising mechanisms to refer matters to Scottish Ministers and some aspects very unclear. For example persons (undefined) are to be able to request that schemes are made or require local authorities to review new schemes. If refused the matter can be referred to Scottish Ministers. Altogether these zones suggest a heavy emphasis on promoting development at all costs rather than on planning properly for the long-term health and well-being of people and places. We would ask politicians to consider this section of the Bill very carefully, to ensure that consultation requirements are rigorous including notification requirements for community councils and bodies. Rather than simplified development zones, what we surely need is better development zones?

9. **Adequate resourcing**: Planning is hugely under resourced, many planning departments have lost huge numbers of planners resulting in loss of expertise as well as putting huge strain on planners to deliver proper consultation and engagement on a shoestring. And now a huge burden of work and expectation is being placed directly on communities to develop their own local place plans – this looks a lot like the outsourcing of community engagement. It will be a huge ask, particularly of less well organised, dispersed or under resourced communities. The Local Place Plan initiative is set to fail and increase inequalities unless communities themselves (not a bunch of design consultants) are given funds and access to experts to produce their own plan.

10. **Deliberative consultation**: Currently communities are consulted more than empowered (or con-consulted as we’ve heard several community members call it). We know that other countries such as Australia have used a wide variety of deliberative engagement techniques to involve people in making decisions on controversial topics. We want to see such techniques used during the NPF and evidence gathering processes for local development plans. The Bill can help to incentivise broader engagement techniques by creating a duty to involve and empower communities in the development of local and national policies.

11. **Land Value Capture**: We need a bill that tackles over-inflated land values. This means ending the generous public subsidy given to the development industry whenever they get to keep the increase in land values that we create when granting planning permission. Perhaps we need to wait for a more exciting and forward-thinking review in the future, one that comes at the problem from a different perspective. We ask politicians not to overlook Land Value Capture and proactive public land assembly as options. We won’t
address the ‘housing crisis’ by granting more planning permissions more quickly. But better planning could ensure that we build homes fit for purpose for many new years to come.

12. **Environment protection:** How we can improve planning so that it cares for people and place rather than just the residual site value in developers' ledgers.

Wild land matters to Scotland’s people - a recent YouGov survey for the John Muir Trust showed that 80% of Scotland’s people want to keep Scotland’s Wild Land Areas free from major developments. That is a colossal 16 to 1 majority giving their backing to wild land protection. I am one of those 80%. There is hardly a Munro left to climb where turbines do not form part of the ‘vista’ and it is not what mountaineers want. In spite of the fact that Scotland has some of the world’s supreme, unique, renowned landscapes and wild spaces, it shamefully has only two National Parks (Norway has 44). Politicians refuse the requests and petitions from communities for more and Government has not designated a new National Scenic Area for over 40 years, again, in spite of petitions and requests. This can only amount to criminal negligence on the part of politicians and an act of will-full disregard in caring for the protection of Scotland’s rare environments for future generations. In the absence of National Park and NSA status, this planning Bill needs to set rules and boundaries to protect these areas. The enforcement of planning and environmental laws is often questionable and when it is not enforced, you in effect authorise the conduct you seek to prohibit.

Two main components of wild land are forestry and peat which are the two main sources of natural carbon capture. Peatlands are habitats with a highly specialized flora and fauna taking thousands of years to generate, playing an important role in global climate regulation. Peatlands cover only 3% of the world’s land but contain more carbon than the entire forest biomass of the world. When peatlands are drained, the hitherto well-preserved carbon is released as greenhouse gas to the atmosphere. That is why it is important to keep the peatlands wet, for biodiversity conservation and for the climate. The Scottish Government's blind commitment to industrialising our forests and peatlands for the development of industrial windfarms and the necessary infrastructure (powerlines, sub stations and roads) is releasing vast quantities of CO2 into the atmosphere and may be the reason CO2 has just been reported to have risen by 28% in the Highlands. See Ramsar protection: [https://www.youtube.com/watch?feature=player_embedded&v=ZcxZ9qvNfSU](https://www.youtube.com/watch?feature=player_embedded&v=ZcxZ9qvNfSU) Draining peat is the equivalent of burning fossil fuels. **Draining an area of peat the size of a football field (the base for each individual wind turbine) releases the same amount of CO2 as driving a family car 3x round the world.**

Industrialisation, on this massive scale of our wild land, of our pristine water catchment zones designed, in the wisdom of our Victorian ancestors, to remove water supplies away from industrial areas, has led to deteriorating water quality for many people in Scotland. The Scottish Government has been complicit in promoting industrial scale exploitation of designated water
catchment areas, by passing and promoting the legislation drafted in 2010 to allow commercial industrial windfarm development on publicly owned land including Scottish Water land as well as Forestry Enterprise Scotland land (10,639 ha). Tearing up millions of trees, literally pulling them out of the ground in accelerated forestry clearance is affecting our public and private water supplies and the health of our nation. Ask yourself why a new public water pipeline is necessary from Loch Katrine to service Ayrshire, when Craigendunton Reservoir, Lochgoin Reservoir, Dunwan Dam supplied perfectly good public water before vast areas were clear felled and industrialised for Whitelees Windfarm? A clear example of government bypassing environmental law – See the Request for Action and SEPA response here: http://www.windsofjustice.org.uk/2018/01/sepa-response-to-the-request-for-action-on-water-contamination/

Wild land is also a key part of Scotland’s natural heritage and national identity. I have worked in rural tourism for almost 30 years. In South Ayrshire and Dumfries and Galloway we have much to protect in the UNESCO Biosphere, Galloway Forest and Dark Sky Park. It is a major driver of the south-west’s rural economy, attracting tourists from all over the world to visit, spend money and support jobs in our most fragile local communities. Recently, Scotland was voted the most beautiful country in the world in a Rough Guides readers’ poll. The YouGov poll shows that Scotland is united in wishing to keep our wild landscapes free from large-scale wind farms, giant pylons, super quarries and other inappropriate commercial developments.

13. **Amenity** of those forced to live within the vicinity of Industrial Developments should also be of serious concern in this Planning Bill. Increasing numbers of residents living in the vicinity of wind turbines complain of adverse health effects. They observe that they were in good health before the turbines started operating, and that the effects recede whenever the turbines cease operating. The effects also recede when the affected residents move away from their homes, which they often do for respite from the adverse health effects. Their doctors have been unable to diagnose their illness in spite of extensive tests including MRI, and ECG scans. Faced with this evidence, affected residents quite reasonably attribute their sufferings to the turbines. (although Wind Turbine Syndrome does not exist according to public health).

The frequency range of wind turbine acoustic emissions is considerably lower than that of the human ear, and much of the acoustic power is concentrated in the infrasound region, i.e. 0.2 to 20 Hz. Yet only audible turbine noise, from around 50 Hz upwards, is considered in current UK planning guidance ETSU-R-97. See: http://www.windsofjustice.org.uk/2018/01/infrasound-and-low-frequency-noise-does-it-affect-human-health-engineers-journal/ If Low Frequency Noise from wind turbines really does not exist and is not a problem, why do the wind industry not measure it and prove the case? How can Planners deal with this without the correct legislation? In a World first, Australia’s Administrative Appeals Tribunal (AAT) has declared that the “noise annoyance” caused by wind turbine generated low-frequency noise and infrasound “is a plausible pathway to disease” based on the “established association between noise annoyance and some diseases, including hypertension and cardiovascular disease, possibly mediated in part by
disturbed sleep and/or psychological stress/distress.” The AAT also held that “The dB(A) weighting system is not designed to measure [wind turbine noise], and is not an appropriate way of measuring it.” The dB(A) weighting system is the basis of every wind turbine noise guideline in operation around the world. https://stopthesethings.com/2017/12/09/australian-court-finds-wind-turbine-noise-exposure-a-pathway-to-disease-waubra-foundation-vindicated/

The Finnish national association TV-KY has financed a pilot study about infrasound measurements at 10 locations in Finland. The original article was published in Finnish on the week 34 in 2017, and it has now been translated to English. http://www.auniogroup.com/wpcontent/uploads/2017/10/InfrasoundAunioGrou pKauppaSuomiwk342017.jpg


14. **Cost to the Economy:** The Government has accepted a lot of the spin coming out of the wind farm industry without being sufficiently sceptical. They've swallowed it all hook, line and sinker. Energy Minister Paul Wheelhouse continues to say that onshore wind is the lowest-cost form of new generation energy, but this is simply not true. Onshore wind is generally extremely expensive in comparison to electricity from conventional sources, particularly combined cycle gas turbines.

It is well known that the subsidy and system costs of existing wind farms put them well above the cost of other forms of energy. Subsidies in the UK for renewables in total now come to about £7 billion per year. You also have the cost of running parallel energy systems for when the wind does NOT blow. Even though Scotland is one of the windiest countries in the world we have many days of ‘dead calm’, often stretching across the whole of Europe in the coldest times of year.

The cost is taking money – in other words, resources – from elsewhere in the economy and giving it to wind generators. By redirecting resources towards the wind sector, it is suppressing activity in other parts. So, jobs may have been created in the wind sector but how many jobs have been destroyed in other fundamentally economic activities?

The costs for all forms of wind are high. Wind farms were paid more than £100 million last year to switch **off** their turbines and not produce electricity-wasted money. The payments **- equivalent to £2 million a week** - were made to the big energy firms that own the giant wind farms. Incredibly, the wind farms receive on average 40 per cent more cash when they are switched off than when they are producing electricity, according to an analysis of official
figures. It is "a scandal" that the big energy companies are more profitable when their turbines are turned off, but 'who cares' as it is (really just a stealth tax) forced to be paid for by the public pushing energy bills sky high, making the poor poorer and business and industry costs unaffordable.

The turbines have to be shut down at certain times because Britain's electricity network is unable to cope with the power they produce. The wind farm owners then receive this compensation - called "constraint payments" - for not producing electricity. The money is paid out by the National Grid but is ultimately charged to consumers and added on to electricity bills. The scale of the constraint payments ballooned in the past five years, as more and more windfarms have developed, according to the Renewable Energy Foundation (REF), which carried out the research. According to the REF, constraint payments totalled a record £108million in 2017, compared with less than £6million in 2012. In the past five years, wind farm owners have been paid £367million in constraint payments. Almost all the payments were made to wind farms in Scotland, which has seen a rapid growth in the industry. So more turbines will mean higher constraint payments. REF research shows that wind farms are currently being paid compensation of about £70 per megawatt hour (MWh) to switch off. In comparison they are typically paid £49 per MWh in a consumer subsidy when producing electricity.

Windfarms require more grid capacity and special operations of the grid system to keep it balanced. These costs are not small. When you add it all up, the total cost to the consumer of a unit from a wind farm is considerably higher than that from a conventional generator. There are also secret constraint payments to some windfarms unaccounted for in the public domain! Surely there is a need for tighter restrictions on windfarm development in this Planning Bill.

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Acknowledgements:

Request for Action and SEPA response can be found at: http://www.windsofjustice.org.uk/2018/01/sepa-response-to-the-request-for-action-on-water-contamination/