

# Scottish Government Planning Consultation<sup>1</sup>

## Spokes Response – March 2017

Thank you for the opportunity to respond to this consultation. Spokes, the Lothian Cycle Campaign, has about 1000 members in Edinburgh and the Lothians. Our Planning Group currently has 10 members and responds to Planning Applications from CEC in Edinburgh mostly, and the Lothians occasionally. Our response is *based on our experience from Edinburgh and the Lothians*, but is likely to reflect the situation in other parts of Scotland too.

### **Part I: General Overview**

Rather than tackle the 20 questions individually, we have chosen to highlight an excellent quotation from early in the document, and use that as a base to explore our concerns and possible opportunities for change.

The quotation is this:

1.2 They [Plans] should help us to design and deliver places where people can lead healthier lives, move around easily and have access to the homes, services, facilities, education and employment they need. They should set out a vision for places which are low carbon and resilient to the future impacts of climate change.

These are excellent objectives. We like the quote especially since it draws together Planning with Health, Transport and the Environment. It is arguable that Planning is THE central function of Government, since it enables people to lead healthier lives, and transport is an important component of this. Indeed, transport is so integral to planning, that we shall argue that transport could/should become part of a wider Planning function within the Government, since Transport in Scotland at present is not fulfilling its essential purpose.

The questions are:

- 1 To what extent are the objectives being delivered, or not, under the current system?
- 2 If not, why?
- 3 What could be done to improve the system?

### **Q1 To what extent are the objectives being delivered?**

Spokes Planning Group regularly comments on, and objects to, many large residential development schemes within the City of Edinburgh. Our usual grounds for objection are:

- 1 that the scheme is greenfield land, while plenty of brownfield is still available;
- 2 that the scheme is on Green Belt land;
- 3 that the scheme does not form part of, or an extension to, an existing community;
- 4 that the scheme is low density and thus 'wasteful' of valuable land;
- 5 in particular, that the scheme is not sustainable from a transport viewpoint, since the amenities residents will need are located too far away for access by walking or cycling, or the public transport is also distant or inadequate, and the scheme will inevitably rely heavily on use of the private car.

---

<sup>1</sup> <https://consult.scotland.gov.uk/planning-architecture/a-consultation-on-the-future-of-planning/>

Heavy reliance on car use is unhealthy in several different ways. First and foremost it encourages a sedentary lifestyle, with too little physical exercise; drivers are also under stress, and breathe contaminated air. Children can't play in the streets, meaning less exercise, and children often being driven to school and many other out-of-school activities. Domination of the street by cars means that walking and cycling are discouraged for all.

Cars are also very demanding on land use, whether mobile (road networks) or stationary (street clutter). Land, especially in urban areas, is a very expensive commodity. Congestion, created mainly by cars, is wasteful of time and energy. The recent Scottish Parliament LGCC report<sup>2</sup> on RPP3 highlights the inadequate linkage between planning and transport.

Car use is based on fossil fuels, with consequent air pollution and impacts on climate change and the environment. The recent Scottish Parliament RECC report<sup>3</sup> on RPP3 highlights these issues. Even if, eventually, cars become electric-powered, from sustainable sources, the other downsides of car use remain: land take, congestion, unhealthy lifestyle, domination of the street-scape etc.

Traditionally, Edinburgh has been a relatively sustainable city. Tenements have provided high density housing and thus a compact city, which can be well served by public transport and where many destinations can be accessed by cycling or even walking. Until the car became available to all, walking, cycling and bus were the normal modes of transport. The city's streets were quiet and free of vehicle clutter. The suburbs, many based on former villages, became secondary hubs, offering shops and other amenities, on a local basis accessible by cycling and walking.

In recent years, far too many schemes of the unsustainable kind outlined in 3-5 above have been given planning permission, and the process continues unabated. The sustainability of the city is being eroded by urban sprawl. Meanwhile, brownfield land which could be used for housing lies ignored, because it costs more to develop and developers make less profit - so greenfield land is used instead.

The objectives of 'lead healthier lives', 'low carbon', 'resilient to climate change' are thus clearly *not* at present being met; 'move around easily' is partly met but only through car dependence, which creates increasingly high levels of congestion (and pollution), thus defeating its own objective as well as all the others.

A properly planned city should be becoming more sustainable and more healthy, not less. A robust public transport infrastructure and cycling networks are essential, but they are not being built. They happen in many European cities, so why not in Scotland?

---

2 <https://sp-bpr-en-prod-cdnep.azureedge.net/published/LGC/2017/3/10/Report-on-the-Draft-Climate-Change-Plan---the-Draft-Third-Report-on-Policies-and-Proposals-2017-2032/5th%20Report,%202017.pdf>

3 <https://sp-bpr-en-prod-cdnep.azureedge.net/published/REC/2017/3/10/Report-on-the-Draft-Climate-Change-Plan--the-draft-Third-Report-on-Policies-and-Proposals-2017-2032-1/5th%20Report,%202017.pdf>

## **Q2 Why are the objectives not being delivered?**

### *A: The Planning Process*

The planning process is currently the source of much frustration.

In many cases, the Local Authority refuses permission for the type of low density, remote, unsupported and car-dependent applications noted in 3-5 above. In this, the LA is usually strongly supported by local community groups, local residents, and those with wider environmental concerns like ourselves.

Typically, the developer then appeals to the Government via the DPEA. The Reporter in many cases then allows the scheme, on grounds of wider housing need; and permission is granted.

In sum, the Authorities, local and national, are not working in tandem. The developers can play one off against the other, and they do. We have seen applications which virtually ignore the local requirements, and go straight to the question of 'wider housing needs', which they push ad nauseam.

Such a situation is very bad for the morale of the local planners, and frustrating for the public and for groups with concern for the environment.

The situation is made worse in that developers have a right to appeal, but third parties do not. It should be the other way round. Planning is for the whole community; developers are mostly outsiders and have little interest in the community, other than the profit motive.

Developers already have the upper hand (over the community as a whole) in the planning process, in a number of ways: they have professional advisers who know the planning system intimately; they have lobbying powers with local and national authorities; they have huge financial resources. Community representatives have none of these. It is ludicrous to propose, as the Consultation Document does, that developers and house-builders should be given an even easier ride through the planning process.

## **Q3: What could be done to improve the system?**

The system can be improved by first looking at the fundamental problems, which are:

a shortage of housing;

housing is too expensive for the young to get a foot on the property ladder;

lack of provision of new infrastructure.

(note that the cost of housing is large due to the high cost of the land)

### *Shortage of housing:*

A hierarchy of strategies could be established to deal with this, on similar lines to the environmentally-based hierarchy ("reduce, re-use, recycle"), thus:

i) Reduce the demand;

ii) Make better use of existing housing stock;

iii) Make better use of existing urban land;

iv) Use brownfield land;

Only when these opportunities have been exhausted,

v) Use greenfield land, high density housing

vi) Greenfield (non Green Belt) land, low density

Note how existing priorities are the complete reverse of this hierarchy.

Many of these strategies require Government action. For example demand reduction could be achieved by ensuring that all residential properties are occupied. Second home ownership should be discouraged through strong financial penalties; too many properties are being bought, especially in Edinburgh, as an investment and left empty. Foreigners could be barred from property ownership, as happens in a number of countries. If new housing is supplied, there is still the risk under present conditions that investment purchasers would nullify the desired outcome.

Strategy iii) above could potentially yield much valuable land for housing. In particular, consider the quantities of land used for nothing but the parking of cars. Edinburgh Park is a prime example. When viewed from above, it appears as one enormous car park, punctuated by the occasional office block. What a waste of valuable land! And those who occupy it, for a few hours a day, pay nothing for the privilege. The displaced vehicles could be accommodated at an existing Park+Ride site.

The Government should introduce legislation to ensure that the owners either sell this land to the Local Authority, or use it themselves to provide housing, preferably high density. Planning rules would be relaxed, to enable mixed-use zones to become established. Then, people could live, work, shop and relax all in the same area, thus reducing the need to travel, with all the benefits which would ensue from that. Traditional zoning of a city is no longer necessary, now that heavy, noisy or polluting industries have mostly vanished.

Another source of housing is redundant office blocks. Edinburgh particularly seems to have an over-supply of office accommodation and it is very obvious that many blocks lie empty, sometimes for years. Local Authorities could be given powers of compulsory purchase for any block that has remained empty for, say, 80% of its space over a period of 'x' number of years.

### *Case Study*

Chesser House on Gorgie Rd is an 8-storey office block which has lain unoccupied for at least 6 years. A planning application has now been lodged to convert it to housing. The plans are for 163 flats, potentially housing around 300 people. **The equivalent on greenfield land would consume about 8ha, compared with the 0.6ha of Chesser House.** It is a fairly modern-looking building with access to plenty of open space, and with excellent public transport and cycling connections nearby. And it is sited in a mainly residential area. Car parking is just 35 spaces, in view of the adjacent public transport.

An adjacent office block, 'Riverside', has had very low levels of occupancy for years and would similarly be highly suitable for conversion to housing.

Strategy iv), use of brownfield land for housing: developers could be told in no uncertain terms that greenfield land will not be released until all brownfield possibilities have been exhausted. Developers could be given better incentives to use brownfield. Local Authorities could be given easier powers of compulsory purchase over brownfield; they could then clear the sites, and sell the 'clean' plots to private individuals or housing associations, not developers, who could then commission their own houses or flats, and would be assured of a property at a reasonable price.

### *Housing too expensive (mainly because of cost of land)*

This problem would partly be solved by the solutions outlined above. For new greenfield sites Land Value Taxation should be investigated to alleviate the problem of the differences between the value of agricultural land and land close to cities destined for housing.

### *Lack of new transport infrastructure*

In a properly planned city, new housing goes hand-in-hand with new infrastructure designed for public transport and cycling, to discourage use of and reliance on the private car, and thus create healthier communities and reduce congestion and pollution.

Infrastructure is undoubtedly expensive. In our view it should be financed mainly from national resources, since the majority of the population now lives in and near cities, but this requires some changes in how Transport is managed.

Currently, the largest share of the transport budget goes on road-building, and much of this in remote-rural areas ("putting swathes of heather and bog under tarmac"). The excellent recent CPRE research report<sup>4</sup> *The End of the Road? Challenging the road-building consensus* outlines starkly the failures of this policy in terms of local economies, congestion and use of land.

Meanwhile the urgent need for better transport systems in urban areas - and we include areas like the Lothians, which are expanding rapidly in response to the centripetal force of Edinburgh - are simply not being met.

To take the Lothians as a specific example: a few towns ARE serviced by good public rail transport; in East Lothian, the stations on the North Berwick route; In West Lothian, towns on the Bathgate route, and Linlithgow. But these are narrow corridors; too many towns have no rail connection and have to rely on bus services. In many towns, new housing is already being built, but will inevitably be reliant on the private car. The Midlothian corridor to Penicuik is an example. Within Edinburgh itself, village/towns like Ratho, Kirkliston and the Balerno area have nothing but the bus. For the SE Wedge, including Gilmerton and Burdiehouse where massive new development is taking place, the one rail station (Shawfair) is remote - a car journey away, so many people will use the car for the whole journey.

Tram routes extending from the city to these new suburbs, in the Lothians as well as Edinburgh itself, are the most likely long-term solution, along with proper cycle routes which not only link the suburbs to the city but also connect suburbs to the nearest public transport hub, such that part of the journey is made by bike and part by rail or tram or even bus.

The question is, how can an entrenched organisation like Transport Scotland, focussed as it is on trunk road building, be changed in order to meet these very real urban needs?

There is a strong case for a substantial Government re-organisation, in which Transport would be incorporated with Planning in a single unit, where the two could move forward together. The aim would be well-planned, compact cities in which there is housing for all who need it, adequate public transport replaces reliance on the private car, and a much healthier society is created.

---

4 <http://www.cpre.org.uk/resources/transport/roads/item/download/4851>

Not all the infrastructure finance need come from national or local authority sources. There are at least two other possible sources:

i) The developers should also be required to pay their share. At present, they are required to contribute to Education, under Section 75 agreements. We see no reason why these contributions shouldn't be extended to cover transport. The developers after all, with the ready supply of greenfield land, are already getting a bargain;

ii) Land Value Taxation, if introduced, could also raise valuable funding for infrastructure;

iii) tax car use more appropriately. As noted, car drivers can pay almost nothing for use of the valuable land their vehicle requires, whether moving or parked. This amounts to a massive subsidy of car use, and makes no sense for a society aiming for health and a clean environment, not to mention the impacts on the roads themselves (ie maintenance expenses).

The average car measures 4m x 2m - say 10 sqm including the 'envelope'. What is the cost of 10 sqm of urban land, where costs of, say, office space is reckoned in £s per *square foot*?

## **Other issues from the Report:**

### *1 Community Involvement*

We welcome the Report's inclusion of community involvement as an issue. In a very real sense a town or city 'belongs' to those who live it, and who therefore have every right to a say in its future and how it changes or develops. We recognise however the problems of getting fair representation, and that Community Councils often comprise an unrepresentative group.

Since young people are the ones at the brunt of the planning process, in that land is too expensive and there are housing shortages, it is only reasonable that they should be involved. The issues must be clearly spelled out however, to enable informed decision making (see 2.19ff).

Spokes may be able to help here, in a small way, since our members include families and people of all ages.

### *2 Planning Fees*

We agree with the Report's view that fees should be increased substantially for property developers, but not for private individuals applying for small changes – for example, see 4 below..

### *3 Repeat Applications*

We have already noted how developers have the right to appeal, whereas the community does not. We continue to believe that this is grossly unfair. But even when developers get an appeal refused, we notice they come back later with a new and slightly different proposal, just to go through the whole process again, with the aim of eventually wearing the system down.

To prevent this, a time interval of a number of years should be brought into law.

#### *4 Permitted Development*

Para 4.23 of the consultation document states...

*Heads of Planning Scotland are looking at the scope to extend permitted development rights and remove the need to apply for planning permission for more development types. This could also be supported by making changes to the Use Classes Order. At this stage, the types of development where we think there is scope to remove certain applications from the system are: ... cycle networks, parking and storage;*

As a result of a significant number of cases which have come to our attention in recent years, some entailing considerable personal distress, most involving considerable time expenditure by householders and by officers, Spokes is very concerned that garden sheds (meeting specified criteria) should be deemed permitted development. In terms of the government's supremely ambitious aims to increase cycle use, it is also very unfortunate that householders wishing to install bicycle storage should be charged some £200 merely to find out whether or not they will be permitted to do so. Further information on the background to our concerns can be found in our letter to the Chief Planner and to Heads of Planning Scotland<sup>5</sup> and on our website<sup>6</sup>.

We therefore welcome this paragraph in the consultation, whilst also expressing our concern that it was nearly a year ago that the government stated this was one of ten priority key actions for its Planning and Architecture Division – and yet here it is popping up in yet another consultation rather than having been acted on.

## **Part II: Comments on selected sections of the Document**

We shall focus mostly on transport issues

### *1.13 Regional Working*

Our experience of SESplan over the years has not been especially inspiring. The problem seems to us that SESplan is made up of Cllrs from each of the participant LAs, and is consequently treated like a 'cake' of which each LA has to have its share.

In our view there is a strong argument for a regional authority with independent status to produce what is best for the whole. A SE Scotland Regional Authority would accept that Edinburgh is the focus of most of the travelling, and thus concentrate on providing rapid transit systems to and from the city, thus establishing corridors along which development could take place. The National Planning Framework would be responsible for organising the funding required. We support bullet points 4 and 5 of 1.13, especially point 4.

### *1.34 Early Examination of Plans*

We agree broadly with the proposals here, except that the last bullet point on infrastructure should specify public transport and cycling provision and the need to minimise reliance on the private car. Transport appraisals submitted by developers are unrealistic; they are always too optimistic about the effects of car use arising from their proposals, and especially the cumulative effects on congestion.

A further bullet point is needed to deal with housing density and the need to derive maximum benefit from the available land. If minimum density levels were set, that would force developers to include blocks of flats as well as stand-alone houses.

---

5 <http://www.spokes.org.uk/wp-content/uploads/2013/03/1608-To-Heads-of-Planning.pdf>

6 <http://www.spokes.org.uk/documents/advice/bike-storage-gardens/>

### *1.41 Delivery of Development (also 1.45-46)*

This para should mention the cases where, like Edinburgh Waterfront, infrastructure has been provided - including the tram - but developers have failed to take advantage, possibly because the land may be contaminated. The planning system needs safeguards to prevent this happening, and emphasise the need to insist on use of brownfield before any greenfield land is released.

### *1.42 PPP for Allocated Sites*

We are not in favour of that. PPP applications are essential for the public to have a fair look at what is proposed.

1.44 penult bullet, last few sentences: there should be no reduction of consultation for allocated sites. A 'belt and braces' approach to consultation is necessary to ensure that everyone who might wish to comment is given the chance.

### *2.31 Early Consultation*

"Involving people more fully at an early stage is essential."

Our experience in getting involved at what appears to be the earliest stage, the PAC, has been very frustrating. The agents always appear friendly and helpful and sympathetic to our comments. But when the next stage appears (PPP) we find that virtually nothing has changed. We really wonder whether it is worth the time and effort to attend these exhibitions.

At the PPP stage a 'PAC Report' is normally included. We find that very often, our comments (in writing) are not even reported, let alone acted on. Clearly the developers are selective in what they choose to report. And when our comments do appear in the Report, they are usually selectively ignored for comments in their response.

This indicates that organisations such as ourselves need to be involved at an even earlier stage, to ensure that transport and environmental concerns are addressed, and that developers have a responsibility to report these concerns in their PAC reports, and state how they are to be addressed - and if not, why not.

### *2.34 Repeat Applications*

"Removing the applicant's right to submit a revised or repeat application at no cost if an application is refused, withdrawn, or an appeal is dismissed. "

We are astounded to learn that applicants can re-submit after a refusal, and even after an appeal is dismissed, *at no cost*. No wonder the planning system is swamped! This may be acceptable for small household-type applications, but big developers are exploiting the system. Fees for a repeat application should be double or treble the original. Developers need to learn that 'no' means 'no'.



## 2.36 Enforcement

We have had several cases where enforcement against developers has been (in our view) required. We have contacted the Council's enforcement officers. If we get a reply at all, we consider ourselves lucky. Enforcement action has *never* been taken. We believe the department concerned is under-staffed and lacks the resources to carry out enforcement. This is part of a wider problem, that whole Planning Departments are not properly resourced. So developers just get away with it.

On the other hand, we know of several cases where much enforcement time has been spent pursuing small matters such as the the bike box/shed issue in 4.23 above; even cases where permission was indeed granted on appeal. Perhaps LAs need guidance on how to prioritise enforcement matters.

## 2.40 Rights of Appeal

We have already noted how the system works in the developers' favour by granting them the right to appeal, where third parties are not permitted to do so. The arguments put forward for continuing to deny this right may be valid, but if so, why do they not apply to the developer equally? If third parties can't appeal, then neither should the developers.

The DPEA might be impartial, but they cannot have the local knowledge which prompted the refusal in the first place. If current policies on this are to continue, we agree that appeal committees should be locally based (2.41). We agree that fees should be charged for appeals whether local or Ministerial in kind (2.44), and in our view fees should be related to the size of the development.

## 3.1 Making land available

While we obviously support "the delivery of the homes people need", and we understand the Government's desire to fulfil that need, we have already challenged the premise that this has to be achieved by building more houses on greenfield land. This should be the last in a hierarchy of means, based on the 'reduce, re-use, recycle' pattern, the reason being that new houses on greenfield land means either the infrastructure for good public transport has to be provided - costly, and takes years of planning and building - or reliance for transport on the private car, which means unhealthy lifestyles, congestion, degraded environment etc.

The great advantage of brownfield and the re-use of car parks for housing is that in many cases the infrastructure is already there - think Edinburgh Park, Edinburgh Waterfront, Leith Docks - and that includes cycling facilities as well as public transport, plus the possibility of living, working, shopping and recreation all within the same area, thus greatly reducing the need to travel.

The housing shortfall is best addressed by 'thinking outside the box' to create healthy communities. This might not be welcome news for the house-builders, of course, but they are in danger of becoming too big and powerful a lobby. Building houses on greenfield land is really old technology, when there are so many alternatives.

Hence, we like your example of the Commonwealth Games Village at 3.6, but we reject the arguments of 3.2ff, which could have been written by the industry itself. The point about the Games Village is that it was built on brownfield land and in an area well served by public transport and cycle routes.

### *3.10 Views on these options:*

Paras 3.7 - 3.9 seem to be going round in circles around the numbers game. The options need to be extended to include what we have outlined above - the provision of more housing by means other than old-fashioned housing estates on ever-more remote greenfield land.

### *3.17 Intervention by Planning Authorities*

The argumentation in 3.12ff is not easy to follow, but if the gist is to suggest that Local Authorities should take over from private developers (3.17-18), there is a lot to be said for that. We have already suggested that LAs are given powers of compulsory purchase for land, whether agricultural or industrial, which lies close to or within urban areas, including land already bought by speculators, to put an end to speculation and bring the whole operation into Local Authority control, while offering housing at affordable prices to those who need it.

Land Value Taxation may well have a role to play here. We broadly support the proposals outlined in 3.18. Those in 3.19-22 are also excellent.

### *3.23ff Simplified Planning Zones (SPZs)*

We have reservations about these, if they amount to cutting out the planning process. They look like a free-for-all for the house-building industry. What infrastructure will be provided, and who will pay for it? If they apply to brownfield land, old industrial sites, former car parks etc, they may be acceptable, if good transport infrastructure is already in place. For greenfield sites they are not acceptable.

In any case, the principle of 'housing zones' is surely out-of-date? Are we not looking to build communities where housing, workplaces, shops and leisure are all together in mixed-use developments, thus creating healthier lives by reducing the need to travel?

The Hillington Park SPZ example (p.36) is a case in point. This is a business park, but apparently does not include residential or retail. It looks, from its location by the M8, as if it is almost entirely car-based for access, and thus not sustainable. If housing and retail were included in the mix, it would become an inclusive and sustainable community with less need to travel. Adding retail to the mix would at least give workers the chance to do shopping in their lunch breaks (witness the popularity of mini-supermarkets in Edinburgh's office areas).

And while it might not suit everyone to live in a business park, it might suit some - for example those who work there; or transients like students; or the elderly who are mostly house-bound.

We query therefore whether the notion of 'zones' is any longer appropriate. It might have been necessary in the days of heavy industry, but modern requirements to reduce the need to travel, and modern forms of 'clean' business, surely demand that we re-consider the notion of zones, and look more towards mixed-use communities serving many different needs.

### *3.29ff Infrastructure First Approach*

Much of 3.29-30 is excellent, but we need to be clear what is meant by infrastructure. 3.29 appears to have transport in mind, with its mention of 'choice of how they move around', 'living sustainable and healthy lives' etc. But in 3.36 there is mention of other types of infrastructure - "schools, healthcare facilities, water, flooding, drainage, energy, telecoms, green networks", as well as "transport". Our interest is mainly in transport, and we believe public transport, walking and cycling should take priority for a healthy society, offering real alternatives ("choice") to the car.

Any Infrastructure Investment Plan (3.31) will have to provide a substantial proportion of the funding, and transport priorities must be shifted from the current emphasis on remote trunk roads to the urgent needs of the urban areas. Other funding would come from Regional sources (3.35ff), but developers should also be required to contribute a levy, as they do currently for education (3.33, bullet 3) (and see 3.42 below).

Transport infrastructure is expensive and could be a solution for the middle to longer term. Corridors should be established, eg from Edinburgh to West and Midlothian, along which development could take place once the infrastructure is in place (we welcome the idea of regional audits of capacity (3.36)).

Meanwhile, other solutions to the housing shortage could be promoted, as we outlined earlier. Scotland has spent too much on trunk roads for too long, and now finds itself well behind what other European countries are achieving in reducing the need for the private car and providing rapid and efficient urban transport systems.

### *3.42ff Infrastructure Levy*

We broadly support these proposals. In our experience of responding to major planning applications, in very many cases there are opportunities for improved cycle access to the site outwith the site itself, but developers are never willing to fund anything beyond their own boundary, and despite our objections, the planning authority never refuses permission on the grounds of these deficiencies.

Opportunities to encourage cycling (and walking) in connection with a development, such as cycle routes to schools, shops and other amenities, are thus lost.

Recognition of some of these issues, in 3.47, is very welcome.

### *4.10 - 14 Investing in a Better Service*

The proposals here are very welcome. We have long believed that planning departments, and especially Transport Development, are under-funded and have too few staff to cope with the work load.

We agree with the conclusion in 4.16, that the service should pay for itself and that increased fees are appropriate, particularly for major applications. We are concerned, however, that some small applications, such as bike sheds in front gardens, should be included as permitted development (see 4.23 below) and thus not incur fees at all.

We believe Planning is a key service both locally and nationally; along with Transport, its function is central to achieving healthy and environmentally robust communities.