Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Scottish Rights of Way and Access Society

The Scottish Rights of Way and Access Society (also known by its short name ScotWays) wishes to make the following comments on the Draft Planning (Scotland) Bill, now at Stage 1 of the Parliamentary process. I explain who we are and what we do in the footnote below.

We do not respond to the main questions set out in the invitation to comment, as we would like to address the relationship between town and country planning and our primary interest in access to land and its enjoyment by the public, a matter already raised by several other organisations with parallel interests.

Our starting point is Part I of the Land Reform (Scotland Act 2003), which is one of the Scottish Parliament’s notable achievements. Its provisions for a general right of access across most land in Scotland have been much praised for their broad and forward-looking content. Indeed, this legislation has captured international interest. Generally, the implementation of this Part of the 2003 Act has gone well: of course there have been local difficulties but these have to be kept in perspective, although shortage of public sector funding is a current issue. The fifteenth anniversary of the passage of this legislation was recognised recently by a Holyrood reception led by Ramblers Scotland.

While Part 1 of the 2003 Act is often seen as primarily about enjoying the outdoors, in the countryside, the basic access right is wide-ranging across Scotland, allowing for passage across land, and thus extending over our towns and cities – limited, of course, by the scale of built development therein, and by proper and realistic limitations to meet other societal interests. The breadth of this legislation and its purposes do have a close connection with the wide scope and purposes of planning, and this will often be well understood and acted on positively by many in the planning profession not least because local provision for public access in Scotland is often housed in local authority planning departments. However, the statutory links between public access and planning are built more on development control, say through section 208 in the Planning Scotland Act 1997 for the closure or diversion of rights of way, provisions that strictly date back to much earlier planning legislation. There can be other local issues between planning and public access, say, the misuse of permitted development rights to inhibit the public from exercising their access rights.

Practical provisions for diversion etc of public access have a role in planning, but we think that it is now time for a more positive approach to be taken, especially, given today’s strong under-pinning to community planning and place-making; the need for more sustainable travel in built-up areas; and the growing call for more physical
activity in the interests of public health. And enjoyment of the outdoors in the more conventional sense is critically important close to where most people live, either linked to the green space in the built-up areas or in making outward connections to adjacent rural settings.

It is our view that there is a need for a more positive statutory linkage between planning, its contemporary approaches, and the positive role of Part 1 of the 2003 Land Reform Act, and we recommend that words to this end be entered into the draft Bill. These words need not be complex: but they should move us on from the present development-control links mentioned above, to make a positive cross-connection between these two public-interest values of well-planned and attractive settings for work and living, and the greater mobility needs of society today, as backed by Part 1 of the 2003 Land Reform Act. Some simple words that would lead planning to have close regard to the provisions of Part 1 of the Land Reform Act 2003 would be helpful.

Yours sincerely

John W Mackay

Footnote: The Scottish Rights of Way and Access Society has been acting to protect and promote public access for more than 160 years. Our origins date back to the mid 1840’s, and to challenges made against landowner closure of routes used by the public, initially in and around Edinburgh, and later across Scotland. ScotWays is involved in a range of practical activities such as advisory work for the public; cataloguing rights of ways; and the promotion of opportunities for the public to participate in open-air recreation, through signposting and publication. We also research and promote the importance of recreational resources, such as our Heritage Paths project.