



Planning Bill- Stage 1 Evidence to the Local Government and Communities Committee (LGCC)

INTRODUCTION Heads of Planning Scotland (HOPS), which is the representative organisation for senior planning officers from Scotland's 32 local planning authorities, 2 national park authorities and 4 strategic development planning authorities, welcomes this opportunity to provide a formal response to the Call for Evidence. We would be happy to expand on any points and provide further clarification to the LGCC. (Detailed Topic Papers are available on each question posed).

In the last 2 years HOPS has had a particular focus on the planning review work streams and the preparatory work being carried out by the Scottish Government (SG) towards the implementation of a new Planning Bill and the related secondary legislation and detailed matters. HOPS has positively engaged in the planning review process throughout, including providing oral and written evidence to the Independent Panel and detailed Papers as requested by the SG. From the outset HOPS has set out its vision for the planning reforms, based on the following 3 strategic objectives,

1. **Planning needs to be repositioned as a strategic enabler**, as well as a statutory, regulatory function. It has to be at the core of local authority activities and needs enhanced recognition within national and local government as a critical contributor to the economic and environmental agendas, including plan making and community engagement.
2. A high-level priority is the urgent need for **proper and proportionate investment in the planning system** to resource a high performing system capable of delivering the outcomes we all aspire to at national and local level. This is seen as a critical "game changer" for HOPS which needs to underpin all other planning reform changes. Full and sustainable cost recovery is needed to enable reinvestment in key planning work areas and to achieve improved performance levels.
3. **A more simplified and streamlined planning system** which is more efficient and effective, which frees up planners from processes and procedures to enable them to contribute to implementation, delivery and engagement activities. HOPS has proposed further areas for consideration by the Scottish Government to take this objective forward.

The planning system in Scotland is recognised internationally as an exemplar of best practice and although it is not broken it does require some radical and innovative interventions if it is to be in a position to respond to the growth and sustainable development of Scotland's economy, infrastructure and communities. **The vision for the new planning system has to be bold, radical and world class in its ambitions and as the Minister said in introducing the review it has to be "root and branch".**

HOPS recognises that the keystones in the wider planning reforms which we are seeking such as effective leadership, transformational culture change, a digital revolution, re-skilling the planning workforce for the new agenda, more effective community engagement, land reforms and a fairer and more inclusive planning system for all, are outwith the legislative bounds of the Planning Bill. **They are however, the critically important elements to be advanced in the related work areas if we are to succeed in creating a new, innovative ambitious and vibrant planning system which is transparent, accountable, adequately resourced and a standard bearer for excellence and innovation.**

HOPS supports the positive and creative direction of travel set out in the Bill for the repositioning, simplifying and streamlining of the planning system but our comments are fettered due to the lack of detail and precision presently available. HOPS is also concerned that the financial assumptions set out in the accompanying Financial Memorandum (separate HOPS submission made) are not detailed or specific enough due to the lack of prescription and the lack of certainty around the take up rates.

Forward budgeting for all planning authorities will be difficult to manage with any degree of precision and certainty. **HOPS has consistently campaigned for a sustainable and self-funding approach to planning fees, resources and full cost recovery, all of which will become more critical in the years ahead.**

HOPS RESPONSES TO THE SET QUESTIONS

Q1 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?

YES. HOPS considers that the balance of needing to secure the appropriate development, taking account of community's views and protecting the built and natural environmental assets is a crucial factor in the planning system. The system is underpinned by the need to act in the public interest and to take decisions which comply with the Development Plan and National Policy, unless material considerations indicate otherwise. The balance of these decisions and the weighting afforded to the different elements in the overall assessment is always the crucial and defining aspect in every planning decision taken.

Proposals include earlier proactive and more integrated engagement with communities and stakeholders at the local level, fuller and longer consultation processes at the national level which will see integrated strategies and policies set out for Scotland, and the new Simplified Development Zones approach will target growth and investment areas without sacrificing environmental safeguards. Existing "protection" processes for Environmental Assessment, specialist consultations and publicity for Listed Buildings, Conservation Areas etc. will continue.

The speed of decision making is vital for economic growth and HOPS considers that more effective, upfront community engagement will assist in achieving the Government's aims.

Q2 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?

The proposals will not achieve this automatically but are positive supportive measures. The provision of more, quality housing was a key issue to be addressed in the planning review consultation process. There are many initiatives which will assist in creating a supportive planning environment for this objective to be met but the planning system is only one part of the complex processes linked to housebuilding activity. The housing "toolkit" in the Bill will make a positive contribution to the complex issue of creating more, quality homes but it will require to be combined and complemented with other interventions and initiatives.

- Possible options for an infrastructure levy which may clarify the funding requirements for house building in a more transparent manner. This is critical to providing infrastructure upfront.
- The change to Delivery Plans makes provision for the local authority chief executive and full council to sign off the delivery programme, raising awareness, corporate commitment and deliverability
- A streamlined refocus at national level for the National Planning Framework and Scottish Planning policy with the inclusion of regional housing targets and greater clarity and certainty.
- The statutory development plan for any area, consisting of the NPF and the LDP, will give a clearer, simpler structure and, where appropriate, consistency to the development plan. By doing so it will improve confidence in where and how Scotland will develop and reduce the need for repeated and frequent debate on implementation of well-established policy principles.
- The new approach to Development Planning will ensure decisions about future development are guided and influenced at appropriate national, local and community levels, to secure greater certainty for investors and communities alike.
- New streamlined Local Development Plans will include more community engagement and span a 10- year horizon which should provide more certainty and confidence for housing investors. The proposed simplified measures for updating/amending are critical to producing more responsive plans which can change more quickly in response to changing economic/market conditions.
- The "frontloading" of the planning system has long been an aspiration, but the Bill provisions aim to ensure it can be better achieved through fuller and more meaningful collaboration, reduced procedure and a clearer focus on outcomes and delivery.
- Simplified Development Zones which will attract housing investment in to growth areas without the need for planning consents through the normal routes.

These individual changes and improvements, together with the exclusion of an equal right to appeal, will help to encourage a more efficient and responsive planning system which should generate and stimulate more confidence and certainty in housing investments and housing delivery. Other areas such as compulsory purchase, land reforms, land values and uplifts, clearer and consistent guidance on Housing Land Audits and Housing Land Supply definitions to avoid unnecessary challenges and appeals, also need to be tackled in tandem. Although there are no "game changers" it is critical to integrate and provide mechanisms to deliver strategic infrastructure upfront to enable housing to come forward.

Q3 Do the proposals in 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?

HOPS has a balanced view on this but we support the direction of travel that frees up time away from bureaucratic plan preparation and processes at all scales, to enable a focus on implementation and delivery. HOPS also supports strategic planning as an “**essential element of the overall planning system**” as stated in the Policy Memorandum.

HOPS has previously expressed concerns that the replacement of SDPs with a regional partnership approach, requires clearer evidence to justify the case for change, clarification of the actual expectations for the new arrangements, and clarification of how these objectives are to be delivered. Unfortunately given the lack of evidence and specification around the future arrangements, these matters remain concerns and emphasis the need for clear transitional arrangements to avoid a vacuum.

This lack of specification is in part a response to the differing regional partnership arrangements that are emerging around the country and is therefore in part a deliberate feature of the proposals to enable bespoke regional partnerships to be formed. However, given that most of these regional partnerships are embryonic or do not yet exist, and those that do exist are economically led and focused, whether or how a role for strategic planning will be addressed within these regional partnerships, is not clear.

What the Planning Bill intends is the removal of the Strategic Planning Authorities without replacement by an alternative vehicle to deliver this “essential element” of the Planning System. The authorities will require to revisit/consider afresh, how they will cooperate to fulfill the Bill’s intended requirements to cooperate to provide information to assist in the preparation of NPF. HOPS wants to seek early clarification as to how Scottish Ministers intend to utilise the powers to direct 2 or more authorities to work together as it is unclear as to whether this will be enacted as a duty on the authorities or a Ministerial power of intervention. Is it intended for example, that a series of directions follows the Bill’s enactment?

City regions, city deals, partnerships and other arrangements, such as regional transport partnerships, all need to be integrated in spatial, economic and transportation models which work locally. Alignment of strategic planning, transport and economic development are key requirements moving forward.

Q4 Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focused 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?

YES. HOPS supports the changes being proposed for the Local Development Plan process and believes it will bring better clarity and focus and a simplified process. The emphasis on early and fuller engagement, a front- end gate check process and an emphasis on delivery rather than action are all positives measures. The proposal to have a quicker and simpler updating/amendment process to allow elements of a plan to be updated without a full replacement is crucial. Where there is no significant change in an area there is no need to review a plan earlier.

A streamlined and simplified process is always to be welcomed and the additional elements on early engagement, evidence gathering, checking and monitoring will all contribute to an enhanced and more transparent system for all the major stakeholders. Reviews will still be necessary but the proposals are supported.

Q5 Would Simplified Development Zones(SDZs) balance the need to enable development with enough safeguards for community and environmental interests?

YES. This is a measure to update and refresh the existing system of Simplified Planning Zones (SPZs). SDZs are given particular prominence within the Bill with more detail and prescription than any other topic. This signals a step change in direction by the Scottish Government to focus on growth and investment areas in support of the priority for economic growth.

The take up of SPZs across Scotland has been extremely poor and it is not certain whether SDZs will fare any better as they are discretionary. **HOPS view is that they will not be widely used.** SDZs should be identified and progressed as part of the Local Development Plan process, to ensure a plan-led approach to development and not an ad hoc process which is solely investment driven. The Bill allows Ministers to create an SDZ in a local authority area which appears to be a “centralising” power but the criteria for establishing them is unclear.

The prospect of widening the scope to include conservation areas, green belts and national scenic areas is also welcomed, provided that there is no weakening of standards to be applied.

The proposal to include other consents (road construction consents, listed building consent, conservation area consent, and advertisement consent) is also welcomed as it will provide a better and more efficient service to applicants and developers.

Q6. 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?

YES. HOPS welcomes any initiative which contributes to early and meaningful engagement with the community and feels that more needs to be done to improve and enhance existing engagement processes. Spatial and community planning need to be integrated at the corporate level and linked in to community planning. The critical issue in all of this is the ability of local communities and individuals to be involved in the early and proactive preparation of plans, but this needs to be better thought out and properly resourced to ensure that it reduces inequalities and is accessible to all parties who want to be involved. This links in to other initiatives where we are creating a surge in opportunities for community involvement in governance and service delivery in Scotland.

HOPS is positive about Local Place Plans (LPPs) in principle, provided it is not an additional layer of planning. Our main concerns are about resourcing, timetabling and the need for compliance with the LDP. Better managed and wider engagement, consultation and participation is definitely required, and this can also be accommodated within existing spatial and community mechanisms. The Bill reinforces the existing legislative requirement for spatial planning to take account of community planning outcomes and HOPS considers this to be the critical element. We need to avoid having too many “layers” of planning at community level to avoid confusion, cluttered diaries and duplication of scarce resources. **We need to integrate and simplify not complicate and clutter and our concerns are,**

- how the critical links with community planning and Locality Plans would work in practice
- how we would support communities which would most benefit from LPP but perhaps don't have the capacity or resources to undertake such a project
- that councils would inevitably be expected to support or fund LPP and LPAs do not have the budgets to facilitate LPPs. The resource implications need clarified.
- managing expectations.

Q7 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?

YES. HOPS supports the changes proposed in the Bill to strengthen enforcement powers in this way, but further procedural and process changes are required. HOPS believes that the toolkit of enforcement powers has been strengthened by the new measures, but it is essential that local authorities use these powers, in order to gain that trust and confidence from local communities referred to above.

The integrity of the planning system is undermined if breaches are not enforced and planning conditions not complied with as members of the public feel let down. Without adequate resourcing and Council support the quality elements of developments are not delivered. As part of the comprehensive review of fees charging for enforcement activities needs to be included.

Q8. 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?

The Bill enables regulation for a new infrastructure levy that will complement the existing system of planning obligations. We support this in principle, but don't think that this is enough to address the huge shortfall in infrastructure provision that we're currently seeing in Scotland. We are urging the government to consider how there is going to be improved horizon scanning for infrastructure needs, and in the absence of statutory regional planning the drive needed to ensure that key projects are delivered. The Scottish Government also seems interested in exploring capturing land value uplift, and HOPS supports this approach, especially through the Land Commission.

The introduction of an Infrastructure Levy and subsequent Regulations are broadly supported, but these measures alone will not be sufficient to fund the local/ strategic infrastructure required to deliver development ready residential and commercial land allocations. Principally this is because there is a responsibility on local authorities to provide infrastructure which in most cases is front funded with the recouping of funds through developer obligations reliant on the completion of commercial/ residential units completions.

Infrastructure funding and the relationship between infrastructure and development delivery has been widely debated and consulted on by the Scottish Government. While the need for change is not being challenged, cognisance needs to be taken of the limitations to revenue generation by means of a levy, the resource

implications for planning authorities, impact on development viability and consequently the delivery of development. **Strategic infrastructure is needed upfront to unlock and facilitate economic growth and HOPS supports the Scottish Futures Trust as the national body to be responsible for working with all parties to deliver this strategic infrastructure.**

Q9 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. HOPS strongly supports the proposals set out in the Planning Bill to introduce mandatory training for all councillors who sit on Planning Committees or Local Review Bodies. In particular, the introduction of a national training agenda and examination/course completion for those councillors. This will ensure national consistency and will provide a comprehensive training manual which will be kept up to date. It will provide a minimum national standard of training which will require to be supplemented by local requirements, illustrated by local examples and case studies to be more meaningful and relevant to the councillors. HOPS considers that there should be an emphasis on much more detailed training for those involved in Local Review Bodies. There are specific and unique differences between a member being part of a planning committee and a member being on the LRB. The proposed training has to be customised to suit. More informal training for MSPs to assist them in their parliamentary duties on planning matters is also recommended by HOPS.

This new provision will bring planning training in to line with the current arrangements for training for councillors on Licensing Boards which has proved workable and successful.

Q10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

YES, although the proposed measures appear to be formal and centralised. HOPS is committed to the continued provision of and enhancement of planning performance assessments and introduced Planning Performance Frameworks (PPFs) in 2011 where all LPAs submit, on a voluntary basis, an annual report on performance measures, key indicators and proposed improvements. Planning performance levels have improved year on year supported by HOPS and the Improvement Service.

The new roles of Assessor and Coordinator need careful consideration before implementation. The Coordinator needs to sit separately from the SG and also separate from the Assessor post.

HOPS has previously highlighted to the Scottish Government the extensive work on performance undertaken by the Planning Improvement Service in England and Wales and the key role and activity they undertake in assisting authorities in identifying best performance and improvements. We have requested that this support function is critical to improving performance on a consistent and sustainable basis and should be examined in more detail on a joint basis between the Scottish Government, COSLA, HOPS, RTPi and the Improvement Service.

The Bill proposals put the current arrangements in to a more formalised 3 tier structure and provide for Directions and Regulations by Ministers, which we anticipate will be prepared on joint basis with key stakeholders, including HOPS. We are concerned about these provisions which are akin to an external audit by Ministers in a detached way from current planning performance requirements and improvements.

It is also critical that the performance of the Scottish planning system is measured and not just the performance of the LPAs as there are brakes on performance outwith the control of Councils. This will require additional resources to LPAs and the ability to reinvest.

Q11. 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?

YES. The introduction of Discretionary Fees is essential, although they will not fill the gap in funding that HOPS considers is required. They must be nationally agreed and placed on a statutory basis. This will not be significant enough or sufficient to fund local councils to the level required to create a sustainable and sufficiently resourced planning service to deliver increasing customer and stakeholder expectations and to improve performance and quality in response to the new planning system.

The adequacy of funding levels for planning services has been widely researched and consulted on by the Scottish Government over the last 10 years. What is not in doubt is the requirement for a comprehensive assessment of the resources and funding required for planning services and a commitment from the Scottish Government to carry out the necessary improvements, including a radical approach to increasing planning fees to enable full cost recovery. Fundamental to this wider approach is a guarantee that the funding and income received via planning applications and other charges, both discretionary and mandatory, are retained solely by the planning service. This will ensure that the requisite budget control and the ability to reinvest in planning skills, resources and improved performance actions is directly managed and implemented outwith the normal corporate budget process.

Q12. Are there any other comments you would like to make about the Bill?

YES. The Planning Bill is small component part of the overall package of reforms being considered and proposed by the Scottish Government and needs to be seen in that context. **Critical areas to achieve real transformational change include, leadership, culture, behaviours, more simplification and streamlining measures, review of planning funding, land value uplifts, compulsory purchase, Use Classes, additional Permitted Development, shared services, community engagement initiatives, climate change, energy and place- making etc.**

HOPS and the RTPI supported the statutory designation of a Chief Planning Officer and we are disappointed that this is not being proposed at this stage. It would help to strengthen and reposition planning at local government and corporate level and be a new indicator for the linking up of spatial and community planning, taken together with the new sign-off responsibilities for Chief Executives.

HOPS does not support an Equal Right of Appeal as it would increase delay and uncertainty through to the end of the planning process running counter to the whole thrust of the Bill and wider review of planning in streamlining and front-loading the system. It could discourage investment and could be used to block or delay development which is needed in the public interest. The challenge here is for the SG to provide balance in the system to ensure that inward investors and developers are attracted to Scotland and there are no excessive hurdles/disincentives, such as uncertainty and slower decision making.

HOPS submitted a formal response to the Finance and Constitution Committee on the Financial Memorandum highlighting concerns about the costs and estimates set out, the lack of detail and certainty, and the confusion between cash costs and productivity costs. **HOPS has consistently campaigned for a comprehensive review of planning fees and resources towards a full cost recovery model.**

Successful city region planning is the keystone for wider economic growth and prosperity for Scotland, particularly and focused on Glasgow and Edinburgh and they may require a bespoke solution.

The introduction of Local Place Plans may not be the only solution to generate greater community engagement and trust in the planning system. HOPS believes that existing plans at the spatial and community planning levels are sound, provided they are better integrated and joined up.

The possibility of an infrastructure levy is one way of assisting local authorities to provide much needed infrastructure, but the sums generated will not be sufficient. **National funding for key projects will be required as well as an overhaul of all existing funding mechanisms.**

HOPS CONCLUSIONS

HOPS considers that the Scottish Government has consulted widely and in a participative manner throughout the review process, and HOPS has contributed positively, with support, queries, recommendations and criticisms where appropriate. We will continue to work proactively with SG. The direction of travel outlined in the Bill is welcome and partly responds to the 3 strategic objectives identified by HOPS on page 1. More needs to be done however and HOPS looks forward to continuing to work jointly with the Scottish Government and other key stakeholders to ensure we achieve our joint aims for wider improvements and enhancements to the planning system.

Our shared ambitions include,

- A properly resourced planning system with the capacity to deliver the improvements we all believe are needed
- Further reducing bureaucracy and processes
- Enhancing public engagement, participation and involvement using current exemplars
- Creating more trust and confidence for all parties
- Re-focusing on people, places and quality
- Planning as a facilitator and investor rather than negative and controlling
- Planning as the springboard and catalyst for economic growth and prosperity across Scotland

These have to be assessed against the Planning Bill and wider Planning Review and related proposals.

HEADS OF PLANNING SCOTLAND FINAL APPROVED RESPONSE TO THE PLANNING BILL CALL FOR EVIDENCE- 2nd February,2018.