

planning democracy



Planning Democracy is a community-led organisation: We campaign to ensure that decisions about how Scotland's land is developed are fair, inclusive, locally accountable, and promote just outcomes driven by community needs rather than profit. Our aim is to strength the voice and influence of the public in the planning and development of Scotland's land.

Planning Democracy support the proposals in the Government's Housing Technical Consultation¹. We ask MSPs to help enable these changes. Communities are being worn down by repeated appeals brought forward by volume house builders, using technical arguments about 5 year effective housing land supply. These proposals are trying to rectify the problem and will help to stop speculative developments on unallocated sites. We need strong policies to ensure sustainable affordable housing is delivered through a strong plan led system of planning. We want these changes to not only be an interim measure, but to be carried forward in the National Planning Framework 4. There is no evidence that the proposals will affect any other type of development.

The Consultation

The Scottish Government have recently [consulted](#) on some changes to Scottish Planning Policy (SPP). This is an interim measure only, because SPPs are being overhauled and incorporated into the National Planning Framework 4 (NPF4). We would like to see the substance of these proposals incorporated into the new NPF4.

Why the Government are proposing these changes

The Government is seeking to address issues caused by

- Covid-related delays to Local Authorities replacing Local Development Plans (so that more Development Plans will be out of date),
- Lower numbers of new houses being constructed due to Covid-19 (potentially distorting land supply calculations); and
- a recent decision in the Court of Session (the Gladman's Case) which tips the balance in favour of unsustainable housing developments on unallocated sites, the so called 'tilted balance'

Why we need these changes

Planning Democracy share the concerns of the Government about the increasing number of planning appeals relating to housing, being made on technical grounds around 5 year effective housing land supply developments.

The result is poor planning decisions that:

- are not consistent with the intentions of Scottish Planning Policy,
- undermine the plan-led system,
- are not consistent with placemaking principles
- do not deliver sustainable affordable housing and
- waste time and resources of local authorities and communities

Currently we rely on the speculative private development model to deliver most private housing in Scotland. However general trends in housing delivery show not enough affordable homes are being built. The current trend is towards expensive luxury housing in stronger market areas, rather than low cost housing in more difficult market areas such as rural Scotland (where development costs tend to be higher) and parts of urban Scotland (where market demand is lower and there may be a need for expensive land remediation). In short, the market driven delivery of housing is not enabling the right type of housing to be built in the right locations.

This problem is being exacerbated by some poorly written planning policies, that the Government are realising need rewritten. In their current form they enable speculative developers to make tactical and vexatious challenges to development plans and planning decisions.

It is crucial that these policy loopholes are closed to try and regain balance and move away from an appeal driven system to a more plan led system of planning. The proposed changes will reduce the likelihood of permission being granted for housing on unallocated sites - either at application or on appeal - based on contentious arguments over the effective land supply or because the Local Development Plan is considered out of date.

The sheer number of applications, appeals and court challenges enabled by these policies has a huge negative impact on communities, who happen to live in areas where the development is being targeted. It is a huge waste of resources and time not only for communities, but also local authorities and undermines local democracy. Planning Democracy are in touch with communities throughout Scotland who welcome these changes.

The detail of the policy changes

Local authorities are required (since 2014) to provide a 5 year supply of housing land in their development plans. How this '5 year effective land supply' is calculated has not, until now, been specified by the Government. So local authorities allocate what they deem is enough land, only to be challenged by volume house builders on the way that it has been calculated.

In their appeals developers argue that the local authority has not provided enough land and therefore their development plan is no longer considered up to date. An out of date plan triggers the policy that gives "a presumption in favour of development that contributes to sustainable development". Effectively this means that more weight is given towards granting permission for a housing development, whether or not it is actually sustainable, or indeed affordable. In this context, any development is almost certain to be considered 'sustainable', if it adds to the housing land supply.

Local authorities are having to respond by 'allocating' larger and larger amounts of land for housing in order to prevent developers appealing. Speculative developers deliberately target local authorities with out of date plans (increasingly easy due to covid related delays to development plans). They make challenges using their own methods of calculating housing land supply, which are designed to ensure there is always a 5 year effective housing land shortage. This can lead to the Development Plan being deemed "not up to date", thus triggering 'the presumption' policy. Once triggered the presumption tilts the planning decision in favour of the development, even if it is located in an unsustainable location, such as on a greenfield site away from local transport links or an area with poor infrastructure.

The Government wish to rectify this problematic issue by removing the presumption and providing clarity on the method of calculating a 5 year effective housing land.

An important point on the presumption

Part of the proposals are to remove some of the wording relating to the 'presumption in favour of development that contributes to sustainable development'. This aspect of the proposed amendments has been characterised by some as a total removal of the presumption in favour of sustainable development. This is inaccurate. The principles of sustainable development remain and are detailed in the SPP, to clarify what is meant by sustainable development. The effect of the removal of 'the presumption' reduces the scope for developers to bring forward housing development sites that do not form part of the Local Development Plan, and which would otherwise be rejected for being unsustainable on grounds other than insufficient land supply.

There is also no evidence that the removal of 'the presumption' will affect any other type of development such as renewables.

ⁱ <https://consult.gov.scot/planning-architecture/proposed-policy-amendments/>