



Scottish Parliament, Local Government and Communities Committee: Call for evidence on the Planning (Scotland) Bill.

Introduction

Archaeology Scotland is a leading independent charity working to inspire people to discover, explore, care for and enjoy Scotland's archaeological heritage. We are a membership organisation, established over 70 years ago and our members include many community-based societies and groups, individual and institutions across Scotland. We have gained a wealth of experience in community engagement, volunteer and project management and professional best practice and are the lead body for delivery of Aim 4 of Scotland's Archaeology Strategy which is about encouraging greater engagement.

We welcome the opportunity to provide evidence to the Committee on this important Bill as we recognise that planning is central to the protection and understanding of our historic environment and we have long-called for the need for Historic Environment Record Services to be a statutory function for planning authorities.

We believe that the Bill as it currently stands falls short of addressing concerns of communities and protecting archaeology as it is merely amending existing legislation rather than taking a bold and innovative approach. Please find below the answers to the questions posed:

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

No. The Bill does not address concerns Archaeology Scotland raised during the planning review process. These concerns were around the lack of detail of how greater community engagement would be implemented and lack of detail of commitment of resources towards this. The Bill as it stands would seem to be speeding up development rather than increasing engagement. We are not against development but the new Bill has to take an innovative approach and lead the way for Scottish planning system and as it stands, the Bill falls far short of this.

Furthermore, we are concerned that the Bill does not address sustainable development and our international obligations to the United Nations' [Sustainable Development Goals](#) (SDG), particularly the need to "Strengthen efforts to protect and safeguard the world's cultural and natural heritage". We would echo the concerns of both the Built Environment Forum Scotland and Scottish Environment LINK around the need to align the Bill with SDGs. The Bill does little to address climate change given the role that the planning system will need to play. The recent risk assessment report from Historic Environment Scotland on [Climate Change](#) shows that 89% of sites visited are showing signs of impact. These are all designated sites and it should be remembered that designated sites are just a fraction of the total number of sites in Scotland. For the majority of our archaeological sites and monuments in Scotland, they are only protected through the planning system.

Page 2/ Archaeology Scotland believe that the Bill will do little to prevent developments occurring in archaeologically sensitive areas and it is unclear as to how the balance between development and community interests will be achieved as there are no additional mechanisms for protecting Scotland's heritage within the Bill. The proposal to "frontload" assessment has the potential to increase pressure on the already stretched local planning authority, potentially leading to incomplete assessments of potential impacts within a development area. If the proposed Simplified Development Zones are to be promoted by planning authorities and not by developers, this will put additional pressure on already stretched local authorities to carry out comprehensive archaeological and conservation assessments.

We know through our own initiatives such as the Adopt-a-Monument scheme that it's not just listed buildings or scheduled monuments that are important to people, with many of the community groups we work with opting to engage with non-designated assets. Current legislation only protects designated assets (outwith the planning system) and it is only through the planning process that these non-designated assets are given any due regard. We agree with BEFS that the Bill is an opportunity to strengthen the protection for Scotland's non-designated cultural physical heritage, which in turn contributes to the preservation of all of Scotland's tangible, and intangible cultural heritage.

We also believe that the Bill should be addressing Equal Rights of Appeal for communities of place and interest as a cornerstone of public engagement. The National Trusts for Scotland recent '[Planning without the People](#)' survey found that 60% of responders felt that they had no influence on planning decisions impacting their local area. Equal Rights of Appeal for communities would help increase public confidence in the planning system and help support the Scottish Government's aim of increase community participation in the planning process.

With our core aim of increasing active participation in local heritage, Archaeology Scotland is often approached by community groups trying to save their local greenspace areas from development. Developers can make repeated applications until they are successful. These areas are important sometimes for their archaeology but more importantly for their use as places to walk and explore and the well-documented positive health and wellbeing benefits of being outdoors that they offer. "Planning without the People" (referenced above) highlights that "90% want local communities to have the same rights of appeal in the planning system as enjoyed by developer, indicating dissatisfaction with the balance of power in the system at present".

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

Archaeology Scotland accepts that there is evidence of a need for additional affordable housing in Scotland but would agree with the National Trust for Scotland that the Bill should not have a bias towards any particular type of development and refer their research on the Scottish public's priorities for the planning system¹. We are concerned that the Bill is focused on numbers of new houses rather than taking a more innovative approach to finding a solution that also brings about well planned, thriving communities in well-connected locations.

3. Do the proposals in the Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

No. The National Planning Framework (NPF) sets out the long-term vision for Scotland and identifies important infrastructure projects. It is not clear if the proposal to abandon Regional Development Plans will then mean more responsibility for setting regional priorities as well and national ones will fall to the NPF.

¹ [The National Trust for Scotland \(November 2017\) Planning for Scotland – citizen views](#)

Page 3/ If so we would argue that it will make it unwieldy. We concur with Scottish Environment LINK's assessment that regional planning is necessary to help manage environmental issues at a regional scale and we would include cultural heritage and archaeology in that definition of environmental issues. Regional planning needs to be properly resourced and the need to robust data about the historic environment needs to be provided by Historic Environment Scotland and adequately resourced Historic Environment Records services.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

We welcome acknowledgement of the need for two-way dialogue between land use planning and community planning. It is proposed that Section 3 of the Bill should introduce a requirement for the LDP to take into account the local outcome improvement plan for the plan area. However, we would agree with LINK that plans with a 10 year cycle offer communities less opportunity to engage and with the loss of Main Issues Reports as well, we would see this as reducing public participation.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

No. Simplified Development Zones may undermine existing protection. If SDZs are not brought forward through a plan-led system they could threaten Scotland's natural and built heritage due to a bypassing of scrutiny. There are still questions regarding resourcing this proposal, which at present still seems to front-load the preparatory work (with associated cost) on already stretched planning departments. We remain concerned that essential assessments of potential impacts on heritage assets (such as conservation areas and listed buildings) will not be completed with due diligence. We also remain concerned at the assumption planning authorities retain experienced heritage professionals who have the expertise to complete such assessments.

We also remain concerned that the potential inflexibility of SDPs would not allow changes in assessments in light of new archaeological discoveries. The very nature of (often buried) archaeology results in the need for assessments of archaeological potential of a development area to be regularly reviewed and updated. We ask if a site of national archaeological importance was identified buried, adjacent to a SDP, would that change requirements for archaeological intervention in a SDP once it had been agreed?

Open Space Zones seem like a simple and effective way of protecting green spaces that may or may not have undesignated sites on and we would recommend looking again at what could be done to create zones that deliver places of quality, which meet the needs of communities and safeguard and enhance heritage assets and greenspaces that are valued locally. These Zones (whatever they might be called) could link to specific land value capture mechanisms may help to deliver higher quality affordable housing, while also promoting social well-being.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area?

Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans?

If not, what more needs to be done?

No. We would support BEFS' comments on this and in particular agree that it is unclear as to where expertise and support to communities will come from. If, however, Local Place Plans (LPP) were adequately resourced to do this and to skill-up communities this could be a very positive move.

The Bill should require planning authorities to engage with communities on the identification of community aspirations and relevant community assets at the evidence gathering stage, whether or not a Local Place Plan has been prepared.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

We agree with the BEFS that while increased level of fines and recovery of expenses could help act as a deterrent to the few developers who do not comply with planning policy or specific planning conditions, we remain concerned that enforcement will be discretionary rather than statutory.

We are aware of case examples where despite it being part of a planning condition, developers are unwilling to fund post-excavation analysis of artefacts or environmental samples from archaeological interventions, once their original planning condition has been signed off. Stronger enforcement measures could help avoid this situation in the future.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development?

Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development?

Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

We would agree with BEFS that "The Infrastructure Levy proposals have not been set out in a sufficiently clear and comprehensive manner to enable respondents to judge if they have the potential to be the 'best way' to secure investment, or may impact levels of development. There are too many unanswered questions, as is highlighted by the recognition of the need for further work in this area in the Policy Memorandum (para. 155)."

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

Yes. Training is always a positive thing to do and continuing professional development is a way of life for many people. We believe this training should also cover environmental impact assessments. We would have concerns about the Bill being prescriptive as to the training provider and whether there should be an examination. This has to be balanced against the need to process decisions in a timely manner and the level of stress already on the planning system.

We note the success of Historic England's Historic Environment Local Management (HELM) training programme which provides training on managing the historic environment for local authorities, regional agencies and national organisations, and would welcome such a scheme in Scotland.

We are concerned that other local government bodies, such as community councils are not mentioned above, but whom we believe should also receive training in planning matters to enable them to be an effective part of the planning process. Training and subsequent engagement would also support Scottish Governments aim of enabling more community access to the planning system.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

We would question what criteria planning authorities would be assessed on. Performance is not and should not be about how fast a development can be passed through the planning process, but rather the success of the application to engage with the local community and appropriate stakeholders who will be impacted by a development. We agree with both BEFS and NTS that planning authorities should be judged on the desired public outcomes and the quality of a proposed new space and place.

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high –performing planning system the Scottish Government wants?

If not, what needs to change?

We request that further information is provided on these changes as we remain concerned of the impact of any new fee structure on an effective planning system.

12. Are there any other comments you would like to make about the Bill?

Supplementary Guidance

We remain concerned regarding the total removal of statutory supplementary guidance which at present supports some consistent approach across planning authorities. We echo BEFS calls for the Scottish Government to clearly set out its existing understanding of what is Supplementary Guidance of a statutory nature and what is local planning guidance that is a material consideration in the planning process to ensure clarity in understanding the implications of the proposal.

Rebalancing the system

The planning system remains imbalanced with local voices often lost amongst developments who can resource an application to smoothly move through the planning system. While this planning bill has repeatedly tried to address this issue and enable more community involvement in the planning process, unless resourced, the bill will ultimately fail in this goal.

Permitted Development Rights

We agree with the National Trust for Scotland that the proposals to potentially broaden the scope of permitted development rights could impact on cultural heritage assets, without proper scrutiny.