

Email to: [LocalGovernmentandCommunities@parliament.scot](mailto:LocalGovernmentandCommunities@parliament.scot)

31 January 2018

Dear Sir/Madam,

## **WRITTEN EVIDENCE ON THE PLANNING (SCOTLAND) BILL**

The Royal Town Planning Institute (RTPI) is the champion of planning and the planning profession. We work to promote the art and science of planning for the public benefit. We have around 2000 members in Scotland and a worldwide membership of over 25,000. We:

- support policy development to improve approaches to planning for the benefit of the public;
- maintain the professional standards of our members;
- support our members, and therefore the majority of the planning workforce, to have the skills and knowledge they need to deliver planning effectively;
- maintain high standards of planning education;
- develop and promote new thinking, ideas and approaches which can improve planning;
- support our membership to work with others who have a role in developing places in Scotland; and
- improve the understanding of planning and the planning system to policy makers, politicians, practitioners and the general public.

RTPI Scotland's members will in large part be responsible for the successful implementation of the Bill, once enacted. We would be pleased for a representative of the Institute to be invited to give oral evidence to the Committee, to provide further detail on the issues raised in this submission. All of RTPI Scotland's submissions regarding the review of the planning system can be viewed at <http://www.rtpi.org.uk/the-rtpi-near-you/rtpi-scotland/policy-and-research/planning-review/>.

### **Overview**

#### **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?**

It is not possible to answer this question without knowing what further changes to the planning system will be made following the Bill's enactment, in particular through secondary legislation and new policy and guidance. Furthermore, achieving this balance will depend on the adequate resourcing of the planning service across sectors and disciplines. RTPI Scotland welcomes the ambition for the planning system articulated by the Scottish Government, for supporting community participation, enabling economic growth, protecting the natural environment, and tackling social inequalities. However, this ambition is for a service which in local authorities is facing a critical resource challenge.

This question also raises the issue of what the purpose of the planning system is, something not clarified by the Bill. The Scottish Government's [2009 Guide to the Planning System](#) states that *"the planning system balances competing demands to make sure that land is used and developed in the public's long-term interest..."* Meanwhile, the Town and Country Planning (Scotland) Act 1997 states that *"The Scottish Ministers must exercise [the functions of preparing and revising the National Planning Framework] with the objective of contributing to sustainable development."* Scotland is also a signatory of the Sustainable Development Goals, one of which is 'Sustainable Cities and

Communities'. The planning system should be instrumental in delivering on Scotland's commitment to these global ambitions.

The planning system is able to have significant influence over the location and type of development, however it operates in a context that it cannot always control. For example development finance and land ownership issues, crucial to successful development outcomes, but outwith the control of the planning system. The Scottish Government has committed to review of Compulsory Purchase and Sales legislation - an important element of this context. RTPI Scotland understands that this reform, while closely related to, is outwith the scope of a Planning Bill. However we urge the Government to progress this agenda as quickly as possible.

Finally, between 2009 and 2016 local authorities on average lost 23% of planning staff, while over the same period planning service budgets were cut by an average of 32.5%. These figures illustrate the resource pressure that local authority planning services are experiencing: The ambition of the Scottish Government for planning is encouraging, but must be matched by real investment for aspirations for a more spatially aware, joined up approach to development and service delivery to be realised.

## **2. To what extent will the proposals in the Bill result in higher levels of new house building? If no, what changes could be made to help further increase house building?**

Taken together, some of the provisions in the Bill could help to support higher levels of housebuilding. These include:

- The strengthening of the National Planning Framework has the potential to give a stronger strategic steer to where and when new homes, and the infrastructure needed to support them, should be delivered. A thinkpiece published by RTPI Scotland in June 2017, [Delivering more homes](#), advocated that a stronger NPF includes aspirations for housing delivery across the country, alongside a number of actions at the national and regional level to ensure that these aspirations are achieved.
- RTPI Scotland believes that lengthening the local development plan cycle from five to ten years, in conjunction with proper resourcing, could give planners in local authorities the time they need to focus on proactive delivery and overcoming obstacles to delivery of allocated housing sites.
- The Bill rebrands local development plan action programmes as delivery programmes. We anticipate that regulations will prescribe in more detail how these updated tools will more effectively assist the delivery of allocated sites. *Delivering more homes* proposes a renewed format for housing focused delivery programmes, which combined with the longer plan cycle, could help ensure that planning consents for housing are built out as quickly as possible.

Achieving a step change in housing supply, and particularly affordable housing supply, will depend on a host of other changes that we expect to see emerge through secondary legislation, policy and guidance, and other Scottish Government workstreams. This includes exploring opportunities for alternative modes of housing delivery, such as self-build and co-housing. New housing is not delivered in isolation, and therefore addressing the pressing need for new infrastructure across Scotland will also be critical to the delivery of new homes that form part of the fabric of great places.

## **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. RTPI Scotland supports the principle behind voluntary regional partnership working, and agrees that local authorities are best placed to decide the geography of such partnerships. However, we believe that without a statutory requirement for agreement on outcomes of cross-border issues, there is potential for deadlock. The English planning system has recently attempted a similar approach: statutory regional planning was removed by the Localism Act 2010, and replaced by a 'Duty to Cooperate'. The experience of this duty has been mixed. In some regions it has been successful: For example in Greater Manchester where, supported by other devolution measures, the ten constituent local authorities have gone as far as to produce a strategic plan. However, there are also examples where, particularly as a result of disagreements about housing land allocations, neighbouring authorities have been unable to reach agreement of the extent and form of growth in their areas.

RTPI Scotland would like to see the duty included in Section 1(6) of the Planning Bill go further, and require regional partnerships to agree strategic outcomes. This could be progressed through high-level regional spatial strategies, which in turn would form part of the National Planning Framework.

RTPI Scotland does not envision such regional spatial strategies being simply lighter touch versions of the existing SDPs. We would want to see them as stronger corporate documents, making spatial connections between different public policy ambitions: economic development, environmental protection and enhancement, public health, for example. In practice, this would require stronger links with policy tools such as City Region Deals and the National Transport Strategy.

**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?**

The changes in the Bill are helpful, but to achieve a more delivery focused system will need to be supported by additional resource and guidance. RTPI Scotland is also not convinced that the measures included in the Bill will ensure that local development plans (LDPs) are always a central part of local authority corporate strategy.

The Bill's Financial Memorandum anticipates a notional saving of £21.42m to £31.5m as a result of the changes proposed for LDPs, but also states that this saving is expected in turn to be absorbed by new requirements to be made of local authorities through regulations. It is critical that this saving is in practice ring-fenced for use to implement both the requirements of any new regulations, and a new way of working which focuses local authority planners on delivery.

In addition to adequate resourcing for the changes to the LDP preparation process proposed, RTPI Scotland believes that the reforms should go further with regard to ensuring that LDPs central to local authority corporate strategy. We have proposed the introduction of Chief Planning Officers in all local authorities: This role could be established in legislation to ensure expertise about place and spatial planning at senior management level, and in turn that the spatial consequences of corporate service delivery and investment are considered as part of the decision making process. A thinkpiece published by RTPI Scotland [A statutory Chief Planning Officer in local authorities](#), explores this proposal in more detail.

The Chief Planning Officer would have a role in ensuring alignment and coordination across all local authority strategies, but particularly relevant to the goals of the Planning Bill would be ensuring alignment between community planning outputs and development planning. RTPI Scotland believes that more clarity is needed with regard to how the proposed changes to LDPs, the introduction of local place plans, and the strengthened link between community planning and spatial planning will all interact. The total of these interventions needs to be a system that communities find it easier to engage with and that responds to their needs.

RTPI Scotland is concerned by the narrow scope of the new evidence report to be introduced to the LDP process. To ensure that all stakeholders are engaged with the development planning process right from the beginning is imperative that they are able to input to the evidence report. This role is not clear from the proposal as introduced by Section 16A of the Bill. The RTPI Scotland thinkpiece [A new development plans process](#) outlined a proposed gatecheck process that was streamlined, but that would give opportunities for stakeholders outwith the planning service to engage. The evidence report will be important in shaping significant decisions about the broad extent and direction of development, and therefore its transparency will be instrumental in building trust in the planning system.

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

RTPI Scotland believes that SDZs identified and progressed through the LDP process could achieve this balance. The plan-led approach to development, and in particular LDP procedure, provides the checks and balances necessary to ensure that the right development happens in the right place. SDZ status could therefore be applied to a site that has been scrutinised and subsequently allocated in the LDP, as a tool for focusing efforts on delivery.

RTPI Scotland has concerns about the powers contained in the Bill as introduced for third parties to request the making of an SDZ, and for Ministers to make an SDZ without restriction, because we believe it could undermine this plan-led system. We do not object in principle to third parties being able to request the making of SDZs, or to Ministers advancing an SDZ. To ensure that local democratic process is not undermined however we believe this should be restricted to sites allocated in the LDP or indicated in the NPF.

Finally, making SDZs, and processing requests to make SDZs, will have resource implications for local authority planning services. For SDZs to deliver good development that balances all interests it is important that local authorities are resourced to ensure that they fulfil other policy ambitions such as the delivery of high quality design, green space, and community infrastructure.

**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?**

The Bill looks to introduce new avenues for community involvement in the planning process. RTPI Scotland strongly supports frontloading of the planning process so that people are able to influence decisions about the future of their places from the outset, and before decisions about direction of travel begin to be made. In the proposals made however, including the introduction of local place plans, there is the potential for duplication of engagement processes leading to confusion for communities and ineffective use of local authority resources. Securing positive outcomes for places begins with public services working their engagement around community input based on the whole place not around an individual service. At this stage it is not clear how the Scottish Government envisages local place plans complementing existing tools.

RTPI Scotland's membership also has serious concerns that without significant new resource local authorities will not be able to support better community involvement in planning, leading to further frustration and public mistrust in the planning system. There are particular concerns about capacity to support the production of local place plans: A comparable cost is that of a charrette, which are funded across Scotland in part by the Government's Making Places fund. The estimated cost of delivery of a charrette averages between £30000 and £40000. The Financial Memorandum estimates preparation of around 92 local place plans per year, which gives an estimated annual cost of £3.68m. The memorandum also assumes that grants may come available from Scottish Government, local authorities, local business or the third sector. RTPI Scotland remains concerned that if local place plans are introduced without the necessary dedicated support for implementation, many communities will continue to be excluded from participation in decision making.

Some local place plans may be self-funded in the majority by communities themselves. While not objecting to this in principle this does raise some issues: A local authority will be required to consider the local place plan and have regard to it in the preparation of their LDP. A plan prepared without the involvement of the local authority in a stakeholder capacity is less likely to align with that authority's strategic priorities, and therefore it may be difficult for the authority to adopt relevant elements of the local place plan in the LDP. There will also likely be many communities across Scotland who may wish to prepare a local place plan but will not have the resources to be able to self-fund it.

RTPI Scotland suggests that given realistic constraints on resources, new funding to support local place plan preparation should be targeted in two ways: towards communities identified as priority areas in a Local Outcome Improvement Plan, and towards communities likely to be affected by major allocations in an LDP. More detail is available in the RTPI Scotland thinkpiece [Making local place plans work: Collaboration rather than conflict](#).

RTPI Scotland does not support introducing changes to planning appeals. We believe that meaningful community and other stakeholder participation in decisions about development should happen as part of the plan-led process, including through properly resourced local place plans where appropriate. The Scottish Household Survey 2016 found that just over three in ten adults in the 10% most deprived areas of Scotland rated their neighbourhood as a good or very good place to live, compared to almost eight in ten of those living in the 10% least deprived areas. Inequality of place is an urgent challenge

in Scotland, and we want to see new avenues for community participation that target reducing this inequality.

**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 could these provisions be improved?**

RTPI Scotland supports the higher penalties proposed for breaches of planning control.

**8. Is the proposed infrastructure levy the best way to secure investment in new infrastructure from developers, and 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 to be learned from the Infrastructure Levy as it operates in England?**

RTPI Scotland consistently hears from its members in the public and private sectors that funding for and the delivery of infrastructure is one of the most significant barriers to the delivery of development. The scale of the issue demands an ambitious response, and RTPI Scotland is concerned that the amount of funding anticipated to be raised by the Infrastructure Levy would not be sufficient to overcome this challenge. Nonetheless, the Levy could be used bridge the funding of strategic infrastructure priorities. To be effective, the Levy would have to be carefully targeted, for which reason in the thinkpiece [Making an infrastructure first approach a reality](#) RTPI Scotland proposes the appointment of an infrastructure task force sat within Scottish Government, and leading on horizon scanning and delivery support for infrastructure. The regulations used to introduce the Levy would also need to ensure that it would not place a financial requirement on developers in addition to funds already collected through section 75 agreements. Rather, the Levy and section 75 agreements should be designed to be used complementarily.

The challenge of infrastructure provision, and the effect it is having on the ability of all within the development sector to deliver high quality new homes and places, has led to more fundamental questions about the development finance equation. RTPI Scotland supports further research into the potential of capturing the land value that is created in the market when public decisions about land use or investment in infrastructure is made. We look forward to working with the Land Commission, Scottish Government and other stakeholders to advance ideas about how this could be achieved.

With regard to CIL, the RTPI's members working in England and Wales have reported mixed experiences with implementing the levy. In particular, this includes:

- CIL has been in part successful in making developer contributions fairer, faster and more transparent.
- CIL works well in areas with high land values, but is not viable in others.
- Requiring local authorities to adopt CIL undermines efforts to use the most appropriate mechanism for securing contributions: sometimes, a section 106 contribution (the English and Welsh mechanism for securing planning obligations) is a more appropriate means of mitigating the impact of development.
- The CIL regulations have not always been well interpreted. For example, there are exemptions in the regulations for small developments, which can create big gap in potential funds coming forward. Conversely exemption can be made for large sites where it is deemed bespoke negotiations through a section 106 contribution would be more fruitful for both parties. Whether these powers are being used as effectively as they could be remains to be seen.
- CIL is for infrastructure, but this definition has in many cases been so expanded that the total amount of funding available is less than could be. For example, a proportion of CIL funds are given to neighbourhood forums to assist in the preparation of neighbourhood plans.
- A serious unintended consequence of CIL is that it has undermined the delivery of affordable housing. Affordable housing is excluded from the scope of CIL and can still be agreed as a section 106 contribution. However, CIL takes priority over such contributions, and so subsidy for affordable housing is often lost when developer contributions negotiated downwards to ensure developer viability.
- Nonetheless, while CIL is a very small part of the infrastructure delivery funding total, it is still important.

**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. Planning is a democratic process charged with making decisions in the public interest. Achieving the public interest is complex and requires taking into account a wide range of sometimes conflicting issues. Navigating these issues more frequently than not requires technical understanding; providing councillors with training in the wider purpose and context of development planning and development management could therefore assist councillors as they seek to make important decisions on complex issues. It will be important to ensure that the content of training is viewed as independent and robust; the Planning Skills Coordinator provided for in the Bill could have a role in ensuring this, as could continued collaboration with RTPI Scotland and other stakeholders should as Heads of Planning Scotland and the Improvement Service.

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

As with other proposals included in the Bill it is difficult to assess their potential impact without knowing the detail of complementary measures to be introduced through secondary legislation and policy and guidance.

RTPI Scotland is not opposed to the principle of the proposal to introduce a performance coordinator. However, we believe that this role should take a positive approach to working alongside planners across sectors and specialisms to improve performance throughout the planning system, not just in local authorities as is currently implied. For this reason we believe that the post should be independent of the Scottish Government, possibly taking the form of a Commissioner.

The measures included in the Bill to enable Ministers to direct the implementation of recommendations for improvement in local authority planning services also provokes the question of how performance will be measured; what will constitute 'poor' performance; and, what level of 'poor' performance will justify intervention. RTPI Scotland agrees with the Scottish Government that the planning system should work efficiently, and deliver timely decision-making and certainty. Equally if not more important however, as reflected by discussions earlier in the planning review, is the quality of decision making. The effectiveness of the performance coordinator will in part rest on to what extent the role supports all planners to develop the skills, behaviours and knowledge needed to deliver great places across Scotland.

**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?**

This additional flexibility is welcome, however the scale of the challenge faced by local authority planning services, as outlined under question 1, requires a more dramatic shift in resourcing.

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

There is still a great deal of uncertainty about the transition arrangements associated with the Bill, and details on when and how its various provisions will be implemented would be welcome.

I trust that you will find these comments helpful. If you would require clarification or more detail on any of the points raised, please contact me on 0131 229 9628 or by email to [craig.mclaren@rtpi.org.uk](mailto:craig.mclaren@rtpi.org.uk).

Yours sincerely,



**Craig McLaren**  
Director