CONSULTATION RESPONSE

INDEPENDENT REVIEW OF PLANNING - DECEMBER 2015

PAS

PAS is an independent charity operating on social enterprise principles that helps people in Scotland engage with the places around them. Participation is a key aspect of enhancing local democracy and empowering communities to ensure that Scotland is a fairer and more equal place in which to live. PAS is a volunteer-based organisation, and provides impartial planning advice, training, education programmes, facilitation, mediation and community visioning/'charrettes', to ensure everyone has a voice in creating positive communities.

PAS recently held a series of public events for community groups, members of the public and PAS volunteers. Points raised at the events are documented in Appendix 2. While we have taken cognisance of these views, this response expresses the considered views of PAS as an organisation.

INTRODUCTION

PAS welcomes the opportunity to respond to this review. With our primary focus on community involvement and participative placemaking, we offer a unique perspective informed by the broad spectrum of individuals, community groups and built environment professionals with whom we interact.

We believe this is a key opportunity for the Scottish Government to **radically refocus the Scottish planning system by placing community involvement and participative placemaking at its heart**.

Planning, while performing a regulatory function, is fundamentally about people and placemaking, and the planning system was established to improve public health and reduce inequality. Reforms introduced in 2006 aimed to achieve an inclusive and efficient system – two factors which PAS views as interlinked. However, the level of early public involvement with planning remains low, is often reactive too late in the process, and can result in negative perceptions of planning.

We now need a radical culture shift within the Scottish planning system – moving away from the idea of "community engagement", instead focusing on building participation and fostering a new kind of relationship between people and planning.

Our response is focused on the Development Planning and Community Engagement sections of the review, as we feel this is where we can best contribute our thinking.

DEVELOPMENT PLANNING
Early public participation in development planning
PAS believes in a plan-led system with a focus in promoting early participation of all stakeholders in the development plan process.

While encouraging community involvement with development planning may appear more challenging than with regard to specific planning applications, it is nonetheless essential to strive for better participation at this stage.

In the spirit of 'front-loading' community participation, the early stages of development plan preparation should be seen as a 'visioning/ideas' stage, appropriately tested, that allows members of the public to contribute ideas, proposals and comments, rather than merely a 'Call for Sites'. PAS supports creative involvement of communities at an informal 'pre-Main Issues Report' stage with findings feeding into the MIR itself, and thus fostering a greater sense of community acceptance of the plan. Community-led plans should also be promoted at this stage, potentially to be submitted as supplementary guidance to adopted plans.

The current framework for development plan participation and preparation - including the stages (and associated terminology), timescales, language and techniques being used - should be reviewed with a view to promoting a better level of participation.

It may be useful to introduce greater flexibility to allow local development plans to be amended after adoption in response to changes in local circumstances.

PAS supports an appropriate level of strategic development planning, again with a focus on early involvement of members of the public.

Integration of spatial planning and community planning
PAS supports the Scottish Government's aim of achieving better integration at local level between community planning and spatial planning, leading to better placemaking and more efficient delivery of public and private sector investment. RTPI Scotland's research into this matter was a useful starting point and PAS understands that several Scottish local authorities have in place new arrangements to facilitate better co-working. Further investigation should take place with the aim of providing practical guidance and active implementation.

It should also be investigated whether the outcomes of participation promoted by community planning at a local level could inform the development planning process. Multi-disciplinary teams within local authorities could help facilitate this early involvement. Alternatively this could be turned around with spatial planning taking on more of the current community planning functions.

Mediation
Attendees at our public events generally agreed that mediation would be a positive addition to the Scottish planning system. PAS believes that mediation – if introduced - would play a key role in involving people with planning in a positive rather than adversarial manner, and there is existing research to this effect. We therefore recommend an investigation into how mediation within the Scottish planning system can be financed.

COMMUNITY ENGAGEMENT

Public perception of the role of planning and planning decision-making

Members of the public are often unclear about the context within which planning decisions that impact on them have been made. *Scottish Planning Policy* should explain more clearly the origins and purpose of planning, focusing on the concept of public good and the benefits of a plan-led system with flexibility through discretionary decision making. This would provide all stakeholders with a realistic expectation of what their involvement with planning may achieve and underpin positive participation.

A clear statement in Scottish Government planning documentation regarding appeal rights would also be beneficial.

Local Democracy - Community Councils/Elected Members

Community Councils are the most local tier of elected representation and are thus a key stakeholder in the planning system. PAS believes that is important to promote and invest in resourcing this tier of local democracy.

PAS supports the proposal to give Community Councils a statutory role in development plan preparation. This would be a strong statement from the Scottish Government of its desire to promote early participation at local level in development plan preparation. In the spirit of community empowerment, however, it should be considered whether the key role of other community bodies should have the ability to be recognised in legislation.

To facilitate effective Community Council participation within the planning system, investment, capacity building and guidance will all be required. There was a clear message from our public events that Community Councils feel under-resourced and that their views are not taken into account. A strong and proactive role for elected Community Councils at the development plan preparation stage, plus support and guidance on how Community Councils should engage with their own local communities, would go some way to addressing these concerns. In particular if more Community Council elections took placed, Community Councils would be likely to have greater credibility and impact.

It would also be beneficial to review the effectiveness and impact of Community Councils' current statutory role in development management.

In some areas - through Community Trusts being set up to work alongside Community Councils – a more proactive approach is already happening. In the spirit of community empowerment, what is needed overall is a range of community bodies which contribute proactively to planning and placemaking.

Some Community Councils would like extra powers and it is important that the review considers this matter.

Planning at a local level can be politically charged. For planning to fulfil its potential in working with others to create a vision and deliver successful places, it is essential that Elected Members support the crucial role planning plays in placemaking. Appropriate training for

Elected Members is essential to allow them to understand and facilitate a shared vision for place.

Education
PAS believes higher levels of participation will only be achieved if a structured approach to educating young people about active citizenship, including planning and placemaking, is introduced. The Curriculum for Excellence offers a clear and existing platform to introduce education about active citizenship and place.

Pre-Application Consultation
PAS considers that the current legislation on Pre Application Consultation is beneficial in its intent, however, in practice, aspirations of what the process can achieve need to be raised. This applies equally to local authorities and applicants. While the legislation sets a legal minimum level of engagement activity, local authorities should be encouraged to ask developers to undertake higher levels where appropriate. This approach should be dovetailed with better and more aspirational guidance on effective community participation, as well as guidance and training for planners on how to achieve genuine participation.

Charrettes
PAS supports the use of charrettes as a means of engaging local people in visioning the future of their local area or specific sites. They can also be used effectively early in the development plan preparation process, or to feed into the process.

To be effective, charrettes should be led by the local community, as part of an overall steering group, including involvement in writing the brief and appointing delivery teams.

To ensure effective and influential charrette outputs, it is essential that community planning teams are involved and outputs are aligned with local development plans and other relevant capital/investment plans.

Provision and clarity of information
The language of planning and public institutions can be off-putting to non-planners and can discourage positive participation. It would be beneficial to review in the widest terms how planning information is presented across Scotland, with a focus on achieving inclusivity through clear language and active use of visual approaches.

The award-winning Loch Lomond and the Trossachs National Park 'Live Park' Local Development Plan project demonstrated new approaches to the use of language, visuals and social media, and may be a useful model for the review to consider.

Smart phone technology and evolving social media platforms have significantly changed how people access and share information. Effective use of these opportunities and their compatibility with online planning systems are key factors in promoting an inclusive planning system. Live-streaming of planning committee meetings is useful for all stakeholders and should be introduced in all local authorities in terms of transparency.

PAS would like to see an independent review, with recommendations, of how all stakeholders can best use social media and smart phone technology to promote participation.

It would also be timely to review the user-friendliness of the current e-planning in this context.

OTHER POINTS

Through our public events and other discussions, the following matters also arose:

- **Repeat planning applications**: it would be useful to review the use and effectiveness of current legislative provisions to allow planning authorities to reject repeat applications.
- **Repeat Main Issues Report proposals**: It would be useful to review whether measures should be introduced to give planning authorities greater control to reject repeat proposals at an early stage in the process.
- **Opportunity to speak at planning committee**: There is inconsistency across Scottish planning authorities as to whether members of the public and applicants are allowed to speak, and for how long. This appears illogical and a clear recommendation from the Scottish Government on this matter would be beneficial.
- **Online publication of representations to planning applications**: A variety of approaches currently exists regarding when, and if, representations are published. A review followed by guidance on this matter would be useful.
- **Public Notices**: It should be considered whether these are an effective means of advertising planning applications in terms of cost and effectiveness; or whether it would be better to use on-line publicity methods.
- **Enforcement**: a more consistent approach across Scotland to ensuring that enforcement action is taken appropriately and to proactively checking that planning conditions have been met is needed, as effective enforcement is a key factor in engendering public trust.
- **National Planning Framework**: it would be relevant to investigate – other than in designating National Developments – what influence this document has, whether its scope and remit could be extended to ensure that it is influential, and whether it could also function as a National Investment Framework.

CONCLUSION

This review represents an genuine opportunity to enshrine participative placemaking at the heart of the Scottish planning system. This will not happen with out **appropriate investment and resourcing**, accompanied by a **structured approach to educating young people** about planning, placemaking and their civic rights and responsibilities.

CONTACTS
PAS would be pleased to respond to any queries with regard to this response.

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APPENDIX 1 – PAS BACKGROUND INFORMATION

PAS is an independent charity operating on social enterprise principles that helps people in Scotland to understand and engage with the places they live in through advice, training, education and awareness-raising, so that everyone has a voice in creating positive communities.

Advice Service – PAS provides impartial planning advice and is the trusted body for anyone looking to understand the planning process and the places around them.

Training – PAS promotes education for all in the planning process to encourage community engagement in creating positive places. With over 20 years' experience, the expertise of our staff and volunteers inspires and empowers people across Scotland.

Influencing Place - PAS is a trusted organisation which inspires individuals to be aware of the planning process and their role within it, while raising civic awareness of the positive effect good planning can create for all.

Education and Events – We believe that education and participation are key to enabling our communities to engage with the built places around them, and we support that process in schools, communities and in our nation's life.

Volunteer based – PAS services are delivered by a combination of associates, staff and a large volunteer network of more than 400 built-environment professionals. Our personnel offer not only their time but share their professional skills in order to enable people to engage proactively with the planning system. Volunteering is at the heart of what we do.

SP=EED® **-** (Successful Planning = Effective Engagement and Delivery) is PAS's guidance on effective community engagement. SP=EED Verification® is an associated programmed that verifies practitioners' engagement skills.

Charrette*plus***®** **-** is a PAS engagement programme that helps communities vision the future of their area. It has a particular focus on integrating spatial planning and community planning.

For further information please visit www.pas.org.uk

APPENDIX 2

Independent Review of Planning – Comments from PAS public events
Below are comments made by attendees at a series of three public events held by PAS to give members of the public the opportunity to share their views on the planning system and the topics of the Review of the Planning System. There are also comments which were separately submitted to PAS via email by those unable to attend.

Development planning
- Retain the primacy of the development plan in the Scottish planning system.
- Development plans should contain clear, unambiguous proposals, reflecting established local needs, plus a delivery framework tailored to the particular community.
- Planning departments need more than planners and wider skills and experience, e.g. surveyors, architects.
- Planners need to work and communicate across Local Authority department boundaries.
- There is a lack of staff and resources in development planning.
- Development plans should be concise and developed with a bottom-up approach.
- The Main Issues Report (MIR) process is hard for communities to understand and access.
- Developers submit representations to MIR processes, while communities rarely do.
- Developers have greater influence over MIRs than communities or local authorities.
- Community Councils should have a statutory role in the development plan process.
- While the statutory role of Community Councils should be strengthened, their internal structures would need to be amended to ensure appropriate membership. Training would also be needed.
- There should be a greater role for Community Councils during the MIR stage.
- Development planning should be linked to community planning and infrastructure planning.
- Draft plans should be more quickly produced to maintain momentum and public interest.
- Development plans should be made more local in focus.
- Planning documents and information are of variable quality.
- Planning documents are often large and can be overly wordy, lacking in clarity. They should be more visual and easy to understand.
- Development plans can often use vague wording which is open to interpretation by developers.
- Development plans should be continually reassessed and amended to take into account any substantial changes in local circumstances.
- Many speculative applications are not aligned with development plan allocations.
- There should be greater adherence to development plan designations, giving greater certainty for all concerned.

Housing delivery
- An integrated approach is needed for housing and infrastructure, based on long-term solutions, rather than piecemeal development.
- There is a lack of understanding of the Housing Needs and Demands Assessment (HNDA) process.
- Housing numbers should be determined locally, utilising local knowledge of need and demand, and required size, tenure type etc.

- Housing numbers need to be determined through a process which combines local and national data.
- Tighter housing delivery timescales should ensure demand is met in a timely fashion.
- A greater emphasis on enforcement could achieve better quality housing.
- In smaller communities, large housing developments should be completed before further applications are approved.
- 'Barriers' to some are 'reasonable safeguards' to others.
- In principle brownfield land should be used before greenfield for housing development.

Planning for infrastructure
- An integrated approach is needed for housing and infrastructure, based on long-term solutions, rather than piecemeal developments.
- More investment in transport infrastructure and links is needed.
- Transport infrastructure investment can help resolve other issues with development sites.
- Infrastructure needs should be considered in Local Authority business plans.
- Development plans should include infrastructure investment and finance plans demonstrating how developments are to be funded.
- Planning gain should be used to fund infrastructure necessitated by development.
- There could be provisions to make community benefits more binding.

Development management
- Planning officers are too inward-looking.
- There is a perception of an insider world vs. the wider public, and that planners and developers are 'in it together'.
- Planning departments need more than planners and wider skills and experience, e.g. surveyors, architects.
- Planners need to work and communicate across Local Authority department boundaries.
- Stronger enforcement is required.
- The role of conservation officers should be strengthened.
- Neighbour Notification should be increased beyond the 20m guideline, which is particularly relevant for rural areas where it is effectively meaningless.
- The 21 day response window is inappropriate for some applications. The time available should be proportional to the scale of the proposals.
- Mediators could improve the relationship between applicants and community and ensure better proposals and greater acceptance of outcomes.
- Any mediation would need to be independent.
- Many speculative applications are not aligned with development plan allocations.
- Repeat applications are a burden for Community Councils, as they need to respond numerous times. Could limits be placed on the number of applications submitted in a set time period?
- Not all decisions align with development plans.
- Planning committees are not seen as representative of the community.
- Non-determination levels are rising as applications outpace the number of staff to handle them, creating uncertainty for applicants and public.
- Health service capacity should be a key consideration, as with Education. Applications can be refused if there is not sufficient capacity in local schools, so why not local clinics/hospitals?

- There is asymmetrical treatment of expert reports commissioned by developers vs. those commissioned by objectors in the community.
- Specialist agencies are at times ignored by planning officers and Elected Members despite their expertise and statutory consultee role.
- Strengthen the powers of statutory consultees to prevent inappropriate development.
- At times Elected Members are listening to a vocal minority and going against officers' recommendations that applications should be granted.
- Economic issues are pressuring officers' decisions.
- There should be greater regulation to prevent applicant lobbying during the application process.
- Politics and money are influencing decision-making.
- Planning committees should be more accessible to a wider audience and interactive, e.g. through livestreaming.
- Publication of information on the Local Authority planning portals is not consistent.
- Planning documentation online, e.g. application materials, should be fully accessible to ensure transparency.
- There should be standardisation of planning committee procedure to ensure equal treatment across Local Authorities and guaranteed opportunities to contribute/submit.
- There should be a right to speak at planning committees, to ensure openness, transparency and a fair hearing for all parties.
- Planning committee workings are at times opaque and based on politics.
- There are issues with the interaction between planning committees and other Elected Member functions, e.g. licensing committee membership, influencing decision-making.
- Permitted development rights, in particular agricultural, can result in inappropriate development/overdevelopment, so there need to be some safeguards.
- There is a need to strengthen enforcement to ensure that developments are completed, as per consents.
- More resources are needed for enforcement activities.
- Introduce third party rights/equal of appeal, but limit them to particular developments, e.g. major applications.

Leadership, resourcing and skills
- There is a need for collaborative working, as planning officers cannot be expected to be experts in everything.
- Planning departments need more than planners and wider skills and experience, e.g. surveyors, architects.
- There is a need for specialist skills to deal with particular applications.
- Many officers are unable to adequately assess EIA reports.
- More resources are needed for enforcement activities.
- The role of conservation officers should be strengthened.
- Planners need to be more approachable and engaging in their practice.
- Local Authorities can produce engagement plans but planning officers often lack the capacity to carry them out.
- Planning officers should be trained in how to effectively engage and communicate with the public.
- Local Authorities could designate an officer to oversee consultation on development plans with communities and Community Councils.

- The education system, including universities, is vital to sustaining the planning profession.
- Engagement skills should be taught in planning courses.
- Private sector planners professional practice is influenced by business/economic concerns
- Planning officers have significant upfront workloads, and fees should address this.
- Fees are currently inadequate to cover expenses incurred for complex applications, e.g. windfarms.
- Lower fees mean that Local Authorities cannot afford external expert advice in some cases.
- There is a lack of staff and resources for development planning.
- Non-determination levels are rising as applications outpace the number of staff to handle them, creating uncertainty for applicants and public.
- A lack of resources results in pre-application consultation being marginalised.
- Planning performance indicators are skewed and don't consider all the issues.
- Fee penalties are counter-productive, prioritising quantity of applications processed over the quality of handling and engagement.
- There are questions as to whether Community Councils and planning committees/Elected Members are suited to decision-making, given their lack of training in planning.
- There are unequal resources to support participation: professional developers vs. volunteer Community Councils.
- Community Councils and Elected Members need training in planning to support decision-making.
- Elected Member training should be compulsory, with attendance at planning committees dependent on it.
- Compulsory Elected Member training would be hard to enforce in practice as they are elected representatives and not employees.

Community engagement
- Planning should go beyond a mechanistic approach and be operated on the basis of people rather than process.
- The technical aspects and processes pose a barrier to participation.
- Engagement is inconsistent between Local Authorities.
- Effective and meaningful engagement requires Local Authorities to be properly funded, as engagement requires staff and resources, and has significant working time implications.
- The planning system could be community plan-led.
- Planning documents are large and overly wordy, lacking in clarity. They should be more visual and easier to understand.
- There are issues with communities being presented with plans and data which are incomplete. They want full details about assets, contaminated land, suitability for housing etc.
- It is difficult to engage with wider communities beyond Community Councils.
- Community Councils feel that they lack influence/effectiveness, and that their opinions are often ignored.
- There is often mistrust between Community Councils and developers.
- Communities and Community Councils often lack the expertise and knowledge to effectively engage – too much responsibility placed on those without the right skills.
- Community Councils need training in the planning system and how to effectively engage.

- Some Community Councils seek to engage with parents on the impact of development on school capacities.
- Community Councils work is limited by available resources. They would do more if they had more support and funding.
- Repeat applications are a burden for Community Councils, as they need to respond numerous times. Could limits be placed on the number of applications submitted in a set time period?
- Community Councils with more influence and means would be reinvigorated and able to do more.
- Engagement is needed before MIR stage.
- The MIR process is hard for communities to understand.
- The MIR process is led by developers and Local Authorities, and communities find it hard to get involved.
- The MIR can work well if communities are proactively engaged by Local Authorities.
- Local Authorities could designate an officer to oversee development plan with communities and Community Councils.
- Charrettes are good in principle but there needs to be buy-in from development planning and community planning, with investment to progress the vision and actions.
- Charrettes could be deployed on a smaller scale for locality planning.
- Charrettes cannot be seen as a universal model, as there may be issues with poor attendance, superficial consultation, and outputs that are merely a wish list of 'actions'.
- The Scottish Government and Local Authorities should be more selective with charrettes. Direct funding of costed and viable community initiatives would provide better and more effective use of public funds.
- Communities themselves need to be involved in the process of writing charrette briefs and appointing consultants, otherwise the role of the community is marginalised and disadvantaged. A top-down, closed process needs to be avoided.
- There are concerns that participants are 'locked-in' to charrette processes and bound by their outputs regardless of the level of community support.
- A problem with charrettes is the duration, and the difficulties some in the community will face in attending due to other commitments, e.g. work, childcare. Interactive and accessible engagement techniques, streaming, social media etc. could be used to bridge this gap.
- Charrettes need public buy-in. Political support is not enough if a community is not on board.
- Neighbour Notification should be increased beyond the 20m guideline, which is particularly relevant for rural areas where it is effectively meaningless.
- Members of the public are often unaware of how to make a formal representation.
- Accessible and comprehensive guidance to the planning system should be produced which is aimed at a general audience and which explains how the system works and how to engage with it.
- Good Practice Guidance on Community Engagement does currently exist, but is being ignored in practice.
- Pre-application consultation is supported by planners but can be seen as a tick-box exercise by both developers/applicants and the public.
- Current engagement activities lack tangible outcomes for communities.

- Developers should be obliged to respond to the feedback and opinions expressed during the pre-application consultation process and justify their proposals.
- Developers should be encouraged or required to go beyond current statutory minimums for community consultation.
- Mediators could be used to tackle mistrust and facilitate communication.
- Any mediation would need to be independent
- Planning documentation online, e.g. application materials, should be fully accessible to ensure transparency.
- Planning committees should be more accessible to a wider audience and interactive, e.g. through livestreaming.
- There should be a right to speak at planning committees, to ensure openness, transparency and a fair hearing for all parties.
- Current notification and publicity methods, such as newspaper adverts and lamp post notices are increasingly ineffective as a result of the changing media landscape.
- Modern and innovative engagement techniques need to be embraced, e.g. social media, video technology, public transport, apps, and more accessible and interactive websites. These can create feedback loops which inform and refine outcomes, decision-making, charrette outputs etc.
- Social media is a means of engaging with working families and young people.
- Social media can be more difficult in the pre-application stage when there is less to publicise.
- There needs to be a more consistent approach to engaging young people.
- To engage young people, a high-profile campaign and/or event could get the message across.
- Young peoples' priorities are housing and employment, so it can be hard to engage with planning as an issue.
- Young people can be engaged through education. Engagement through schools has been effective.
- Locations are very important in attempting to engage young people.
- Charrettes should be run in visible locations, such as local shops.
- Introduce third party/equal rights of appeal, but limit them to particular developments, e.g. major applications.