Local Government and Communities Committee
Planning (Scotland) Bill
Submission from Stockbridge and Inverleith Community Council

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?

No. The Bill in its present form appears designed to make the system faster. It is centralising and will make, on the whole, the community less involved. Speeding up the system and thus giving more consents may well have an adverse effect and in particular it may slow down the building of much needed affordable housing by encouraging developers to focus on land speculation and pressuring for consents for luxury housing on protected urban green spaces or historic sites. It is likely to weaken protection for the natural environment.

In a system that is supposed to be “plan-led” there need to be mechanisms to deal with developers who put in applications that differ significantly from the LDP. Such applications often succeed by appeal which negates the time and effort that has been put into the LDP by planners, many expert groups and by the community. Equal Right of Appeal (ERA) would help the community to feel that they had some voice. We do not understand the Scottish Government’s arguments against ERA. It has worked in other countries and there is evidence that it has improved and can speed up the planning system. It is fair and democratic. A developer with an application that is not in accord with the LDP should certainly not have a right of appeal.

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?

We do not consider the Bill will necessarily result in more housing. The assumption seems to be that the planning system is the reason for low house building levels. However there are plenty of consented planning applications - the problem is not lack of consent for development but lack of consented developments being built-out by developers. There are many factors involved. There is a particular need for affordable housing which the Bill does not seem to particularly promote.

The following changes would help:

- Strict time limit on consents to stop land-banking to encourage developers to sell if they are not going to build out.
• Allowing affordable housing to be built by Housing Associations and/or by LAs as happened in the past with council housing. The Scottish Government needs to encourage this sort of development with more use of compulsory purchase powers.

• Make it difficult for developers to increase the land value without building. Introduce a land value tax - to discourage land speculation.

• Bring in Equal Right of Appeal (ERA) for Communities - to give them the opportunity to challenge developers and Councils who permit inappropriate development contrary to Local Plan policies. If no ERA remove Developers’ Right of Appeal to give an equal playing field.

• Incentives to build on brownfield sites. No speculative development on protected land i.e. green belt and other land with protection policies shown in the LDP - this would speed up the system and push developers to designated development areas. Government Reporters on appeal have allowed development on green belt in Edinburgh despite the Council refusing the applications, on grounds that not enough housing quota has been built. This just encourages developers not to build in areas designated in the LDP as they prefer luxury housing on green belt.

• Encourage councils to strengthen Development Plan’s policies and strengthen protections within plans - this would help to stop speculative development and time-consuming battles between communities and developers.

• Make it difficult to build other than in development-zoned sites and don’t allow developers to repeatedly put in different plans for the same site and don’t allow changes to applications after they have been advertised without re-submitting as a new application.

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?

We do not agree with the removal of SDPs (difficult though it might be to get the public to engage with them). Removing SDPs will make strategic planning even more removed from the community - it will make the system more centralised. The suggested alternative is vague and non-statutory which would allow authorities under pressure to evade dealing with strategic development. SDPs have not been in place very long and need time - people are just starting to get used to them - continually changing the system is expensive and undermines morale.

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?
We are in favour of a plan-led system but unfortunately the present system and the changes proposed in this Bill will still allow development that will not be in accordance with the LDPs. It is common for developers to ask for too much, too high for the site and to get round LDP policies using various strategies. This causes problems with communities and on large developments this ensures a long battle between the local community and the developer in which the developer usually ‘wins’ even if the LA has rejected the application. The developer appeals and the decision of the Local Authority backed by the local community can be overturned by a Reporter. There is no fairness or democracy in this system. The community is disillusioned about planning which is no longer seen to have any connection with the ‘public interest’. The availability of ERA would make developers less likely to ask for development that does not accord with LDP policies and produce a fairer system. It works in other countries and there is evidence that it has improved and even speeded up the planning system. There is no reason why it shouldn’t work for Scotland. It is in the developer’s interest to oppose ERA (as well as other groups with a vested interest). If the SG refuses to allow ERA then at the very least it should refuse the developer the right to appeal.

The Local Plan policies need to be written so that it is less easy to manipulate them - the Bill should encourage LAs to write policy in a more straightforward manner. The MIR should be retained as it allows the community to look at early proposals for the LDP. The proposed ‘gate-check’ does not seem to properly involve the public and what is proposed is very vague. This is unsatisfactory. It is a mistake to extrapolate figures too far ahead as is done with HNDA figures which should not be extrapolated more than 10 years. Most predictions in economics and with population figures are very inaccurate when compared with reality. Therefore Strategy Plans could be every 10 years whereas LDPs should keep to 5 years. A lot can change in 5 years for local development. The Supplementary Guidance should be kept and give statutory status. It is very useful.

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

We understand that SDZs where tried have already been found problematical. The system is very complex, would involve less community scrutiny and much extra work for planning authorities. We cannot see how the public would benefit. It is not clear if the safeguards to the environment would be provided with SDZs.

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 involvement other questions 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?

In general the Bill will reduce community influence as noted in replies to other questions. However LPPs could work for communities but there would need to be a lot of financial and expert support for communities to enable them to put forward plans in a meaningful way. The financial figures do not seem to allow enough for the expertise and help that would be needed. Poorer communities will need the most help and are likely to be even more disadvantaged in this respect. The work involved should not be underestimated. More safeguards need to be in place - the status of LPPs is not clear - especially how they fit with respect to the LDP. They would need to be incorporated in some way.

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?

Enforcement is not effective as local authorities are afraid of the costs they may incur especially if they end up in court. Developers, builders and architects know enforcement is poor and take advantage. Enforcement should be rigorously implemented and greatly increased penalties given together with a better system for recovery of expenses. Enforcement should be a statutory obligation. Greater powers should be given to deal with this problem which makes the public lose confidence in the system.

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?

Infrastructure has to be financed and governments have the capacity to do that and to put in place efficient systems. We have no expertise in how to do this. Looking at the English experience on Infrastructure Levy and learning from their experience would seem an obvious thing to do - and you surely must have already looked at it.

Section 75 agreements can be problematical for infrastructure - they can be used by developers to slow things up spinning out the period of “minded to grant” to make the planning permission start later and therefore lasting longer and delaying development. They can also appear to act like a bribe to get permission. Section 75s can often be cancelled later, by developer request, when the development is underway when the LA is put in a difficult position with a half-finished project. These problems need to be addressed in the legislation.
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 - training is essential. Councillors have frequently shown themselves to make decisions based on erroneous knowledge of planning and of their own LDP. Some don’t even seem to know the system should be plan-led. Training would need to be renewed regularly.

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

The impression given in the Bill is that the drive to improve performance is really a drive to speed up the system to produce more development. This will not necessarily improve other aspects of performance which are more important. A well considered decision is more important than the speed of decision. Performance must surely be affected by the loss of trained planning staff which has happened in many planning departments. And yet this Bill proposes to change the system further in ways which will be likely to require more staff, e.g. SDZs, LPPs.

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?

We haven't the expertise to answer this. However it is obvious that planning departments are under great strain and there is pressure on them for a swift turnover of applications. There has been a loss of planners and a loss of expertise in departments and this needs to be dealt with by the authorities.

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

As always the devil will be in the detail and that will mainly be in the secondary legislation which is not available. This makes the whole process unsatisfactory.