

## **SUMMARY**

The Scottish Parliament has a once-in-a-generation opportunity to shape reforms that will have a **lasting impact on the form and function of Scotland's planning system**. Proposals in a recently-published Scottish Government consultation paper are due to be debated in the Scottish Parliament this week (Thursday 26th January 2017). This briefing aims to provide MSPs with background analysis about issues of concern with proposals contained in the consultation<sup>1</sup>.

1. The White Paper contains welcome proposals for a plan-led system and importantly acknowledges that public trust in the planning system must be re-built
2. Proposals to streamline planning processes reflect the persistence of a short-sighted view of planning processes and public participation as a barrier to development that threaten to further undermine the capacity of the system to deliver sustainable development and win back public trust.
3. The White Paper risks missing opportunities for more lasting reform, such as equalising appeal rights and addressing the historical failure to create a positive, plan-led system that effectively captures the uplift in land values created by the grant of planning permission

## **Background**

On the 10<sup>th</sup> January the Scottish Government published a White Paper '[Places, People and Planning: a consultation on the future of the Scottish Planning System](#)'. The 'consultation' includes 20 proposals for reform in *four* sections and runs to April 4<sup>th</sup> 2017. This Planning Democracy (PD) briefing outlines the positive aspects of the proposals, but most critically highlights our key concerns and recommendations to those concerns.

### **Section 1. *Making plans for the Future* aims to..**

...ensure that development plans provide a clear vision, inspire confidence of investors and communities and are able to deliver sustainable development in the public interest.

### **Positive aspects**

- A statutory duty to better integrate land-use planning with community planning
- Involvement of citizens on panels to participate in early 'gate checking' examination of plans
- An intention to make plans clearer and more effective can aid wider understanding and engagement

### **Key concerns**

- The abolition of strategic development plans after less than ten years and their replacement with a duty for local authorities to cooperate over regional issues. This could lead to over-centralisation and the stretching of under-resourced local authorities.
- The streamlining of existing local development plans and supplementary guidance (including the removal of 'main issues reports') may reduce opportunities for community engagement and shift local planning authorities towards a 'decide, announce, defend' approach to producing plans.
- There is no recognition of the underlying challenges involved in realizing the aspiration for a plan-led system (see below)<sup>ii</sup>

### **PD Recommendations:**

1. Reform should incentivise the delivery of a 'plan-led' system by significantly rewarding applications that are in accordance with the development plan and penalizing those that are not as well as via equalising appealing rights (see below)
2. Increased use of zones that offer planning permission in principle require a clearer commitment to ensuring full democratic engagement in their allocation and review
3. The Bill should introduce proactive powers of land assembly, similar to other European systems which provide greater certainty

### **Section 2. *Getting More People Involved in Planning* aims to...**

...recommit to the goal of ‘front-loading’ or early engagement, an aspiration that has been consistently articulated for nearly fifty years but never achieved.

**Positive aspects:**

- Making Local Place-plans statutory as part of the development plan could help people to engage people with the development of their local area, supporting the community empowerment agenda.
- The consultation recognizes problems of public trust in the system and includes some ways of addressing repeat applications by developers and poor enforcement, both important issues.

**Key concerns:**

- The proposals claim to avoid ‘unreasonable protectionism’ and welcome only engagement of those who back development and growth. This censored version of public participation is a worrying caveat to the land reform and community empowerment agendas
- Insufficient detail on what needs to change to make front-loading a reality; there is no acknowledgement that fundamental differences in interest make voluntary collaboration unlikely, particularly for the development industry
- Over-reliance on the charrette programme: charrettes can work but they are expensive, principally expert-led and were developed to focus on design solutions. Over-emphasis on charrettes blocks wider experimentation with alternative techniques that could be more effective and better value (e.g Citizens Juries; Deliberative Polls)
- The details of Local Place Planning will matter a great deal; in England, it has become a long, slow and expensive system that is inaccessible to many communities.
- the consultation has been launched before the publication of commissioned research into [barriers to engagement](#) (intended to inform the proposals)
- Contains no real solutions to improve accountability to the public, the accessibility of planning processes or that address the inequality of arms that exists between citizens and the highly-professionalised planning and development processes. There is no recognition of the often significant emotional harm that planning processes can inflict on people.
- Rejection of an equal right of appeal (ERA) – a key reform supported by communities across Scotland. Planning Democracy have consistently presented evidence that illustrates the benefits of improved public engagement in development planning and which discredits the unsubstantiated claims made by the house building lobby in opposition to ERA.

**PD Recommendations:** Measures need to be introduced that would meaningfully increase the power of the public voice in planning and which make it easier for people to have a say – communities do not just need more opportunities to participate. There needs to be more understanding of the challenges involved and more powers to ensure people’s concerns are heard. This should include:

- the introduction of an Equal Right of Appeal *limited to particular applications* such as those contrary to Local Development Plans or where there is a conflict of interest. This would have the effect of introducing a credible threat that development contravening the provisions of a plan would be subject to scrutiny – substantially increasing public trust in the planning system.
- measures to enhance transparency and increase public confidence at local authority level such as requiring planning meetings to be web cast, publishing details of voting records, validating Pre Application Consultation reports and developing opt in registers for public wishing to be involved in consultations.
- prioritisation of resources to explore innovative means of engaging communities particularly in plan-making but also in development management decision-making.
- Planning Performance regimes need to include community engagement indicators, based on both the extent of involvement and the extent to which community concerns have been actively accounted for in decision-making.

- Communities should be represented on local review bodies

**Section 3. *Building More Homes and Delivering Infrastructure* aims to...**

...to introduce nationally-determined housing targets, to promote simplified housing zones and to explore the introduction of a new infrastructure levy.

**Positive aspects:**

- Recognises need to ensure high quality new housing is delivered in ways that enhance place qualities
- Recognises need to tackle infrastructure funding issues and secure powers to deliver plans

**Key concerns:**

- Centralising housing targets removes a key mechanism for local democratic consideration
- Proposals for an infrastructure levy are watered down and do not address the fundamental issue of how the uplift in land values created by the grant of planning permission should be captured and used to support proactive planning
- Proposals to streamline planning permission (eg via simplified housing zones) require democratic debate

**PD recommendations:**

1. Scotland needs a more fundamental debate about the underlying issues of land assembly, compulsory purchase and public funding of infrastructure, and [how these could be paid for from the uplift in land values that the grant of planning permission brings](#). The new infrastructure levy may prove a more transparent and accountable mechanism than existing section 75 agreements but it is doubtful that it will enable a serious change in practices or exploration of how to resource parallel objectives for land reform and community ownership.”

2. Any attempt to centralize or streamline decisions about new development needs to be subject to robust democratic debate: planning is not a ‘technical’ exercise or one that should be led by market priorities: we need to re-commit to democratic planning in the public interest.

**Section 4. *Stronger Leadership and Smarter Resourcing* aims to...**

... to ensure that planning services are properly resourced and capable of playing a full role in setting and realizing corporate priorities within local government

**Positive aspects**

- Recognises the need for a well-resourced planning service

**Key concerns:**

- Implies that developers can be considered the most important ‘customer’ of the planning service when in reality it exists to serve the public interest

**PD recommendations:**

We agree that more resources are urgently needed to resource good planning and that this can be partly achieved through increasing fees, but in promoting the interests of the ‘paying customer’ there is a danger of development industry needs being prioritised over the wider public interest that planning should serve.

- Increased resources are required to improve how authorities approach public engagement and ensure people have a say in the development that affects them
- Resourcing could be secured by recouping the public subsidy currently given to the development industry by government’s failure to capture the increase in land values that is created by the grant of planning permission

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<sup>i</sup> For a fuller analysis please see our initial response to the consultation at <http://www.planningdemocracy.org.uk/2017/government-white-paper-consultation-branch-root/>

<sup>ii</sup> **Why streamlining planning will not necessarily lead to better development or delivery of housing**

There is an assumption in the review that streamlining regulation will lead to more and better development. This is problematic. Blaming planning for slow delivery of development and seeking constant efficiency improvements in planning processes is a distraction from asking any serious questions about whether the development industry is equipped to deliver the quality and quantity of new development required in Scotland.

The legal complexity of regulating land-use change means that *streamlining things at the plan-making stage* will most likely create ambiguities at the development management stage. Conversely, any attempt to make plans more powerful, so that they effectively zone certain kinds of development, will increase the complexity of producing plans – or risk making them undemocratic and opening them up to legal challenges, not least from development interests. There is only so much efficiency and streamlining you can achieve without compromising decent planning and community engagement. There is no evidence that existing streamlining will lead to faster housing delivery. Historical experience suggests it will merely transfer pressure from development management onto development planning.