

## CONSULTATION RESPONSE: PLACES, PEOPLE AND PLANNING: POSITION STATEMENT

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### Q1 Views on proposals contained within the Position Statement

Thank you for consulting on the Position Statement: Places, People and Planning, June 2017. Built Environment Forum Scotland (BEFS) is an umbrella organisation that brings together 23 non-governmental organisations across Scotland's built environment sector. Drawing on extensive expertise and knowledge in a membership-led forum, BEFS informs, debates and advocates on the strategic issues, opportunities and challenges facing Scotland's built environment.

The comments below were generated by members of BEFS' Planning Bill Taskforce which met to discuss the consultation. The following bodies were represented at the meeting: *Architectural Heritage Society of Scotland; Association of Local Government Archaeological Officers in Scotland; Chartered Institute for Archaeologists; Institute for Historic Building Conservation; Landscape Institute Scotland; National Trust for Scotland; Royal Incorporation of Architects in Scotland; Royal Institution of Chartered Surveyors Scotland; Royal Town Planning Institute in Scotland.*

BEFS wishes to make the following comments in relation to the follow-up consultation on the Government's proposals for Scotland's planning system and associated Strategic Environmental Assessment.

Scope and purpose of Bill: The scope of the proposed Bill appears to have shifted from major reform to a number of procedural changes – this is disappointing. The Strategic Environmental Assessment (SEA) states that the purpose of the Bill is to support sustainable economic development and inclusive growth. There is an inherent tension between these two objectives and this becomes apparent in the detail of the proposals that seek both stronger inclusion through community engagement alongside further simplification of processes.

There is little attention given within the proposals to the state of the *environment*, despite the recognition in the SEA that planning is about achieving 'high quality, sustainable places'. The SEA identifies that 'the Planning system is used to make decisions about future development and the use of land. It considers where development should happen, where it should not, and how development affects its surroundings. The system aims to balance different interests so that land is used and developed in a way that creates high quality, sustainable places.' BEFS members would like to see the purpose of planning being clearly linked to the National Performance Framework, which integrates policy priorities across strategic outcomes for Scotland that are grounded in achieving *public good*. Linkages to wider policy areas (such as community empowerment, landscape management) should be explicit.

Consultation content: In general the proposals are found lacking – there has been little change since the previous consultation. As a result many of the comments offered below seek further clarification on what is envisaged for the Bill, and rationale behind key

proposals. Regarding specific proposals, comments are made as follows (the proposal number is given in brackets):

Aligning community planning and spatial planning (1): Further detail is sought on how community and land use planning may be linked together on a statutory basis, in order to achieve greater alignment in achieving shared outcomes. What is envisaged for how community planning will be required to take account of land use planning and vice versa?

Regional partnership working (2): There is a strong desire to see strengthened regional agency, with associated transparency and accountability. Duties and powers must result in some output – this proposal will fall short if the duties are purely focussed on partnership working and evidence gathering – important as these are. Further clarity is sought on how priorities will be determined at this important regional level – there is concern that the trend is towards further centralisation with priorities at this level being determined through the National Planning Framework. There is a need for much clearer connection at regional level between the planning system and other strategies, plans, policies which address the regional scale.

Supplementary Planning Guidance (4): There remains concern that the Government continues to propose the removal of supplementary planning guidance which is valued by practitioners as an important means of informing decision-making. The streamlining of planning policy and diminishing expertise in local authorities means that that such guidance is the only place where advice on more specialist topics can be found. Experience amongst archaeological colleagues has been that it is perfectly possible to slim down such guidance and ensure consistency across local planning authorities.

Gatecheck (4): Further clarity is sought on the proposed 'gatecheck' stage. The SEA highlights this as a key opportunity for addressing environmental considerations. This may be, but currently the limited detail means that it is not possible to provide comment.

Local Place Plans (LPP) (6): It is recognised that proposals coming forward through the Local Place Plans will be consistent with the Local Development Plan (LDP). Clarity is sought on the status of LPPs and how engagement around LPPs is distinct from front-loading engagement in developing the LDP. It is noted that processes for preparation are to remain flexible – this seems appropriate given that different communities will have different levels of capacity to engage. There is concern that this proposal, as currently described, will do little to achieve greater fairness in supporting communities – it is likely that more empowered communities will make most use of this provision. It is recognised that in order to achieve the objective of greater inclusion there will need to be significant effort directed towards building capacity within communities (including through strengthened community councils) in order to achieve stronger civic engagement. There is opportunity to make use of, and enhance, existing tools and processes (such as accessing and contributing to Historic Environment Records) to engage local people with their place. It is noted that the Place Standard tool is useful as a discussion tool but should not be used to generate an 'average' picture of a place.

Equal or Third Party Rights of Appeal (9): It is noted that the Government is not minded to consider introducing equal or third party rights of appeal. The objective within BEFS is to achieve balance and fairness within the planning system. Unfortunately BEFS thinks that current proposals geared to engaging communities will not achieve better equity or resolve the lack of public trust in the planning system. BEFS members are reporting varying views on the pros and cons of an equal or third party right of appeal, probably because much depends upon the circumstances around how this might be applied. It is suggested that further work needs to be carried out to explore different scenarios.

Simplified Planning Zones (SPZ) (12): Experience within BEFS suggests that SPZs do not necessarily result in faster processing times. It will be important to learn from the current set of pilots. If implemented, there is a general feeling that such zones should be rebranded Strategic Development Zones. Clarity is sought on the rationale behind removing restrictions on the use of SPZ in certain designated areas such as conservation areas which seems, at first glance, to be at odds with the stated objective for achieving high quality, sustainable places.

Permitted Development Rights (19): It is noted from the SEA that the proposal to extend permitted development rights will not be addressed in primary legislation, but will come at a later stage. This is considered further in the response to Q4 on the SEA.

## Q2 – Accuracy and scope of information used to describe SEA baseline

BEFS welcomes that the SEA recognises Scotland's environment as rich in natural and cultural heritage. The second stage assessment (section 8) goes on to give an overview of the components of Scotland's historic environment that are protected and managed under statute – the designated historic environment. It recognises the existence of unknown archaeology; indeed practitioners stress that the vast majority of the archaeological resource is undesignated. The Historic Environment Records held within local authorities should be identified within this baseline as a key source of information on Scotland's historic environment.

## Q3 – Predicted environmental effects

The SEA identifies that environmental assessment is applied to (statutory) supplementary planning guidance (SPG); it should also recognise that the proposal is to remove said guidance and therefore proposals will *remove a mechanism/opportunity for environmental scrutiny* that is currently available within the current system.

The SEA identifies (at 3.4.7) potential for localised indirect impacts associated with increased development to have implications for climate, landscape and cultural heritage. It is important that the planning system take a long-term view of environmental impact; the historic environment, once lost, is lost for ever. Likewise there are concerns over greenfield development on Scotland's prime agricultural land with implications for future food security; the SEA specifically highlights Scotland's high quality agricultural land in describing the current state of the environment.

#### Q4 – Findings of SEA and proposals for mitigation and monitoring

The SEA concludes that the future planning bill is expected to make largely procedural changes and is unlikely to have significant direct environment effects. However it also states that the 'second stage assessment identified the potential for increased development to have indirect, localised adverse environmental effects on most of the SEA topic areas'. It argues that there are existing mechanisms in place within the planning system to mitigate these, however the proposal for extending permitted development rights will mean that more development will not be subject to such mechanisms. This therefore invalidates the conclusion that potential localised adverse environment effects may be managed. It is noted that the proposal to extend permitted development rights will not be progressed through this primary legislation – BEFS seeks clarification on the process for taking this proposal forward.

Given that proposals around the implementation of SPZ provisions are 'still being explored', *it is not possible to accept the finding* at paragraph 3.3.19 that 'no significant environmental effects are likely to arise from the potential changes to SPZs'. BEFS would wish to see further environmental scrutiny of proposals for SPZs once these become clearer.

The SEA recognises the introduction of a gatecheck to *have the potential* to help strengthen environmental consideration. Further clarity is sought about what this would potentially look like. There is also the need to consider the costs of providing information on environment assessments at this earlier stage.