Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Scottish Community Alliance

Background to this response

Scottish Community Alliance is a coalition of 22 national networks, all with community based memberships, a number of which have an active interest in the way that Scotland’s planning system currently serves their respective memberships. These organisations are likely to submit their own tailored responses to the Bill.

This response is based on discussions that have been held within SCA’s membership in the months leading up to the publication of the Bill and throughout the various review processes, consultations and enquiries that Scottish Government has conducted into different aspects of the planning system.

In particular, this response is an attempt to represent a perspective that is drawn from the lived experience of communities that have engaged with the planning system as consultees and as active partners in the planning process, and that are committed to making their respective places better places to live and work in and in the pursuit of this, have had a requirement to engage with the planning system. In that context, the Planning Bill as proposed already sits within a contentious space and for many communities there is a sense of widespread disenchantment with the current system based on their long standing experience. Any proposals for reform therefore, need to take into account that they will encounter a significant degree of scepticism from the outset.

This response also starts from the premise that the planning system does not operate in isolation. Planning is an integral part of a much wider and complex system of public services that serve a range of stakeholders with varied, and sometimes conflicting interests. The public service reform agenda is well articulated elsewhere (Christie Commission et al) and therefore any proposals for the reform the planning system need to align with the principles and progress which is being made with regards to this broader agenda. This response also assumes that the planning system is an integral part of our system of local democracy. If there is a failure in the planning system it follows that there is a failure in our system of local democracy. Finally, this response is informed by the same principle that is underpinning the current Review by Scottish Government and COSLA of local governance arrangements in Scotland – and that is the principle of subsidiarity. This is the idea that decisions should be taken, wherever possible, as close to the communities that are affected by them. This is entirely consistent with the broader direction of government policy in recent years which has been towards increased levels of community empowerment and locally led development.
Consequently, this response focuses primarily on those issues covered by questions 1, 4, and 6.

Response

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?

The starting point for this question is that, as things stand, a significant number of communities do not consider that their views are sufficiently taken into account when developers are intent on securing permission for a development. Therefore the question is really about whether the measures as proposed in the Bill will make any material difference to the current state of affairs in terms of correcting the perceived imbalance in the distribution of power and influence over planning decisions.

Front loading community involvement and early engagement in the system has been the constant refrain from the planners and those charged with the task of reforming the planning system. The idea being that if communities can engage appropriately and early enough in the process, the problems as perceived by communities would be resolved. However, all the evidence suggests that this hasn’t happened. When communities do comply with all the requirements and expectations, the levels of frustration and disappointment generated amongst local people as a result remains high if not even higher due to the time and effort they have committed. The predominant perception of communities continues to be that their voice is neither heard nor valued by the planning system.

In theory, reinforcing the linkages between spatial planning and community planning should lead to greater coherence on the ground and a clearer rationale for the decisions made by the planning process. However, as things stand, local interests and aspirations are not effectively reflected through the Local Outcome Improvement Plans of CPPs and so this is unlikely to make any significant difference to the overall disconnect between the planning system and the views of communities.

Furthermore, the capacity of communities to engage effectively in the system, even where there is a will to do so, is hugely variable across the country. There is little point in setting up a system to fail. Therefore, if the central premise of a successful and high-functioning planning system is that it depends on the community becoming engaged much earlier in the process, proper consideration needs to be given as to how communities are to be supported and encouraged to do this. Over a number of years, a serious deficit has opened up in terms of the resources and skills that are available to support communities in order to develop their capacity to engage in processes such as planning.
However, consideration of this deficit in capacity building skills and resources should not be restricted to the debate about the future of planning and nor should planning be expected (on its own) to come up with the solutions. There is a much wider concern that a major flaw in the Scottish Government’s more general strategy to encourage communities to take more responsibility and control over local decisions. And this relates to the unanswered question of how communities are to be supported and resourced sufficiently so that they can assume these new responsibilities with some expectation of success. Planning is only one component of this much wider challenge.

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 focused 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 theme that appears to run through the Bill is the desire to make the system appear more streamlined and less bureaucratic. While on the surface this might seem a positive development, there are real risks that the system becomes less accessible to communities and harder for them to find traction within it so that their views can be taken on board. Moving the LDP cycle from a five to ten year span, is likely to create the perception that the opportunities for engagement are fewer and further apart.

Similarly, removing the Main Issues Report from the process is likely to have the same effect unless some additional measures are put in place which have been explicitly designed to compensate for the MIR removal. One of the primary intentions of the MIR was to provide an early opportunity for local engagement in the Plan. Although it was widely recognised that MIR wasn’t particularly effective, that doesn’t negate the intention that lay behind it. Simply to remove it and not replace it with something else, sends out a signal about how much value is attached to early community engagement in planning.

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?

Local Place Plans are not new. Communities have been engaged in this activity for many years. However, statutory recognition of this activity is welcome if indeed it leads to any change in the way that planners and other external stakeholders respond to them and attach weight to their content.
Local Place Plans that have been developed by the community, and where there is a sense of genuine ownership by local people, effectively become the ‘business plan’ for that community. These plans at their best, go well beyond a consideration of the spatial aspects of the area but have regard to the future social, economic and environmental development needs of the whole community. Therefore the most effective plans are in effect a holistic expression of a community’s aspirations. Local Place Plans of this nature are at one (optimal) end of the spectrum. At the other end of the spectrum are those Plans that have been drawn up by external consultants who were commissioned by external stakeholders (often the local authority) which will have involved a measure of community engagement (often undertaken by ‘expert’ and ‘community-focused’ agencies) and which will often consist of attractive looking design solutions, expensively produced that have attracted no significant buy-in from local people. These are the reports that can be found gathering dust on the shelves of local authority regeneration teams all around the country. And there are many of these.

The substantial experience to date suggests that simply giving Local Place Plans new statutory recognition in the Bill will achieve nothing without a clear statement about the status and purpose of these plans. The idea that the planning system will be required to show ‘due regard’ for these plans sounds like permission to ‘read and ignore’.

However if the Bill’s published guidance were to clarify the different levels (of sophistication) at which Local Place Plans could exist, and the legal force that they carried, it might convince communities to commit the necessary time and energy required to draft a Local Place Plan.

At its most basic level, where no interest in developing a Local Place Plan could be mustered within the local community, the default LPP might be the existing LDP written into a hyper-local context. However, the levels of complexity and sophistication can steadily increase to the point where the spatial aspects could be adopted as supplementary planning guidance, the ‘economic’ aspects could determine the local economic development strategy, and the ‘social’ dimension could determine the area’s health and social care provision and so on.

This approach would also be consistent with the wider policy direction of public service reform, local governance review etc. To restrict the focus of LPPs to planning and land use issues would suggest that planning continues to exist within a very narrow area of policy interest and is failing to integrate with wider government policy ambitions.
Are there any other comments you would like to make about the Bill?

1. There is a strong sense running across the Bill that despite the accompanying rhetoric, it leans heavily in support of the developers’ interests. The evidence for this lies in the ‘simplifying’ of procedures, the removal of the MIR, the proposed move to a 10 year LDP cycle, the introduction of the Simplified Development Zones, lack of clarity around what status would be attached to Local Place Plans and the continued reluctance of the Scottish Government to engage in a proper debate about the efficacy of the appeals system. In particular, it is the wholly one sided nature of the appeals system that is the cause of the high levels of distrust amongst communities. The right of the developer to submit repeat applications until they gain permission, or to appeal to Ministers, wears down the resistance of the planners and communities alike. Communities are not, as they are often caricatured, anti-development but in order to have trust in the planning system they must have confidence that their elected representatives are able to protect their interests from inappropriate development or they must have a right to some level of appeal against what they consider to be, inappropriate development.

2. Our final comment would be to lend support to the proposal as outlined in the evidence from Community Land Scotland which aims to assist in the repopulation of those remote parts of rural Scotland that were historically depopulated by the Highland clearances. In particular, CLS propose that Ministers should have the powers to invoke the compulsory purchase of land for the specific purpose of resettlement and that communities should be given the right to buy land for this purpose if it has lain vacant and neglected for three years.

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