

Response to the Scottish Government consultation on the future of the planning system

by the National Trust for Scotland

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Summary

- **Vision for a sustainable Scotland** – the revision of the planning system is an opportunity to set out the kind of Scotland we wish to live in and pass on to future generations, supporting heritage, natural beauty and innovation. This has not yet been done in the independent review or the consultation document.
- **Holistic approach to land use** – the planning system should take a holistic approach to place-making, rather than an emphasis on a single sector, as is the case with the consultation document.
- **Meet government commitments** – the revision of the planning system is an opportunity to meet government ambitions, including the UN Sustainable Development Goal target to incorporate ecosystems services and biodiversity values into the planning system by 2020.
- **Improved monitoring of outcomes** – planning decisions, and public confidence in the planning system would be improved by a better evidence base for the impact of developments.

Introduction

The National Trust for Scotland is a Scotland's largest conservation charity, created by and for the community to safeguard places of natural beauty and historic interest. Scotland's planning system is the single most important determinant of land use in Scotland, and therefore of quality of place.

We welcome the Scottish Government's review of the planning system, and the opportunity to contribute to the public debate. We have put our response in two sections, the first identifies themes that are missing from the consultation document, but which we believe should be developed, and the second gives our response to the specific questions asked.

General themes

Vision for Scotland

The planning system will determine what kind of Scotland we live in and pass on to our children. The planning review could have gone further on what kind of Scotland we would like to see.

For example, the Swiss Spatial Planning Act, sets out objectives to protect the natural basis of life (soil, air, water, forest and landscape), to create and maintain conditions for the economy, to promote compact settlements, and to promote the social, economic and cultural life of the country, including decentralisation of the settlement and the economy.

The Swiss planning vision may not fit the particular needs of Scotland, but by setting out the objectives, there is then a basis on which to develop and assess the process and outcomes. The National Performance Framework, and its outcomes, could form the basis for this vision.

Holistic approach to land use

The challenge for town and country planning is to integrate many different, and sometimes conflicting, ambitions for land use. To do so successfully, the appropriate weight must be given to each to ensure sustainable development.

The planning review is very focused on the issue of housing supply, to the exclusion of many other important issues. In fact, housing is referenced 75 times.

Analysis of Places, People and Planning: a consultation on the future of the planning system	
Term	Number of times used in document
Amenity	0
Beauty	0
Brownfield	0
Conservation Areas	1
Employment	0
Green belt	0
Greenspace	3
Growth	12
Historic environment	0
Housing	75
Landscape	0

Listed building(s)	0
Natural heritage	1
Recreation	0
Regeneration	5
Reuse	0
Sustainable development	0

The Scottish thinker Patrick Geddes (1854-1932) was one of the pioneers of modern town and country planning, and he emphasised the interconnected nature of planning, using the triad “Work, Place, Folk.” His insight was that the successful development of place required research – into all aspects that affected human activity. Given our improved understanding of the importance of healthy environments and stronger communities, it would be fitting if any revision to the planning system carried forward this integrated approach to place and people.

The existing statutory Land Use Strategy, which is primed to be rolled out across Scotland, would be the obvious platform for this integrated approach.

Meeting government commitments

Sustainable Development Goals – the Scottish Government was one of the first in the world to sign-up to the new United Nation’s Sustainable Development Goals, in 2015. The First Minister commented that: “By signing up, we as a government will be required to demonstrate how we will work to achieve these targets by 2030.”¹

The targets² under the UN’s Sustainable Development Goals include a number of specific actions which are relevant to a revised planning system. These include:

United Nations Sustainable Development Goals to 2030	
Target	Indicator
By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries	Ratio of land consumption rate to population growth rate
By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, in particular for women and children, older persons and persons with disabilities	Average share of the built-up area of cities that is open space for public use for all, by sex, age and persons with disabilities
Support positive economic, social and environmental	Proportion of population living in cities that

¹ <https://news.gov.scot/news/leading-the-way-in-tackling-inequality>

² <https://sustainabledevelopment.un.org/sdgs>

links between urban, periurban and rural areas by strengthening national and regional development planning	implement urban and regional development plans integrating population projections and resource needs, by size of city
By 2020, integrate ecosystem and biodiversity values into national and local planning, development processes, poverty reduction strategies and accounts	Progress towards national targets established in accordance with Aichi Biodiversity Target 2 of the Strategic Plan for Biodiversity 2011-2020

Land reform – the consultation document interprets the current government land reform agenda solely in terms of communities taking ownership of property. In fact, the Land Reform Act 2016 has important provisions for communities to engage in *all* decisions relating to land. The secondary legislation needed to give effect to these provisions is currently being developed, but will be in place before any new planning Act. There is therefore an opportunity to use these provisions to improve public engagement in how land use is planned for and approved, and subsequent impacts are assessed.

Community engagement – Consideration should be given to third party right of appeal, for instance in circumstances where consent is granted for development that is inconsistent with the local plan.

Improved monitoring of outcomes

The evidence base for assessing the impact of planning decisions needs to be improved. Increased monitoring would help with enforcement, with policy development, and in reassuring the public that the system was delivering the desired outcomes.

Responses to questions

A: Do you agree that our proposed package of reforms will improve development planning?

No, not without further development of the proposals. Specifically:

- Incorporate the full range of environmental and social concerns affected by planning decisions, including the historic environment, natural heritage, and public amenity.
- Consider the implications of any relaxation of the existing system, e.g. the extension of Permitted Development Rights.
- Give greater weight to community interests, including equal rights of appeal for off-plan developments.

1. Do you agree that local development plans should be required to take account of community planning?

Yes, though in this context “community planning” refers specifically to Community Planning Partnerships. These CPPs deal with public service provision and primarily operate at local authority level. While we support the alignment of CPPs with LDPs, this is not the same thing as community (engagement with communities below the local authority level) planning (town and country planning).

2. Do you agree that strategic development plans should be replaced by improved regional partnership working?

No. The regional partnership will still need to document its proposals, evidence base and conclusions, and this will effectively become a strategic development plan.

2(a) How can planning add greatest value at a regional scale?

Planning at a regional level should be focused on those elements that are best planned at that scale – for instance, transport infrastructure, energy infrastructure, major settlement boundaries, landscapes, etc. However, where possible, and as a matter of principle, planning decisions should be devolved to the lowest appropriate level.

2(b) Which activities should be carried out at the national and regional levels?

Activities which span regions should have a national perspective to ensure coordination. This does not necessarily mean that decisions need to be taken at national level, only that there is coordination.

One obvious national development to plan for on this basis is the National Ecological Network, intended to ensure connectivity of species and habitats, a commitment made in NPF3.

3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?

Neither. The SPP and NPF have different roles and this demarcation should be maintained. The SPP sets out the framework for decisions and should, as far as possible, be stable over time. The NPF identifies development priorities which will change more quickly.

Giving statutory weight to Scottish Planning Policy would allow for greater scrutiny by Parliament, which is welcome.

3(a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?

Yes, we welcome the proposal to extend the consultation period. All proposed National Developments should undergo the same level of scrutiny, this argues for freezing the long-list of proposed developments at the outset of the consultation period.

4. Do you agree with our proposals to simplify the preparation of development plans?

The proposed removal of supplementary planning guidance is of concern, as this can help in informing developments. It may in fact become more important if the timeframe for the development plan is lengthened.

4(a) Should the plan review cycle be lengthened to 10 years?

Yes, providing plans can be adequately scrutinised in development, and are applied consistently over the period.

4(b) Should there be scope to review the plan between review cycles?

Yes, where there is evidence that changes are required.

4(c) Should we remove supplementary guidance?

No. There are benefits to supplementary guidance in helping improve practice.

5. Do you agree that local development plan examinations should be retained?

Yes.

There is also a need to improve the effectiveness of local review bodies and to facilitate the input of local communities.

5(a) Should an early gatecheck be added to the process?

Yes, an assessment of the evidence base before proceeding could be useful.

5(b) Who should be involved?

Professionals from the Scottish Government, or from the local authority community.

5(c) What matters should the gatecheck look at?

The comprehensiveness and quality of the evidence base (land use, needs, priorities, past performance, etc.)

5(e) Could professional mediation support the process of allocating land?

Potentially yes, as part of a shift to an infrastructure-led approach to development.

6. Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?

Yes. Planning permission should be dependent on all relevant issues being given due consideration. Attaching planning permission in principle to allocated sites would only front-load this assessment, and risks challenge if the assessment is not done properly.

7. Do you agree that plans could be strengthened by the following measures:

7(a) Setting out the information required to accompany proposed allocations

Yes.

7(b) Requiring information on the feasibility of the site to be provided

Yes, especially in relation to access to infrastructure, including public services, transport, and amenity.

7(c) Increasing requirements for consultation for applications relating to non-allocated sites

Yes, as these will not have been considered during the local plan process.

7(d) Working with the key agencies so that where they agree to a site being included in the plan, they do not object to the principle of an application

No, we are concerned that key agencies may not have the capacity to assess all potential sites, and that by the time the development comes forward, other developments may have changed the facts on the ground.

However, in a shift to a longer-term, infrastructure-led approach to development, this may be more practicable.

8. Do you agree that stronger delivery programmes could be used to drive delivery of development?

Possibly, but replacing “action programmes” with “delivery programmes” will not by itself address any constraints, such as capacity, funding, timing, etc.

KEY QUESTION

B: Do you agree that our proposed package of reforms will increase community involvement in planning?

We welcome the language used in the consultation document, but this needs to be translated into better processes and outcomes.

The planning system should support communities in describing and securing the kinds of environment in which they wish to live work and play. In doing so, we believe that the many places that make Scotland special will be conserved and enhanced.

9. Should communities be given an opportunity to prepare their own local place plans?

Yes, we welcome this initiative. Investment, of time and money, will be needed to raise awareness, engage all sections of the community, and articulate a vision for the area that can go on to be integrated into the local plan.

The credibility of the local place plans will depend on how well they represent the aspirations of the community and, just as importantly, how effective they actually are in shaping places.

9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?

Ideally, the flow should be bottom-up, with aspirations for local places informing the development of the local plan, rather than top-down.

9(b) Does Figure 1 cover all of the relevant considerations?

Communities can be quite varied in their views, and may not even be resident in the area under consideration. The process will therefore need to encourage and work with a wide range of views.

10. Should local authorities be given a new duty to consult community councils on preparing the statutory development plan?

Yes, as part of efforts to upgrade the role of community councils, which could in turn encourage greater public interest and involvement with community councils.

10(a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?

Yes.

11. How can we ensure more people are involved?

Communities should not be too tightly defined by place (i.e. postcode), and communities of interest, such as workers, visitors, service users etc. could be encouraged to contribute.

11(a) Should planning authorities be required to use methods to support children and young people in planning?

Yes, though our own research has found there are also significant differences by income groups in perceived ability to influence change.

12. Should requirements for pre-application consultation with communities be enhanced?

Please explain your answer(s).

Yes, iterative meetings to explain how developers have engaged with community views would be useful.

12(a) What would be the most effective means of improving this part of the process?

Iterative meetings to explain how community views have been incorporated. Short, plain English documents setting out the proposals.

13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?

Yes.

14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?

Yes, enforcement powers must be strengthened/invested in to improve the credibility of the planning system.

15. Should current appeal and review arrangements be revised:

Yes, consideration should be given to equal rights of appeal for communities. This could come when a proposal is not anticipated by the development plan, or is contrary to the plan policies.

15(b) to introduce fees for appeals and reviews?

Yes, fees should reflect the costs to the public purse.

15(c) for training of elected members involved in a planning committee or local review body to be mandatory?

Yes.

15(d) Do you agree that Ministers, rather than reporters, should make decisions more often?

There is benefit to having independent, experienced professionals make determinations.

While ministers bring overt democratic accountability to the process, the connection between voter decisions on candidates, and the outcomes of specific planning determinations, is not likely to be a strong one.

16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?

From the arguments advanced in the consultation document, there does not appear to be a need to have a different approach to planning on islands. Local planning policy may however need to be more sympathetic to the existing setting, scale, use of materials etc., rather than try and apply generic, “urban” approaches to development.

A more significant question might be how island communities are incorporated into mainland development plans – for example Arran and North Ayrshire – and how the special conditions of the islands are reflected in more mainstream development plans.

KEY QUESTION

C: Will these proposals help to deliver more homes and the infrastructure we need? Please explain your answer.

The consultation is on the planning system as a whole and which, as already stated, needs to be holistic. The independent report highlights the importance of place-making, of which housing is only one aspect.

A shift to longer-term, infrastructure-led development may help address social and economic needs, on a planned basis. However, the independent report and the consultation do not address why, permission having been granted, developments are not coming forward.

18. Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?

Yes.

19. Do you agree that planning can help to diversify the ways we deliver homes? Potentially. Encouragement could be given to self-build, temporary, or community-led developments.

20. What are your views on greater use of zoning to support housing delivery?

Simplified Planning Zones may be something of a misnomer, as the planning is instead done up-front, rather than simplified.

The Zone itself will need to take into account infrastructure, public services, and amenity needs, alongside housing.

The Zone will also need to avoid sensitive sites (Conservation Areas, Green Belt, Sites of Special Scientific Interest, etc.) as these may require . Its application in Scotland is therefore more likely on brownfield land.

20(a) How can the procedures for Simplified Planning Zones be improved to allow for their wider use in Scotland?

Given the continuing need to balance public interest (including in environmental protections) with private interest, it seems any SPZ is best targeted at brownfield land. SPZs to date have primarily been about economic regeneration, rather than housing. Evaluation evidence (SPiCE, February 2012) appears to find that financial incentives were of stronger interest to developers, rather than the planning regime.

21. Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?

Yes.

23. Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?

24. Do you agree that future legislation should include new powers for an infrastructure levy? If so,

Yes, potentially, but particularly where there are significant impacts on infrastructure (energy, transport, etc.).

Consideration should also be given to the model of the Community Infrastructure Levy in England.

24(a) at what scale should it be applied?

Primarily local authority, though if there is shift to greater use of the National Planning Framework, then the national level may also be relevant.

24(b) to what type of development should it apply?

All developments depending on investment in public infrastructure.

24(c) who should be responsible for administering it?

Local authorities, in the first instance.

24(d) what type of infrastructure should it be used for?

Ideally, payments should go to the relevant infrastructure needing to be developed or upgraded.

26. What measures can we take to improve leadership of the Scottish planning profession?

There is currently a disconnect between the planning system and wider land use planning, reflected in the low priority given to the Land Use Strategy in the recent revision of the Scottish Planning Policy. Were the town and country planning profession to become more involved in the roll out of the Land Use Strategy, and communities better able to understand the challenges and constraints they face, then their role as leaders on land use would be better understood.

27. What are the priorities for developing skills in the planning profession?

Retention of capacity, and availability of specialist skills (such as archaeology, historic built environment, biodiversity) are needed to make the system work.

30. Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)?

Yes, a stronger focus on outcomes and evaluation of how places have changed will help demonstrate the impact of the planning system 'on the ground'. This will require skills

development in monitoring and evaluation. A stronger emphasis on achieving 'quality' outcomes is needed – the current document seems light on this.

30(a) Do you have any ideas on how this could be achieved?

The development of the Land Use Strategy to cover all of Scotland will help unlock and organise relevant data sets, and point to where gaps need to be filled.

32. What types of development would be suitable for extended permitted development rights?

The removal or downgrading of any existing procedures must be justified with an explanation as to why the procedure – previously seen as necessary – is now redundant.

The proposed removal of scrutiny from a class of development should be preceded by a full assessment of the potential benefits and disbenefits.

We would note that there can be unanticipated consequences from PDR, three examples from our own experience are telecoms masts in scenic areas, the conversion of farm buildings to housing on a nationally significant battlefield, and poorly sited and designed hill tracks in fragile mountain areas.

38. Do you have any early views on whether these proposals will generate significant environmental effects? Please explain your answer.

We would note our answer to Question 32 – Permitted Development Rights will require careful handling if we are to avoid adverse consequences. This is particularly true if a PDR then becomes a gateway to another type of development, e.g. farm building to housing development.