Local Government and Communities Committee
Conference on the Planning (Scotland) Bill
Monday 26 February, Forth Valley College

Session 1: Parts 1 and 2

MSPs: Jenny Gilruth MSP and Andy Wightman MSP

Overall Impressions of the Bill

Delegates believed that the simplification of the planning system made sense.

Some delegates felt the Bill lacked ambition and that the Planning Review had been more radical. Discussion covered that the Bill reads as if planning “gets in the way” rather than planning being a positive incentive to create “positive places”. It was felt this was a negative approach to improving the planning system. Delegates felt the Bill should change planning to “do more positive” than simply be reactive. The Bill should be a promoter of good quality planning for Scotland.

Some delegates were broadly in favour of the Bill but had concerns with Simplified Development Zones (SDZs).

Some delegates felt this was a centralising Bill with National Planning Framework (NPF) taking a top down approach, meaning that the Local Place Plans (LPP) would struggle against it.

Delegates felt it was difficult to respond to LPPs because there was still much not understood about how it would look in practice or detail not currently available. There was also concerns about defining community of place and communities of interests and balance the contributions these varying communities would make.

Delegates were concerned that much was being left to secondary legislation meaning there would be reduce chance to contribute and consult.

It was discussed that the original anticipation for the Planning Bill was to addressing the housing issue but some delegates felt this was a misnomer. It was discussed that streamlining the planning system undermines housing which is a more complex sector that encompasses private business models and market factors. Some delegates felt that the Bill wouldn’t deliver promised housing allocation via SDZs and there was a need to focus more on land banking, land value capture or ideas such as a land assembly. Some delegates felt that housing should be local authority led rather than market-led.

The issue that Scotland will have an aging population by 2030, therefore there is a need to anticipate and plan for an aging population. It was suggested that the Bill could be more explicit that the voice of older people is heard within the planning system.
One delegate had concerns that there was no reference to culture or cultural facilities within the Bill and there needed to be stronger reference to this aspect within the NPF. Similar concerns were mirrored from delegates who felt similar regarding environmental and landscape issues. They felt there was no clear vision or aspiration to plan for “positive places”.

One delegate raised the concern that there was no join-up between terrestrial and marine planning despite this issue having been raised during the Planning Review. Delegate felt this was a missed opportunity especially as there will be impacts at the margins of when these two planning regimes met.

Some delegates saw the rationale about removing Strategic Development Plans but believed that the duty to cooperate was important enough that it needed to be retained within the Bill.

**National Planning Framework**

There was a discussion about the pitfalls of cascading. NPF contains the top principle then trickles down the details to LDPs or LPPs. When consulted, people get confused between the principle and the details. Some delegates felt we should hold local authorities to account on the principles rather than the details.

**Local Place Plans and Local Development Plans**

There was a discussion about what happens when a LPP is right for their communities but is in conflict with the LDP? In a situation like this, there is a potential for disappointment and future disengagement.

Some delegates felt that LPPs should have priority and should be given a statutory basis, which is currently not the case in the Bill. Delegates felt that currently LPPs don’t have that clout.

There were also concerns about resources to support LPPs – financial and otherwise. Likewise, there was concern that some communities will produce LPPs while others will not and it is usually those that need it the most that won’t have one.

Regarding extending LDPs to cover 10 years, delegates remarked that this change will provide for a longer strategic approach but you need to get the plan right from the start if it is going to last 10 years. This led to discussions about conflict between preparation time and start time of plans. What would councils do, in terms of delaying or starting the 10 year period, if any LPP is significantly different to the LDP?

Some delegates would like to see additions to the review of LDPs. What would trigger a new LDP and who can trigger a new LDP within the 10 years? What would the notification and consultation requirements be if this were to happen?
Simplified Development Zones

Some delegates were concerned that SDZs would remove or by-pass environmental protections or regulations such as conservation areas. Delegates agreed that some areas or places should be completely exempt from SDZs.

Some delegates felt that SDZs could potentially water down the distinctiveness of a place and questioned whether Historic Environment Scotland would still have overview and input into historic building within an SDZ?

Some delegates felt that SDZs would be helpful in having things ready for city expansions in the near future, such as Edinburgh.

Some delegates felt that the word “simplified” was misleading. Proposed names were “Better Planning Zones” or “Public Interest Development”. Delegates proposed that better names would also lead to better concepts.

Delegates felt it was the state taking more control up-front. Delegates questioned the degree of community engagement in the SDZs. It was asked who decides what is in the scheme and what is exempt?

Community Engagement

Delegates were concerned with the reduced engagement opportunities in the Bill. There is more gate-checking but less quality engagement. The Bill gives off the impression of “This is what we’ll do, do you like it” rather than “What would you like to see?”

Delegates felt that there wasn’t engagement with the planning system at the moment because people’s impression that regardless of the planning system was the decisions will be made by someone else. There was a discussion that the confidence in the process is different to confidence in the outcome. Delegates felt government needed to be mindful of the relationship between engagement confidence and the process to engage.

Delegates felt that the participation statement needed to be improved. How can you evidence meaningful community engagement? Delegates wondered if you could incentives meaningful engagement through legislation rather than record the bare minimum statistics; not about numbers but quality. Could we use more deliberate techniques such as citizen juries? There was sympathy from delegates about the cost of doing community engagement well, especially for local authorities with limited budget and capacity.

There was discussion about how currently people get engaged at visceral stages of the planning process (i.e. when something happens to them or their community as opposed to from the start of a planning application process) and therefore conflict starts too late in the process or ends up creating more conflict.

Delegates discussed the balance of mobilization of community engagement can either create resentment or, if done well, achieve good planning. One delegate
suggested that councils needed “selling teams” investing in the promotion of planning engagement.

Delegates agreed there was a danger that the same people, who have capacity and/or expertise, respond to consultations, therefore undermining how truly representative a consultation can be. Delegates also recognised that communities with competing interests amongst themselves are not a good source of confidence.

Many delegates feedback that many people don’t mind if a change can’t be made as long as they are told why that is the case. At the moment feedback is very minimal or patchy.

There was discussion about representation in the planning system from children and young people. Some delegates felt there was more needed to build in engagement from the start. To engage young people in the planning system, delegates felt there needs to be opportunities provided to engage, creating the space and place to do so, in accessible language and letting young people talk about what concerns them rather than be too prescriptive in the consultation. Delegates felt young people are interested in issues like housing and the places they live but it was about making the planning system accessible to them. Some people felt this principle applied to all age groups.

Local Authorities Planning Departments

Lack of capacity within planning departments was a concern. Some delegates felt that democracy was at stake due to lack of resources.

The planning system does need more planners but we also need to incentivise better behaviour.

Planning Portal can be improved for transparency and accessibility.

Third Party Right of Appeal

Some delegates felt Third Party Right of Appeal could be used as an incentive to get consultations and applications right from the start, by front-loading engagement more and retaining the threat of appeal in order to keep developers honest. This approach hasn’t been tried and tested and it could lead to less conflict rather than increase it.

Delegates felt that currently, appeals were focused on the end of development process but it could be used to iron out the conflicts of planning beforehand. There was a suggestion about whether you could bring appeals earlier in the planning stages rather than right at the end of the process?

An example given about how the lack of Third Party Right of Appeal impacts a community was a community dealing with a landfill application. Over a significant amount of time, ongoing engagement with the community, developers, local authority and relevant stakeholders was conducted, to the point that that community was independently awarded for their efforts. Yet regardless of the community
engagement efforts, a new developer put in an application bypassing all their concerns and was accepted.

**Miscellaneous**

There was a discussion about inclusive growth and how this would affect areas of deprivation. What would this legislation change for them? Some delegates felt that government spending should target deprived areas and help set up viable community partners. Communities need capacity and support and this would also help the government deliver on its wider goals.

Delegates felt there was a need for more join-up with issues of land reform and community empowerment. Delegates felt that if you want all these things to work, planning needs to reflect that as well in the legislation.

One delegate has a concern about repeat applications and how these have dropped off the agenda. Some communities live with levels of uncertainty for years such as South Lanarkshire where they are exhausted by fighting a negative application that statutory bodies were also in agreement should not be allowed, but the developer continues to have the right to re-apply with minimal changes which basically amounts to the same application and none of the concerns from community and stakeholders have been taken into account.

There was scepticism from delegates around the voluntary codes.
Session 2: Parts 3, 4 and 5

MSPs: Jenny Gilruth MSP and Andy Wightman MSP

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

**Overall Impressions of the Bill**

Delegates felt the Bill was heavily focused on housing and not enough on infrastructure. Delegates felt there needed to be more of a holistic view to infrastructure especially if Scotland wants to deliver on housing. There was concern about the lack of detail in the Bill around this.

Some delegates felt that the Bill was being led by housing infrastructure but failed to address other essential infrastructure such as renewables. There was concern about the lack of links between the Bill and the Energy Strategy. Delegates felt that the NFP should incorporate the Energy Strategy and delegates were keen to see more join-up.

Some delegates felt the LDPs worked well, especially in West Scotland. Some delegates felt that losing the Strategic Development Plans were a concern and was just a response to the East/West or Glasgow/Edinburgh divide. The delegates remain convinced that changes need to be made.

Delegates felt if there is no money to deliver, doesn’t matter if you have the best planners or plans.

**National Planning Framework**

NPF was a good document for national significant structures but could go further by drilling down regionally, whilst being open to consultation. Some delegates felt there would be a danger of being more prescriptive and more definite and that the NPF should remain more high level indicating the direction of travel.

Railway companies work to routes not regions therefore NPF makes sense to them.

NPF needs to take national infrastructure into account especially in terms of timeframes since rail infrastructure has long led in times with knock on effects that needs to be mitigated and expectations need to be balanced through national conversation.

The proposed Bill would be out of synch with the Transport Act.

One delegate gave the example of fracking having a clear direction with in the NPF.

**Strategic Development Plans**

Delegates felt there was value in Strategic Development Plans, if we were to remove them we would be the only European country to do so. One delegate gave the
example from the Welsh Assembly that adopted the Scottish planning model since it was seen as best practice.

One delegate pointed out that in the Planning Review the Strategic Development Plans were to be “re-purposed” not removed.

**Regional Level Concerns**

Between the local and national level the gap is too big and therefore you need to maintain the regional level.

Some delegates had concerns that the Bill had no detail about how regional partnerships working will look like under the new planning system.

Regarding Regional Transport Partnerships and Strategy, some delegates felt that removal of SDPs would weaken regional partnerships. There was an appreciation from all delegates that “one size does not fit all” and especially doesn’t work for transport and many other sectors within the Bill. There is a continued logic to consider things at a regional/national basis but not out with Scotland.

Regarding regional plans, some delegates remarked that they don’t see Scotland as a region but a nation and that the Bill shouldn’t unpick decades of good planning.

Some delegates said that Scotland would never get land use and infrastructure integration without regional level vision.

**Local Place Plans**

Delegates felt that LPPs don’t work with every sector, for example railway companies upgrading a new route would need to consider multiple LPPs. LPPs can compete and mean the railway companies can’t decide or differentiate what the priority LPP should be.

Discussion asked what are the things that should be at the national level? Is it efficient to have 34 different LDPs policies or to leave other things at a regional or local level? How much centralization is efficient?

There was also concern that there was repetition or lack of consistency between LPPs on standard policies such as flooding. There should be a national standard policy and LPPs would only focus on more relevant local issues. This would ensure consistency and improve national long linear development. Delegates felt that LPPs should be focusing on points of difference in their locality rather than any repetition of policy.

**Infrastructure Levy**

Delegates felt that infrastructure providers saw themselves as exempt from the infrastructure levy.
Many delegates didn’t see what was being proposed to address current issues and felt the issues were more at local levels and not longer term.

Some felt there wasn’t much money in this to make it worthwhile. Delegates felt that not much new money would be generated and it would just be a case of the same money being moved around statutory bodies, councils and agencies.

Some delegates felt it was important not to create another level of bureaucracy.

There was a discussion about money only being paid to councils. Delegates felt that for transport this would be problematic as budgets would simply be readjusted to match the infrastructure levy (for example, parking fees). There are also cross-boundary issues, therefore proposal that money should go direct to regional or transport partnerships. An example of the North East Transport Partnership was given as working well in Edinburgh, Fife and St. Andrews.

One delegate felt the infrastructure levy was more flexible than Section 75, but the law is wider than policy, therefore needs a stricter policy test.

Regarding the regulation in Section 30 which means Scottish Minister could change the definition of infrastructure, some delegates raised the concern that regulated businesses need stable legislation and structure that is well defined. Bill needs to strike the right balance between allowing flexibility for future needs but not succumbing to the whims of future governments.

**Miscellaneous**

Many industry sectors (such as rail, water or renewables) are statutory consultees and they have many roles such as service provider, infrastructure developer and provider but they are a national body and their infrastructure reflects that and therefore the planning mechanisms need to tie into that. Delegates felt they needed to understand a little more about what the implications of SDZs and LPPs will have for their work.

Statutory consultees have to engage, but for others it is sometimes dependent on the circumstance – i.e a community affected by flooding. If there is a duty for a statutory consultee to consult then they have to. If there is discretion, then, depending on budget restrictions and capacity, they don’t always. Councils are already hard pressed to cover their statutory duties first and then they consider what capacity they have for anything else left over.

Some delegates raised the point that the Clyde Plan and the Aberdeen Plan were considered as exemplar plans and should be included in NPF4 as such.

Delegates were support of planning training and wanted it to be consistent and mandatory and rolled out in a timely way. There was a proposal that training in economics would also be of benefit.
One delegate had a concern about the quasi-judicial nature of local review bodies and the only recourse thereafter being the Court of Sessions. How do we ensure the merit of the decision?

One delegate had a concern about planning fees being overtaken by consultation and application fees in Section 36.

One delegate felt that strategic transport routes that cross numerous council boundaries need to be safeguarded.

Some delegates felt the planning system should be about outcomes and therefore developers should be given their planning permissions quicker.

Some delegates argued for decentralization of energy infrastructure since there was more potential for regional and local level not just national level with distributed generation.