Session 1: Parts 1 and 2

MSP: Graham Simpson MSP

Part 1: Development Planning and Local Place Plans

Whilst support was voiced for having an overall strategic plan which was drilled down at local level, some raised concerns about whether this will work well in practice – particularly in relation to integration between Scotland and the rest of the UK.

During discussion about the proposed removal of Strategic Development Plans it was highlighted that these plans don’t currently exist in all areas. It was also highlighted that whilst some haven’t worked well there are some which have and maybe worth keeping. Some expressed concerns that if we simply rub everything out and start again we jeopardise the good relationships which have built up. A solution was proposed to build on what is there already rather than a complete new start; examine the option of perhaps “repurposing SDPs” rather than complete removal?

In general, there were some concerns that the voluntary nature of these new arrangements won’t work – particularly in the context of local authorities facing budget pressures and making cuts to services; a voluntary duty will not have the weight behind it as a statutory one, need to have some sort of weight behind arrangements because even when they were placed on a statutory basis they could be problematic. We are in danger of “throwing the baby out with the bath water”, how would making it voluntary improve those areas where it’s not working – is there a case for more empowerment in certain areas?

Whilst there were some concerns that we are stepping further away from a statutory basis this feeling was not unanimous and some felt that making them statutory would have a negative impact, particularly for partners which might find it more resource intensive than useful to engage on every aspect. Most recognised, however, that relationships and partnership working between the relevant statutory partners and key agencies were important.

During discussions about possible amendments to the Bill the following issues were raised:

- Some respondents were keen to see closer alignment of LDPs to national policy as long as there is proper scrutiny of these plans;
• Would like to see engagement with stakeholder as part of any consultation process to get a balance in the process;
• If relationships need to have a statutory basis; would like to know how these work in practice; it would need to be well-defined who would be key agencies and who would be statutory partners. Overall lack of detail in the Bill about this area; and
• Attendees were keen to know what are the outputs of the partnerships – how and what fashion would these feed into the National Planning Framework?

In relation to the involvement of Scottish Ministers.

Some participants stated that whilst there seems to be a lot of emphasis on the locality of plans the fact that they will have to be approved by the Scottish Government may run contrary to this purpose. Maybe a perception that the Local Council officers are doing a lot of work on the ground yet all decisions will rest with the Scottish Government.

If we are talking about empowering communities, some felt this seems out of step with that and almost seems to be “centralisation”. People on the ground may see this as a “power grab” by the Scottish Government – which moves away from the idea of local democracy.

A common thread in this discussion was the fear is that with the lack of detail provided in the Bill as it currently stands you run the risk of people making up their own detail.

Specific concerns discussed included:

• How planners can help deliver improved infrastructure – it makes sense to co-ordinate planning with transport provision and energy companies. Need to give planners the power to deal with this level of integration.
• Over the years we have become good at consulting but the fear is that drawing up plans may not always align with the needs of the community – Councils need to get all the key people around the same table; key agencies all included.
• Local communities will have to produce their own local place plans and then present these plans to councils who then say no as all they are only obliged to “have regard to these plans”
• Need to be aware of the need to provide technical assistance to community groups.
• LPPs won’t be married with existing processes and they will raise expectations causing grief for not much collective gain.
• A perceived lack of scrutiny – there are already a lot of duties placed on bodies to go through different committees e.g. participation budgeting, council meetings. Is this another layer?
• The burden of already producing a lot of information for planning now will have to produce even more in relation to these LPPs – without clarity being provided on what this will entail.

**Community engagement:**

The majority of respondents felt that the key is getting engagement early enough in the process so it’s not a shock. Although there was a divergence of opinion on whether or not communities do get the information early enough already. E.g. preferred options for housing.

Some voiced a fear that the new arrangements will raise the expectations of local communities too much; Some attendees were concerned that community engagement is just going to become a “relevant thing” and going to raise expectations (again).

Need to also get the message out that Councillors do a good job and that they are supported by experienced officers.

Some attendees felt that communities which need the most help are ironically those who aren’t the best organised; those in desperate need of housing aren’t mobilised it is only the older sector communities which have the time to contribute and feed into the proper channels. Some felt that often only a handful of people in the local communities drive local decisions.

Some felt that it was important to point out that very little community engagement was not across the board.

Attendees felt that early community engagement has the potential to be the strongest part of the Bill, however the question is how it happens. We must consider that expectations will be set only if engagement happens in the right order, at the right time.

There was a suggestion for a “more beefed up LDP system” with more focus on people early in the process; when you are first developing the LDP. This may be more practical.

Some attendees felt that there may be merit in demonstrating exactly how the new processes will work while at the same time highlight some of the pitfalls.

**Part 2: Simplified Development Zone Schemes (SDZs)**

Discussion on this part of the Bill centred around the potential negative impact of the new SDZ’s.

The group discussed that these zones could potentially be set up anywhere and that the council as well as the Scottish Government could designate such zones.
Some attendees voiced concerns that the process needed to consider what infrastructure is available and if there is are there any issues with the existing infrastructure (also look at providing compensation to developers).

Discussion also highlighted the need for studies to assess the impact on existing customers and capacity issues – and this is monitored over time.

Some felt that these zones may not be enough to change the mind of certain developers if the market wants to go into a certain area. Once again there was discussion about the importance of the need for early engagement in identifying these zones.

There were concerns voiced that this new power might be seen as imposing plans on communities which could lead to an imbalance. Some also felt that expectations could be raised despite the reality of the situation – there needs to be a proper process with developer’s expectations managed as the reality often is that significant resources are needed for transport and infrastructure for these zones. Attendees were keen for that message to get out there, that the process needs to be clear and expectations managed.
Session 2: Parts 3, 4 and 5

MSP: Graham Simpson MSP

This discussion was held with a different group to that of Parts 1 and 2.

Part 3 – Changes to the development management process

In relation to marine planning, it was highlighted that it was important engage with the sector at the earliest stage.

Part 4 – range of other matters

Training

The proposals for a requirement for Councillors to undergo training before taking planning decisions was discussed. Some felt this was an important requirement, however it was felt that that training did not need to be too onerous, could focus on a few important key areas and could be an online based system. This, some said, would ensure that people would not be put off becoming local councillors and maintain the voice of local people.

Some participants felt that if Councillors were to be required to have this training, then the relevant Minister should also be expected to have that training.

It was highlighted that directly elected politicians are not required to undertake such training in relation to other policy areas where they take decisions, so if it were to be applied for planning, then why not in other policy areas?

Attendees also highlighted that some planning decisions are made for political reasons, rather than due to planning policy and in these circumstances any training would not be relevant, however, it was recognised that decision-makers should be expected to follow the law.

There was a discussion around who would be responsible for delivering this training. Some felt that it should be decided at a local level and some highlighted that it should be an accredited body.

Assessing performance, enhanced scrutiny and annual report

Many highlighted that currently, the Bill’s proposals for assessing and defining performance was vague. It was highlighted that it was difficult to comment on the proposals to assess performance given that it will be defined by subordinate legislation at a later date and felt that it should be included on the face of the bill.
Some commented that there are often good reasons why decisions are slow, so it was felt that assessing the number of planning applications passed alone would not be an appropriate measure of performance and that it should cover other factors, such as the quality of consultation.

Participants were also concerned that this enhanced scrutiny of local performance by central government could be used as a mechanism to influence local decision making around planning decisions to reflect national priorities. Some felt it could affect local democracy.

**Definition of planning**

It was raised that there should be a definition of planning in the bill. Some felt that the focus was on streamlining the process and inclusive economic growth, however some felt it should also include sustainable development, social and environmental factors.

For example, it was highlighted that the marine plan contains high level objectives within the plan. Many felt that, rather than being in the National Planning Framework, the purpose of planning should be on the face of the Planning bill.

Attendees felt that it was difficult to see how the proposals in the bill aligned with national policy, given that much of the needs of specific groups will be addressed, such as the ageing population will be addressed through secondary legislation.

Some stated that there was a requirement to lift the status of planning to decision making level at local government as some felt that its status had been demeaned to a regulatory function. Some felt, that as things stand, planners would not have the resources to undertake the level of local and community engagement that would be required to elevate its status and lead to meaningful outcomes.

Many felt that currently it is the developer that has the most sway in planning decisions and that, should an application be rejected once, it will generally be accepted on a second application. Participants highlighted a requirement to limit the circumstances in which a developer can reapply and provide regulation to ensure that developers cannot wear the community down in relation to their objections to certain developments. Some felt that strengthening the robustness of Local Development Plans could assist with this.

**Appeals process**

It was highlighted that currently, the appeals process can take up a lot of the planning department and other organisations’ resources and it was often the same battles that were being fought, for example appeals on the development of wind farms. Some felt that the appeals process should not be taken away, however, some
sort of control was required to limit against the presumption of appeal or double appeals.

Participants called for third party or equal right of appeal where communities could appeal on planning decisions which are contrary to the Local Development Plans or controversial, but not on everyday decisions. Some felt that such a process could act as a mediation process and would work as an incentive in the earlier stage of the process to ensure that developers consult with local people and ensure that proposed developments are in line with Local Development Plans.

Some called for an appeals body to be truly independent of local and national government to ensure independent decision making.

Others highlighted that if Scotland brought in an appeals process that made development more onerous than in other areas, there was a risk that developers would build elsewhere.

It was highlighted that in order to avoid an issue where the appeals process could hold up planning decisions, it could be front loaded if people were encouraged to be involved in the process at an earlier stage as part of the development plan. This, therefore, would allow developments to be dismissed if they are not part of the development plan.

**Part 5 Infrastructure Levy**

Some highlighted that there was a lack of detail in the bill on the proposals for an infrastructure levy as this will be further determined in subordinate legislation. For example, who will be liable for paying them and under what circumstances. It was highlighted that smaller organisations might not benefit from the wider infrastructure and might not expect to contribute to such a levy.

Participants felt that it should not be used to address previously agreed infrastructure requirements and or affect locally agreed existing joint infrastructure if the infrastructure levy was put on a statutory basis.

Some highlighted that requirement to ensure that such a levy doesn’t just contribute to pure infrastructure, for example, it should also take into account the provision of parks, medical centres, cultural establishments and allotments.

It was highlighted that when addressing the needs of specific groups, such as the ageing population, housing and the accompanying infrastructure needs to be located in the right place.

Some felt that the concept of an infrastructure levy was misleading and that it was more about land value capture. A developer would benefit from buying and developing land at a cheap price and that a tax paid on the land would benefit the
community at large. Some questioned who would be responsible for the charge, for example, would it be at local level, national level or both? It was highlighted that in international examples the charges have been layered at each level.

It was questioned whether planners would have the resource or experience to be able to manage the levy as it required knowledge of development economics and being able to assess the viability of projects. It was highlighted that it cannot be used where land is more valuable than property.

Other issues

It was highlighted that the agent of change principal should not only apply to music venues, but also to other cultural venues such as theatres.

Some suggested that planning authority’s enforcement methods needed to be strengthened and that currently planning departments do not have the capacity for enforcement.