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Empowering planning to deliver great places

An independent review of the
Scottish planning system | **May 2016**



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1. Introduction

This review provides an opportunity to simplify and strengthen the planning system, to empower all parties to deliver positive change and to re-establish the profession as a leader, an innovator and, above all, a strong and effective advocate for the public interest.



In September 2015, Scottish Ministers appointed us to undertake an independent review of the Scottish planning system. We were tasked with providing a ‘root and branch’ review, and encouraged to explore game-changing ideas for radical reform of the system. We were asked to focus on six key themes: development planning, housing delivery, infrastructure, development management, community engagement and leadership, resources and skills. Throughout the process, it was clear that these are the right priorities for change. We invited views from anyone with an interest in planning, through a call for written evidence, oral evidence sessions, and an online discussion forum. Our review was also supported by available statistics, publications and background information. This report sets out our recommendations.

1.1. It is now 10 years since the Planning Etc. (Scotland) Act 2006 was enacted. There have been many significant improvements to planning since that time. There are, however, some aspects of reform that have been slower to take effect or have not fulfilled the original aspirations, primarily due to the change in economic circumstances and resourcing.

1.2. We believe that the vision that underpinned the 2006 act remains valid – planning should be an enabler of sustainable development, rather than a regulator.

1.3. Our view is that the system should be strengthened to achieve this. To deliver on Scotland’s Economic Strategy, the planning system should:

- Provide certainty, consistency and efficiency to **secure investment** in infrastructure and people.
- Be open for business and protect and enhance our distinctive places and high quality environment to maintain and **strengthen our international appeal**.
- **Be innovative**, pioneering new ways of working and using technology to ensure it is fit for purpose, future proofed and flexible.
- Build greater spatial cohesion, ensure a fairer distribution of opportunities and support local democratic decision making to **ensure growth is inclusive**.

1.4. We believe that our proposals can create a more positive and effective planning system for Scotland. To achieve this, it is clear that some further technical adjustments could be helpful and that much can still be achieved by continuing to improve processes and promote good practice. However, going beyond this, our view is that a fundamental rethink of the system as a whole is needed to ensure the planning system is much better equipped to deal with future challenges and opportunities.

1.5. The planning profession should be bold, be clear about their purpose and able to demonstrate their contribution to society. To achieve this, perceptions and relationships need to change.

1.6. There is a need for renewed efforts in culture change on the part of all those with a role and interest in the system. Planning needs to move away from micro-management of the built environment, avoid focusing on processes which add little value, and to focus instead on delivering great places now, and for future generations. Whilst this has been an aspiration for some time, the current context of public sector finance, low market confidence, complex inter-agency relationships, land reform and community empowerment all demand that there is a renewed and collective drive towards achieving this goal.

1.7. We have gathered evidence from a wide range of organisations and individuals to inform our review. Much of what we found was positive, with innovative examples from around the country showing how planning can improve our future places. However, this review has focused on where the system is not realising its full potential. Our report therefore highlights key problems and potential solutions, rather than celebrating where planning is already getting things right.

1.8. We believe that together, the recommendations set out here will improve the planning system. Simplification is required to re-prioritise local authority resources, to create greater certainty for investors and to restore community trust in the system.

1.9. We appreciate the time and effort that stakeholders and members of the public have contributed to this review. We were impressed by the openness of those from whom we received evidence and the positive way in which they offered solutions. Whilst different groups will undoubtedly have differing views about how we achieve success, it is clear that we are all striving to achieve shared outcomes.

2. Outcomes



2.1. We believe the Scottish planning profession has a great opportunity to build a system which provides confidence, improves the reputation of planning and ensures that everyone contributes to a shared vision and a positive agenda. Our recommendations are designed to achieve the following outcomes:

<p>1. STRONG AND FLEXIBLE DEVELOPMENT PLANS</p> <p>Aspirations for a plan-led system can only be achieved if development plans provide more certainty, are widely supported and have a much sharper focus on delivery. Our recommendations aim to give national recognition to strategic level planning across the city regions, whilst placing control of local development plans firmly in the hands of communities.</p>	<p>2. THE DELIVERY OF MORE HIGH QUALITY HOMES</p> <p>We propose new ways of working to replace conflict with collaboration. We recommend fresh thinking on housing, with planning pioneering ideas that increase flexibility and stimulate investment. New and innovative delivery mechanisms are required. Our recommendations aim to ensure that planning does all it can to deliver on this national priority.</p>
<p>3. AN INFRASTRUCTURE FIRST APPROACH TO PLANNING AND DEVELOPMENT</p> <p>We want to see planning regain confidence in infrastructure delivery. Infrastructure investment should be proactively managed and directed towards areas of growth. We believe this will significantly increase housing delivery. Our recommendations aim to achieve co-ordination and collaboration and to provide new funding options.</p>	<p>4. EFFICIENT AND TRANSPARENT DEVELOPMENT MANAGEMENT</p> <p>Whilst improvements have been made in recent years, public and investor confidence in the system depends on consistency and transparency. Our recommendations aim to create a much stronger link to the development plan and to standardise parts of the process where practice is currently unpredictable.</p>
<p>5. STRONGER LEADERSHIP, SMARTER RESOURCING AND SHARING OF SKILLS</p> <p>We want to incentivise positive behaviour by all those involved in planning. There is scope to reconfigure resources and direct efforts to areas where they can produce the greatest benefit. Our recommendations aim to ensure that planning is recognised as a central corporate function within local authorities. We want to strengthen public sector confidence and ensure that private sector investment is rewarded with greater certainty and quality of service.</p>	<p>6. COLLABORATION RATHER THAN CONFLICT – INCLUSION AND EMPOWERMENT</p> <p>We want to make planning fairer and more inclusive and to establish much more committed and productive partnership working. Our recommendations aim to achieve real and positive culture change and significantly improve public trust in the system. These changes would broaden the appeal and relevance of planning and make better use of existing and emerging community interests.</p>

3. Strong and flexible development plans



“Development plans must become more focused on place and less on policy. A wider sense of shared ownership needs to be established. If we are committed to a genuinely plan-led system, allocation of land in a plan has to bring with it greater certainty – for investors, developers and communities.”



We were presented with strong evidence from the majority of stakeholders that a plan-led system should remain in place. This is clearly essential for securing collective buy-in, directing future change and providing certainty for everyone. If this vision is to be realised, the current system of development plans needs to be stronger, but also more flexible.

3.1. Since the 2006 reforms, development plan timescales have improved. Approximately 80% of planning authorities have an up to date development plan, and the average age of local level plans has decreased to a low of just over 3 years. We are nevertheless concerned that preparation timescales are too long and do not reflect the pace of change required. Views on appropriate review timescales for plans vary – some feel that a plan should be updated every 2 to 3 years, whilst others suggest that a longer timescale would provide more certainty. The current system does not allow for plans to be partly modified and this is significantly reducing the ability of the system to react to change.

3.2. There are significant difficulties in aligning different tiers of plans within city regions. There also is a disconnect between strategic level plans and infrastructure across city regions, and this gap appears to have widened rather than narrowed with the advent of city deals. The multiplicity of plans in the system is leading to consultation overload, and the evidence suggests there is limited buy-in from communities, developers and other partners. Reaching consensus amongst a number of local authorities and ensuring their buy-in to the strategic vision is a continuing, often time consuming challenge which at times leads to compromise rather than clarity. The geographic identity of some city regions is not widely understood and varies from the boundaries of delivery partners. This can cause issues particularly around plan timescales and delivery of infrastructure.

3.3. We acknowledge the value of planning at a city-region scale but question the impact of strategic development plans. Previous research shows that many consider planning at this scale to be detached from delivery modes.¹ Delivery is then left to local development plans, the private sector and public agencies.

3.4. The wider role of the National Planning Framework (NPF) is also relevant to the future of development planning. The evidence suggests that it could go further in providing a clearer vision for infrastructure investment and development across the city regions which links more directly to relevant delivery and investment programmes. Fuller integration of the NPF with wider national plans, programmes and strategies was widely supported – this was particularly the case for transport investment. Views on whether or not housing should be afforded greater national significance within the NPF appear to vary. Some feel housing already receives too much attention, whilst others argue that the difficulties in delivering sufficient homes for the future demands a national level response.

3.5. We accept views that the growing maturity of the National Planning Framework means that a vehicle already exists to address strategic planning issues in a more mature and collaborative way. Many are calling for planning to be stronger in promoting and delivering a long term vision, and it is clear that there is an important role for strategic thinking within this.

3.6. Issues with development planning are by no means confined to the strategic level. Establishing sufficient effective housing land remains an unmet challenge locally and there are continuing issues with the proportionality of supporting information across all tiers. Evidence gathering, including through statutory assessments, adds time and complexity to the plan preparation process, but provides relatively little value and impedes accessibility. Planning authorities and key agencies are not yet making full use of technology and live data sharing to reduce the amount of information which moves around the system.

¹ Review of the Strategic Development Plans in Scotland, Kevin Murray Associates, April 2014

3.7. Whilst they are a logical concept, main issues reports appear to cause confusion, rather than aiding engagement. Their content and level of detail varies considerably. Communities appear to be unconvinced of their effectiveness as an engagement tool, and this compounds their concerns about the limitations of consultation that is undertaken at the proposed plan stage. Some stakeholders are suggesting that the main issues report should be replaced, either by a full draft plan or by a more open ‘call for ideas’ at an early stage in the process.

3.8. The evidence shows that some plans are lengthy and difficult to understand, repeating policies which are set out in the Scottish Planning Policy, rather than focusing on place. There are calls for national policies to be used more directly, avoiding the need for duplication locally. The evidence also shows that greater consistency between national and local level policy would be welcomed by key sectors, in particular aquaculture, minerals and renewable energy.

3.9. Supplementary guidance is adding to the complexity of development plans, and its use varies between areas. We have seen some positive examples of the use of supplementary guidance to provide greater flexibility. However, in others there are concerns about its transparency and this has led to calls for greater scrutiny, given that it could cover significant policy issues.

3.10. Some fundamental questions about the role of Reporters and who they represent have been raised with us. There is some criticism of the time required for development plan examinations and it appears that this stage can add conflict and undermine local ownership of the plan. The cost of an Examination is not insignificant – on average planning authorities have paid £69,000 for this part of the process.²

3.11. The balance between central and local ownership of plans is, in our view, critical. Whilst there is an acceptance that the scale of housing required can be defined through evidence and analysis, there is clearly demand for local control over the question of where development should take place. There are particular concerns about Reporters attempting to address a deficit in housing land late in the plan process without the benefit of further local community involvement. There are also views that local authorities defer difficult decisions to the Reporter.

3.12. Planning has to tackle difficult issues and we believe there is a place for objectivity and external scrutiny to maintain a collective focus on nationally agreed priorities. In contrast with criticisms of their role, many stakeholders feel that the impartiality of Reporters is an essential part of the process and are calling for their influence to be extended. Examples of this include giving closer scrutiny to the Housing Needs and Demands Assessment (HNDA) or providing an impartial view on effective housing land. To balance objectivity with the need to maintain local ownership, we believe there is scope to improve on current arrangements. Our view is there should be a presumption that final decisions on development plans are made by the planning authority, rather than the Reporter. An independent perspective, from Reporters, or perhaps through peer review, should be brought in much earlier in the plan making process, and it should be open and inclusive.

3.13. The evidence shows that there is broad consensus on the need to refocus plans on delivering outcomes rather than process. Development plan action programmes have an important role to play in this, but in many cases they are not being used to their full potential. They lack sufficient ‘teeth’ to ensure delivery, and there are concerns that, whilst key agencies generally support the plan, problems can still emerge when sites are taken forward at the application stage. Whilst emerging planning advice on housing and infrastructure delivery could help to achieve this, it is clear to us that more fundamental change is required.

LOCAL DEVELOPMENT PLANS

Approximately
80% of
authorities have
an up-to-date LDP

Average age
of LDP has
decreased to **just
over 3 years**

² ‘Progressing Performance: Investing in Scotland’s Planning Service’, RTPI Scotland (Thomas Fleming), October 2015, page 17 http://rtpi.org.uk/media/1496196/performance_and_resources_-_final_-_october_2015.pdf

3.14. Collectively, the evidence suggests to us that planning authorities at all scales are mired in the process of producing plans on time, but many cannot work proactively to deliver development. The focus on fitting complex and overly comprehensive work into the preparation timescale obscures much fuller consideration of the long term vision for a place. Frustratingly, despite the considerable efforts that go into preparing the plan, there appears to be little faith that it will form the basis of subsequent development management decisions. As a result, there are calls for plans to have greater certainty, with allocated sites being afforded planning permission in principle and key agencies being required to commit to supporting delivery of the action programme.

3.15. The local context for planning is changing. Land reform will bring new rights and responsibilities for communities to bring forward their own plans for sustainable development. Marine planning is also generating new opportunities for integrated onshore and offshore plans, particularly for island communities. Community empowerment is stimulating more community-led action and locality plans will begin to emerge. As communities take responsibility for the future of their place, there will be opportunities for these initiatives to become a part of local development plans.

3.16. The city-region remains a critical scale for planning, but the wider context and complexity of infrastructure planning means that collaboration and co-ordinated action are now more important than production of a plan. We believe that more use can be made of the National Planning Framework to provide a plan for Scotland including the city-regions. This will allow planning at the city-region scale to focus on delivery.

All parties have become caught up in the process of preparing the plan to meet the 5 year review timescale, at the cost of facilitating its delivery. A simpler, much more responsive system is required.

Recommendations: strong and flexible development plans

1. The primacy of the development plan should be retained.

Aligning with community planning, development plans should be recognised as a central and powerful driver of the place agenda. To achieve this there is a need to focus on outcomes, rather than policy and procedure.

2. To simplify the system, strategic development plans should be replaced by an enhanced National Planning Framework.

The NPF should be strengthened and prepared collaboratively, to address long term city-region development and infrastructure issues more fully and effectively. We propose that strategic development plans are no longer prepared. Instead, strategic development planning authorities should be repurposed to pioneer a different way of working where planners proactively co-ordinate development with infrastructure delivery at the city-region scale. By working with others to take forward commitments set out in a live action programme for the city region, they would also support housing delivery and co-ordinate cross-boundary thinking to inform local development plans. They should be given a statutory duty to co-operate with the Scottish Government in producing the NPF.

3. The National Planning Framework should be more fully integrated with wider government policies and strategies.

This includes the National Transport Strategy, Strategic Transport Projects Review, Land Use Strategy, National Marine Plan, Infrastructure Investment Plan, climate change programme and the national housing strategy and action plan.

4. The role of the Scottish Planning Policy (SPP) should be expanded to avoid the need for policy to be repeated in development plans.

Local development plans should only set out where these policies are being varied to reflect local circumstances. Further consideration should be given to integrating the SPP with the National Planning Framework, with both being afforded the same statutory weight as the development plan. Scope for updating it between 5 year review cycles should also be considered.

5. The plan preparation process should be simplified.

The main issues report should be removed and replaced with a single, full draft plan, providing that there is a renewed commitment to early engagement. The proportionality of supporting information, including environmental assessment, should be addressed. Complexity can also be reduced by removing or limiting the scope to produce supplementary guidance. Action programmes are essential for supporting delivery and should be retained.

6. Local development plans should move to a 10 year cycle.

Local development plans should set out a 20 year vision and focus on place, rather than policy. The preparation process should be streamlined to a 2 year period, leaving the remainder of the time to focus on implementation and work with local areas to build in community led plans (Diagram 1.1).

7. There should be scope for flexibility and updating local development plans (whole or in part) within the 10 year period.

This will allow plans to be more responsive to opportunities and evolve over time to reflect much fuller collaboration with communities.

8. Development plan examinations should be replaced with a frontloaded 'gatecheck' of the plan.

Earlier independent involvement could take the form of mediation, a gateway or peer review. This could focus on key aspects of the plan, including the housing land requirement. Only after agreement is reached on key parameters for the plan, should a fuller, locally driven discussion on place and development sites move forward. It is important to ensure that all those with an interest are involved at an early stage. Where early agreement is achieved there should be no need for further scrutiny or intervention at this later stage. (Diagram 1.2)

9. A statutory duty for the development plan to be aligned with community planning should be introduced.

Whilst we heard evidence that there is a willingness to achieve this, we believe that real integration requires statutory weight, rather than just sharing of good practice. This will help to ensure the role and added value of planning is properly recognised within local authorities and should also create efficiencies through joined up working.

10. An IT task force should be established to explore how information technology can make development plans more accessible and responsive to 'live' information.

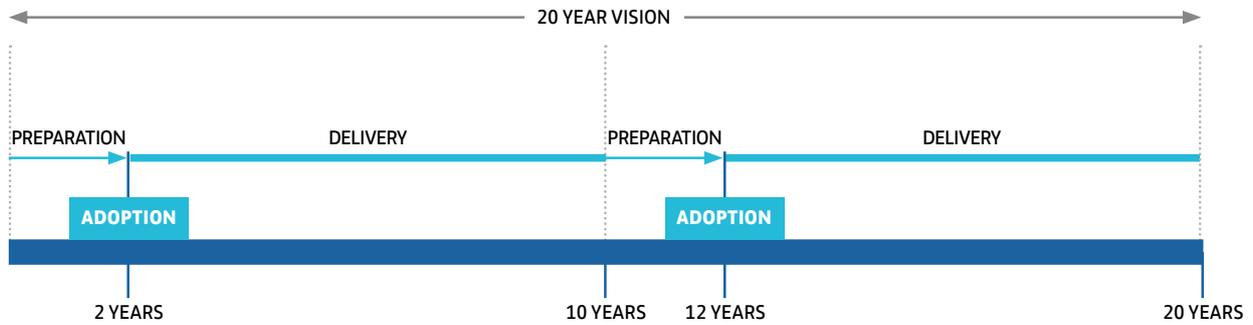
Digital innovation, such as the use of big data, specialist systems (such as for minerals and aggregates), Geographic Information Systems and 3D visualisations, should be actively rolled out across all authorities. We strongly recommend that we start a co-ordinated investment in technology now to ensure we are responsive to future advances.

11. Given their special circumstances, the island authorities should be given more flexibility where this would better reflect the distinctive local context for planning in an island setting.

An example of this could include encouraging broader and more creative use of schemes of delegation. Scope for the islands, and any other relevant authorities, to bring forward integrated terrestrial and marine plans should also be considered further.

DIAGRAM 1.1. COMPARISON OF PROPOSED AND CURRENT LOCAL DEVELOPMENT PLAN SYSTEMS AND TIMESCALES

PROPOSED SYSTEM



CURRENT SYSTEM

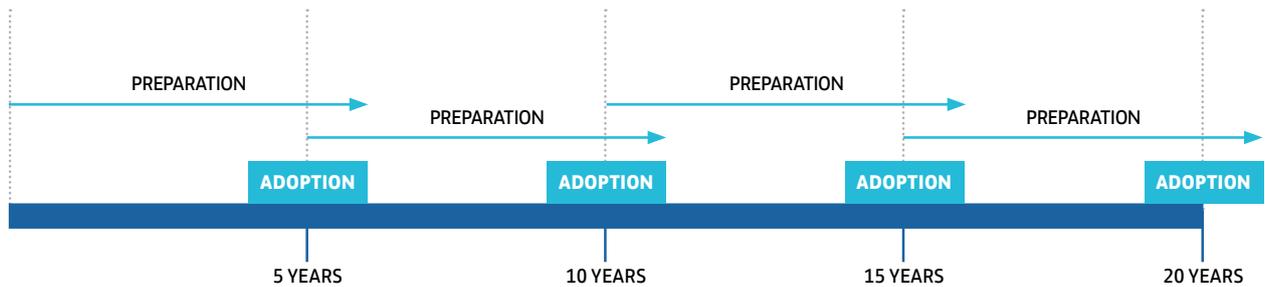
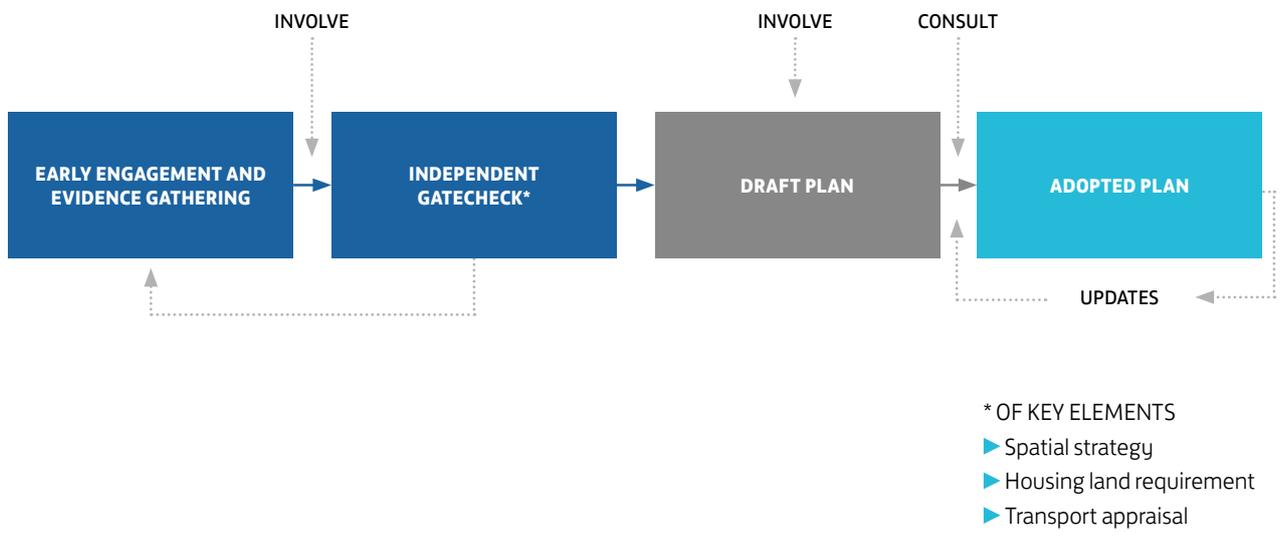


DIAGRAM 1.2. PROPOSED LOCAL DEVELOPMENT PLAN PREPARATION PROCESS



4. The delivery of more high quality homes



“Experience in other parts of Europe shows that a more proactive approach to the provision of housing can have significant impact. We need to have greater confidence and facilitate a change in culture.”



Planning for housing is an important and often contentious issue. At present, much of the debate focuses on abstract numbers and formulae, rather than place. There is a need to move on from this, to focus on accelerating delivery whilst improving the quality of our places.

4.1. Whilst planning and housing authorities are working together to produce the housing figures which underpin development plans, they appear to have insufficient influence on delivery.

4.2. The use of Housing Needs and Demands Assessment (HNDA) has been streamlined in recent years. Despite this, forecasting housing need and demand has become an industry in itself, using up significant time and resources within the plan preparation process. Although considerable effort goes into getting the figures approved, they become out of date over the lifespan of a plan, and there is currently no mechanism to provide a more 'real time' modelling of housing land. There are also concerns that the methodology used is not transparent and cannot be debated once it has been signed off as 'robust and credible'.

4.3. Even when figures are established in plans, the effectiveness of housing land allocations is continuously debated. There is ongoing disagreement about the definition of 'effective' housing land – this is not just a technical issue, but reflects wider conflict around relationships, information and influence within the system:

- Some communities and individuals feel strongly that the planning system is weighted in favour of housing developers.
- The development sector contend that planning authorities are limiting development opportunities by not allocating sufficient housing land. There are also concerns about a lack of acceptance of the need for new development by some communities.
- Planning authorities are frustrated that the effectiveness of housing land lies largely in the hands of developers, and that they have neither the information nor the expertise to challenge assumptions around programming and viability.

4.4. The one point of consensus is that the way in which we plan for housing needs to change. We have looked at many ideas for increasing housing delivery, including proposals to double the requirement for effective housing land, to outsource planning for housing or remove it from the development plan.

4.5 To help shed light on the effectiveness of housing land identified in plans, we have considered relevant statistics, which show that levels of consents for housing developments are considerably higher than the number of units built. In 2014/15 around 40,000 units were approved compared with 17,419 completions. Of this total around 12,000 units were private homes.

4.6. The common use of a 'call for sites' to inform plans and their housing land supply is supported by some but criticised by others. Some feel this stage is too reactive, suggesting that planning authorities should have more confidence to guide where future growth should take place. Communities feel that simply inviting developers to nominate sites puts too much power in the hands of developers and mitigates against a fuller discussion about the future of a place. Others argue a more rigorous approach to the call for sites is required to ensure sites identified in the plan are truly effective and can be taken forward to delivery.

HOUSING DELIVERY

- **40,000 units approved in 2014/15**
- **17,419 houses delivered in 2014/15 - 12,000 private homes**
- **28,481 houses delivered in 2004/05 - 22,000 private homes**

4.7 Stakeholders are raising questions about skills available to local authority planners to scrutinise the viability of sites and through this provide a housing land supply which properly reflects market opportunities.

4.8. With an ongoing preoccupation with providing the right quantity of land, it is unsurprising that there are views that planning is not well placed to ensure it provides the right types of housing to meet the diverse needs of communities. There are questions about the extent to which the housing needs of disabled people, as well as the growing elderly population are being met. At present local authorities recognise that the HNDA should be used to estimate their requirement for all forms of housing, including accessible homes. The SPP does not require a quota to be included, although some authorities have chosen to take this approach. There are therefore calls for greater consistency in approaches across local authority areas. Future proofing is needed to ensure the needs of Scotland's ageing population are met, but views vary on how this can be achieved.

4.9. There is a significant opportunity to move beyond the debate on housing numbers, to actively promote more innovative delivery models, such as the Build to Rent Sector, self build, and co-housing models. Many believe that there is a need for greater flexibility and a move away from reliance on the market sector to meet housing needs. Examples of masterplanning, joint delivery and provision of land for self build have been raised. In geographic terms, the significant differences between planning for housing in remote rural areas and the more pressured city-regions is also a key consideration.

4.10. We have considered the role of a more 'zoned' approach to housing land to reduce the focus of the debate on the effectiveness of individual sites, and looked in more detail at the Simplified Planning Zones (SPZs) in Hillington and Renfrew Town Centre. We were also struck by the potential of SPZs to help to reintroduce residential use in town centres. Establishing a SPZ requires frontloaded site assessments and design work, and this can be costly. The evidence shows that the low level of uptake may be partly explained by the more limited scope for SPZs in Scotland – specifically that they cannot be deployed for schemes requiring an Environmental Impact Assessment (EIA). Our view is that this type of approach need not undermine the environment or quality of place. Frontloaded assessments, site briefs and masterplanning can support placemaking in a holistic way and embed in an infrastructure first approach to area-based development.

4.11. The written evidence highlighted the scope for delivery of quality places to be driven by development briefs and master plans, and the use of charrettes for housing sites. The need for multi-disciplinary teams to drive forward development is clear. Affordable housing needs are a key concern and a confirmed priority. Meeting these needs can support the prevention agenda by reducing housing benefit costs and contributing to wider wellbeing and equality.

4.12. Other than the impact of the last recession, it is difficult to find a definitive reason for the continuing low levels of housing delivery and to pinpoint planning's influence in this. There are mixed views on the extent to which land banking is an issue. There are, however, calls for the use of taxation powers to levy a charge where allocated land or sites with consent were not being brought forward as originally programmed. Land value capture is widely viewed as having potential and there is a lively ongoing debate about mechanisms for ensuring that public investment in infrastructure benefits communities rather than the private sector.

4.13. Unsurprisingly, planning authorities are frustrated that, where opportunities arise in the form of agreed land allocations, the resources and tools available to them to intervene and proactively bring forward development are limited. More fundamentally, we have noted the findings of the Land Review Group regarding land ownership and associated land values and their effect in skewing the market for development sites.³ Many of those who gave evidence feel there could be significant gains from the introduction of new powers to assemble land. Some suggest this would be more effective if left in the hands of local authorities, rather than administered centrally. Others are proposing a stronger central steer.

4.14. Placemaking, housing quality, tenures and alternative delivery options should play a much bigger role in planning for housing. Development viability is central to this, with the recession having heightened concerns about the levels of planning obligations required to fund infrastructure provision, to the extent that the use of Section 75 is being stretched to its limits. There are emerging opportunities for planning to direct where future support can be used to address these challenges, including the recently announced 'More Homes Scotland' initiative and the recognition of housing as a national infrastructure priority in the Infrastructure Investment Plan.⁴

4.15. It is also clear that some communities are not receptive to new housing development, and this is exacerbated where infrastructure is already under pressure.

4.16. In short, many factors are influencing planning for housing and the challenge lies within as well as beyond the planning system. As well as removing 'blockages' for existing providers, new delivery models are clearly required.

³ 'The Land of Scotland and the Common Good': Report of the Land Reform Review Group, May 2014. Part 5, page 220, para (6)

⁴ For further information on housing policy and investment support see <http://www.gov.scot/Topics/Built-Environment/Housing/reform/more-homes-scotland>

Recommendations: The delivery of more high quality homes

12. The National Planning Framework should define regional housing targets as the basis for setting housing land requirements in local development plans.

Given the national significance of housing delivery, a stronger steer on requirements would allow for fuller Parliamentary debate on this important subject. The first steps towards this can make use of data available from HNDAs undertaken across the country. In time, this could be informed by real-time modelling, and we would expect it to replace the need for the fuller HNDA within the planning system. Projections of need and demand must be more closely linked with deliverability. Locally, housing land audits should evolve to become a transparent and 'live' register of housing sites which is kept up to date and linked with GIS systems. Local authority housing strategies should also have greater prominence and stronger linkage to the production of local development plans.

13. There is an urgent need to establish a clearer definition of effective housing land so that local development plans can move on from this to take a positive and flexible approach to addressing the housing land requirement for their area.

Much of the problem with defining whether or not land is suitable for housing development arises from ongoing confusion about what is needed to unlock development and specifically the definition of 'effectiveness'. Understanding development viability is essential to allocating effective land, requiring an open book approach by developers which is properly scrutinised. This will require planning authorities to have fuller access to expertise in development economics. Independent adjudication on effective housing land, much earlier in the plan preparation process, could significantly reduce conflict.

14. The SPZ concept should be rebranded and evolved into a more flexible and widely applicable zoning mechanism which identifies and prepares areas to make them ‘investment ready.’

We were inspired by the flexibility provided by Simplified Planning Zones and propose that their principles could inform an adaptable approach to zoning areas of land for development including housing. These areas would be identified to incentivise development by creating greater certainty as well as flexibility and should be rolled out across Scotland. This approach could help to kick start high quality housing development at a large scale in the immediate future, but their impact would be much greater if pump priming of funding was made available to help establish them. We recommend that the new approach would relax current restrictions on SPZs in Scotland to allow for greater flexibility in their timescales, reduce procedure and enable them to come forward for schemes which fall under the EIA Regulations.

15. Mechanisms for planning authorities to take action to assemble land and provide infrastructure upfront should be established as soon as possible.

Land reform has a pivotal role to play in unlocking land for development. Planning must become more central to this debate and mechanisms for land value tax, majority land assembly, compulsory purchase orders and compulsory sale orders have particular potential to support the aspirations for planning set out here.

16. A programme of innovative housing delivery should be progressed in a way which is fully aligned with local development plans.

Planning needs to become more responsive to the diverse housing needs of Scotland’s current and future population. This could drive a step-change in affordable housing provision and drive forward alternative models including self-build, private rented sector, off-site construction and energy efficient homes. Work with disabled people’s organisations and building standards to innovate and embed accessible housing, and a proactive approach to expanding homes for the elderly are key priorities. It is, however, important to ensure that support for new sectors does not inadvertently provide opportunities to build mainstream homes which do not meet established needs. Where special measures are introduced to promote the private rented sector, an assurance of the retention of use in perpetuity would therefore, in our view, be essential.

5. An infrastructure first approach to planning and development



“Our recommendations aim to re-establish a corporate approach to delivering infrastructure with planning at its heart. There is a strong case to be made for securing new funding solutions to directly support delivery of development plans.”



Infrastructure is a central part of Scotland's Economic Strategy. Infrastructure is required not only to support growth where demand is high, but also to enable development where needs exist but there is lower market interest. Our review has concluded that linking infrastructure with planned development is the most significant challenge for the Scottish planning system at this time.

5.1. Research shows that responsibility for infrastructure delivery has become fragmented,⁵ and the extent to which investment decisions are being made in the public rather than private financial interest is questionable. The effective delivery of development plans depends on infrastructure, but decisions on future capacity are often being made without executive authority for delivery, and lie well beyond the influence of planning. Levels of engagement with infrastructure providers vary, leaving much of the negotiation to the application stage. Information on capacity and costs can be elusive and a lack of transparency compounds uncertainty. Issues often arise late in the process, undermining previous assumptions on the effectiveness of allocated land, unsettling investor confidence and stalling development.

5.2. Ability to bring forward development proposals, particularly for housing, is directly influenced by the cost and timing of additional infrastructure requirements. Local authorities appear to lack the confidence to invest in infrastructure by allocating resources or borrowing in order to front fund infrastructure. There are some notable exceptions, with the City of Dundee being an example of great leadership, where a clear vision supported by front funding of infrastructure has enabled significant change.

5.3. The solutions to this challenge extend beyond the scope of the planning system. This is a complex arena – infrastructure funding depends on both public and private sector contributions. On the whole, infrastructure providers are not driven by the requirements arising from development plans, but aim to deliver their own individual programmes on specific timescales within different geographies.

5.4. Levels of engagement with different infrastructure providers vary. There are significant and growing concerns about the mismatch between national infrastructure programmes and local transport needs.

5.5. Transport Scotland has a clear role in relation to managing transport networks and in particular trunk roads. The discussion on transport infrastructure delivery extends to the role of regional transport partnerships and the difficulties that arise when long term development strategies depend on infrastructure which is not supported in committed projects or programmes. The powers to deliver infrastructure vary considerably between regional transport partnerships and they are not recognised as 'key agencies'.

5.6. The city deals are potentially a key opportunity to support growth through infrastructure investment in the city-regions, but it appears that they are being progressed with little or no reference to the established spatial strategies set out in strategic development plans.

5.7. There are also continuing issues with alignment between Scottish Water's investment plan and development plans. Whilst it is acknowledged that this has improved in recent years, proposals are still stalling at a later stage where they do not fit within pre-defined investment programmes.

5.8. Schools provision is a significant challenge, given the scale of capital required from the development sector and the longer term implications of the operational costs of schools for local authority revenue budgets. A high level of certainty is required to justify the

building of new primary and in particular secondary schools to meet future needs arising from development. It is widely accepted that development delivery is being hindered by reliance on the private sector to finance new schools. We are aware of only one example of where a new secondary school associated with housing growth has been built with the support of the Scottish Futures Trust Schools for the Future Programme.

5.9. There appears to be little alignment of corporate responsibility to deliver new schools. More consistency in approaches to catchment planning, developing specifications and costing new schools is clearly required. There are suggestions that a 'blended' approach involving both public and private sector investment is required to ensure new schools are funded. The Scottish Futures Trust is working to promote multifunctionality and maximise the efficient use of resources, but our view is that there is scope for greater synergy with planning to better support a shared commitment to growth and housing expansion.

5.10. For their part, infrastructure providers feel that the current planning system does not provide them with sufficient certainty to invest in infrastructure up-front. Understandably, local authorities do not have the confidence to fill this gap as any borrowing depends on development progressing, and the responsibility for this lies largely in the hands of the private sector. As a result, many are calling for a new delivery mechanism or body to fund and co-ordinate the delivery of infrastructure identified in development plans.

5.11. Whilst potentially useful, the role of action programmes to support development plan delivery is limited at present. Key agencies and other infrastructure providers may generally sign up to a plan, but the action programme falls a long way short of a formal contract or agreement to deliver the infrastructure required to support development. This is attributed to the time and resource constraints of development plan teams. In our view, there is a more fundamental issue about the lack of powers on the part of planning authorities to compel infrastructure providers to meet future infrastructure needs arising from development.

5.12. At present local authorities place a heavy, and increasingly unviable, reliance on the private sector to fund infrastructure improvements, using the 'blunt tool' of Section 75 contributions. In areas where there is relatively low market demand, planning authorities are unable to recoup infrastructure costs through Section 75 agreements, further polarising the market and housing delivery. Statistics also illustrate the geographic variation in their use – two authorities accounted for 36% of all legal agreements in 2014-15.

5.13. There is some evidence of innovation by planning authorities to make fair and effective use of planning obligations at a wider scale. However, even in more buoyant housing market areas, Section 75 agreements have limitations and there is compelling evidence that they contribute significantly to delays in the development management process. For major developments, a Section 75 is likely to double the decision making timescale.

5.14. The proportion of major developments which include a legal agreement has declined from 30% in 2013-14 to 22% in 2014-15. There are also concerns that planning obligations are being used in some cases to correct existing deficiencies in infrastructure.

5.15. There may be benefit in re-assessing the extent to which Section 75 planning obligations can be varied to better reflect new and emerging housing delivery models, such as the Build to Let sector and affordable housing. The critical role of planning obligations in helping to deliver affordable housing is also clear.

5.16. We would propose that alternative funding mechanisms could have a much more significant impact. The evidence shows that there is widespread support for new funding solutions to overcome the difficulties arising from reliance on Section 75 agreements. Many feel that local authorities should have more confidence to invest in infrastructure up front, to unlock land for development and subsequently recoup costs as development moves forward. We recognise that local authority concerns about financial risk will have increased in line with growing pressure on resources. This, together with the development finance challenges that followed the recession, confirms to us that new thinking on infrastructure funding to support development is urgently required.

5.17. The creation of a common funding vehicle to reduce reliance on Section 75 is supported by many different interests. Views vary on where additional funding could come from – a development land tax, joint ventures or use of guarantees. We are conscious that Scotland has not yet introduced a broader, area based mechanism for collecting contributions from developers. We believe that much can be learned from the experience of the Community Infrastructure Levy in England and Wales.⁶ As established by the Land Reform Review Group, a mechanism to capture the uplift in land value arising from planning could have a significant impact in addressing market failures.

5.18. Wider infrastructure types, including green infrastructure, low carbon energy networks, open spaces and play spaces are also relevant. Infrastructure provision including heat networks, smart transport solutions and renewable energy generation at a commercial and local scale will provide investment opportunities and make a significant contribution to the climate change targets. Digital transformation is a further challenge requiring recognition of its national significance as an infrastructure priority. The zero waste agenda is also critical, given that construction waste accounts for more than half of all waste in Scotland. These new types of infrastructure could be much more proactively and innovatively addressed through long term spatial planning.

5.19. There is no doubt that planning for infrastructure is a significant challenge. The current situation is a long way from the confident approach to new towns and regeneration where infrastructure was provided up front to make land available for development.

Within the current context, there appears to be no space or influence for long term, visionary planning. This needs to change. A more corporate, 'Team Scotland' approach to infrastructure is required. At a local level, joined up working is essential.

⁶ A review of the Community Infrastructure Levy in England and Wales is currently being carried out by an appointed panel.

Recommendations: An infrastructure first approach to planning and development

17. A national infrastructure agency or working group with statutory powers should be established, involving all infrastructure providers as well as planning representatives.

There is a disconnect between established investment programmes and the sub-regional infrastructure gaps that are emerging in development plans across the country. There is a need for a single body to have an overview of the strategic business case for front funding infrastructure as a specific element of the planning service at a city-region and local level. To guide this, a national infrastructure agency or working group should be established and tasked with providing a clearer, cross cutting overview of planning and infrastructure provision. This group will bring together all relevant infrastructure agencies including the key agencies, electricity, heat and telecommunications providers. Scottish Enterprise, Highlands and Islands Enterprise and the re-purposed strategic development planning authorities will also have a crucial role to play at the city-region scale.

18. Options for a national or regional infrastructure levy should be defined and consulted upon.

This should draw on the lessons learned from the Community Infrastructure Levy in England and Wales and capture land value uplift. We recognise that there are both strengths and weaknesses in this model, but given the limitations of Section 75 agreements, there is much that could be gained from a well-designed mechanism which properly reflects market circumstances and takes into account development viability. Given variations in market confidence and its influence on the ability to charge for necessary infrastructure, scope to build a fund that has a redistributive role should be investigated further.

19. A development delivery infrastructure fund should be established.

Such a fund could be partly resourced by a mechanism to capture land value uplift. The Scottish Futures Trust could play a role in this and should also explore the use of government guarantees to support an infrastructure first approach. With regard to housing delivery, we welcome the additional funding that is being made available under the More Homes Scotland scheme and would suggest it should be prioritised to assist the delivery of stalled proposals that have been identified in development plans.

20. A corporate structure requiring all key infrastructure providers to co-operate in delivering the local development plan should be introduced.

This should include the existing key agencies, but extend to other bodies including those responsible for delivering electricity, heat, telecommunications and digital networks. Linking with external infrastructure providers, a corporate partnership should be established which commits to delivering plans at all scales from the National Planning Framework and its proposals for city-regions to local development plan action programmes.

21. A review of transport governance should be undertaken to address the gap between this key aspect of infrastructure and development planning.

Our view is that transport agencies at the national and regional scales should be given a clearer mandate to directly support the delivery of development in accordance with the development plan.

22. Future school building programmes should address the need for new schools in housing growth areas.

There would be significant benefit in the Scottish Futures Trust working with local authorities to set out a long term strategy for school building in strategic planned housing growth areas across the country. This should reflect future demand as defined in land allocations and development plans, and should be integrated with the SFT replacement schools programme.

23. Local authorities and their partners need to become much bolder in their approach to infrastructure investment.

A return to an 'infrastructure first' approach is recommended, particularly to support large scale housing initiatives. Planning can and should lead this, by defining the future of our places and identifying the infrastructure required to support development. In local development plans, certainty is key – for infrastructure providers, developers and communities. As part of this, development plans should provide a clear schedule of infrastructure costs. Work to build models and methods for this should be undertaken as a priority.

24. Section 75 planning obligations should be retained but their use should be minimised and the process streamlined.

In housing developments the use of Section 75 contributions for ancillary infrastructure should be staged or calibrated with housing occupations to avoid disproportionate up-front costs which could stall development. A national standard template should be introduced and the Scottish Government should pursue further improvements with certain planning authorities. Scope for using conditions rather than planning obligations in some circumstances could create further efficiencies and should therefore be explored further. More diverse housing types, including the Build to Let sector and homes for older people could be incentivised where requirements are more finely differentiated to reflect their different impacts. Arrangements to share resources and expertise in this specialist area should also be established.

25. New approaches to low carbon infrastructure planning and delivery should be taken forward through a programme of innovation.

Decarbonising and future proofing of our infrastructure requires a much more ambitious and innovative approach by planning authorities. There are many emerging technologies which require a different perspective to inform future development patterns. We should proactively work together to achieve the aims and objectives set out in the 'Making Things Last – A Circular Economy Strategy for Scotland'.⁷ Planning should innovate and lead the way into embedding new infrastructure into development to ensure that climate change targets are met.

⁷ 'Making Things Last – A Circular Economy for Scotland', Scottish Government, February 2016 <http://www.gov.scot/Resource/0049/00494471.pdf>

6. Efficient and transparent development management



“The written and oral evidence acknowledged that changes introduced by the 2006 Act had resulted, to a degree, in improved performance. There are, however, still some parts of the process where there is room for improvement.”



Scotland needs a development management process which is efficient, but also fair and transparent. Its effectiveness depends on all parties playing a positive role. There is a need to be smarter about how information is managed within the system and more open to simplification and integration of consenting regimes. The primacy of the development plan must be respected and used to reduce conflict at the application stage. Consistency, transparency and predictability are essential for all concerned.

6.1. Development management is the frontline of the planning service. Here customer service, public engagement, developer needs and political interest are at their height.

6.2. Views from users of the planning service vary widely on the areas that need further improvement. Some cover technical and detailed procedural matters, others have focused on more strategic issues including the balance between central and local decision making.

6.3. Consistency and transparency of information are central to the reputation and smooth running of the development management system. A balance is required between consistency of process across the country and providing flexibility to suit local circumstances. For example, developers are frustrated with inconsistent approaches to issues such as validation and expected supporting information requirements. More specifically, it is also apparent that the differences between the set-up of Scotland's two national parks is causing confusion and added complexity.

6.4. The evidence shows that the technical reports required to support applications are costly and time consuming, with some suggesting that they often add little value. There are concerns about the volume of information which is passed around the system and questions about the extent to which it is actually used by decision makers. Many consider that both planning authorities and key agencies need to be much clearer earlier in the process about the information they require. We also recognise that applicants have a crucial role to play in providing timely and proportionate information.

6.5. Inconsistent validation requirements appear to be compounding the problem of information management – developers feel that a lack of clarity generates uncertainty, whilst planning officers are clearly hindered by the time and resource costs arising where information had to be actively sought from applicants. There is widespread support for more effective validation and clearer information requirements being established early in the process to alleviate problems further down the line.

6.6. Certain practices within development management, particularly administrative and procedural requirements, are now outdated and should be modernised. The requirement for newspaper advertisements is an example of where financial costs are high, but the added value is considered to be low. The increasing use of social media and online portals is in our view a more resource efficient and effective way of communicating casework with the wider public. Practical ideas have emerged from the evidence including the use of technology to support committee meetings, to allow planning officers to access information whilst on site and to update neighbour notification procedures. In short, the need for investment in technology to realise financial and procedural efficiency is widely supported.

6.7. The role of decision-making timescales in performance management generates contrasting views. Some feel that this undermines the quality of decision making whilst others maintain that timely decisions are essential in creating certainty for investors. Legacy cases (of more than one year old) remain in the system in perpetuity, even where it is clear that they will not progress any further. The Scottish Government has established that there were over 1888 such cases in the system (July 2015), with the oldest being 32

years old. Linked with a project managed approach to development management to deter future legacy cases, some planning authorities wish to see the introduction of powers to remove inactive applications from the system.

6.8. Many acknowledge that performance in the system is not solely the responsibility of the planning authority. It depends on timely contributions and co-operation from applicants, agencies and communities. We believe that positive behaviours by all parties could be incentivised by reflecting this in a new fee structure.

6.9. Processing agreements are viewed as a positive step forward for project managing an application. Whilst their use has grown in recent years (with 24 authorities having used them), there is still some way to go before all major applications benefit from this service.

6.10. We heard some of the reasons why certain applicants and authorities did not wish to enter into processing agreements. There appears to be a lack of understanding about their value and the rights of the applicant. To encourage broader use, the benefits of processing agreements would need to be clarified.

6.11. Statistics on consistently high approval rates (93.9% approval in 2014/15) and delegation of decisions (94.5% in 2014-15 compared to 80% in 2003-04) suggests that many very small scale and uncontroversial applications dominate the work of development management teams, acting as a significant draw on resources.

6.12. Many believe that the scope of permitted development rights could be broadened to free up resources and allow planning officers to focus on where they can add most value. Suggestions for increased permitted development rights include provision of bike sheds, greater rights for retail in town centres, telecommunications masts and an increase in the permissible scope of change of use. Conversely, some have suggested increased restrictions including on farm buildings, development in sensitive heritage locations and tracks in wild land areas.

6.13. For communities, the written and oral evidence suggests significant dissatisfaction with neighbour notification arrangements and pre-application consultation for major developments. The latter was reported to take the form of a 'tick box exercise', adding little value and contributing to a mistrust of developers by communities. We heard that there is often little or no feedback given to communities, and this reinforces their view that they are being consulted but not listened to. Some feel the 12 week timescale is insufficient, whilst others believe it brings about unnecessary delay. There is also confusion about the role of planning authorities at this stage. Despite these concerns, some view this as an important part of the process and have called for practice to be improved.

6.14. Introduced by the 2006 act, local review bodies have been generally welcomed as an important part of improving local accountability. Some believe that their role could be expanded to deal with all appeals locally, as well as to consider unresolved objections in the local development plan process. However, there are also continuing concerns about inconsistency in their working practices and decision making. Skills and training for elected members is clearly an important part of this – we are concerned that training requirements are not always enforced.

6.15. Although controls are already in place, in some instances repeat applications are causing communities concern and contributing to a wider sense of consultation fatigue. Whilst there is acceptance of repeat applications which address the reasons for refusal, there are also calls to discourage or remove cases where there has been no relevant change to policy.

EXISTING CONSENTS

- Advertisement Consent
- Alcohol Licences
- Building Warrant
- CAR Licence (Controlled Activity Regulations)
- Certificate of lawfulness of use or development
- Conservation Area Consent
- Habitat / Species Licence
- Hazardous Substance Consent
- HMO Licence
- Listed Building Consent
- Marine Licences (0-12 nautical miles)
- Marine Licences (12-200 nautical miles)
- Planning Permission in Principle
- Planning Permission
- Prior notification and approval
- PPC Permit (Pollution Prevention and Control)

6.16. Resource constraints appear to be limiting the ability of local authorities to take action on post-consent monitoring and enforcement, and this is significantly undermining public confidence in the system. The enforcement of conditions is a particular concern to communities, as well as compliance with approved drawings. However, the statistics show that there has been an increase in enforcement activity in recent years across the country, although this varies between authorities and there have been a decline in some areas. Regardless of the statistics, there are calls for more to be done to deter breaches and encourage more action by planning authorities.

6.17. The evidence included some suggestions for aligned or even combined consents, but this is also a complex issue. There are mixed views on whether linking planning and building standards more fully would be helpful. Work has been done to align planning and listed building consents. Scope to combine planning with Controlled Activities Regulations consents has previously been considered. Alignment of planning and PPC permits could cause difficulty given the different levels of information required. However, there is support for fuller alignment or combining planning and roads construction consents and better links between onshore and offshore consents would be welcomed.

6.18. Whilst more efficiency through further alignment would be welcome, stakeholders also emphasised that flexibility should be retained to avoid lengthening the overall timescales or undermining investor confidence.

6.19. We believe there is a case to be made for revisiting the role of planning appeals and assessing the extent to which the balance between central and local decision making is appropriate. Whilst there is undoubtedly a need for independent and objective professional scrutiny in the process, it is clear that decisions by a Reporter can be perceived as undermining local democracy. We believe that introducing a mechanism to demonstrate how local views have been taken into account could go some way towards addressing this concern.

- Roads Construction Consent/Roads Authorities' Adoption
- Section 36 Application
- Section 37 Application
- Scheduled Monument Consent
- Specific forestry project work
- Traffic Regulation Order
- Tree felling consent
- Stopping Up Order (Planning Authority-led)
- Stopping Up Order (Roads)

Recommendations: Efficient and transparent development management

26. Timescales for decision making remain critical in creating certainty and should remain part of the performance monitoring framework.

Speed of decision making is an important part of performance monitoring. Whilst we recognise that a quality service relies on a wide range of factors, timely decision making is required to provide certainty for investors. To support this, processing agreements should be required for all major developments. Planning authorities should be given new powers to remove inactive legacy cases from the system.

27. The certainty provided by the development plan in development management should be strengthened.

To incentivise this, allocated sites should be afforded planning permission in principle, could be exempted from pre-application consultation requirements and could benefit from fast-tracked appeals. Conversely, where non allocated sites are being proposed for development a charrette or similar fuller consultation or mediation exercise could be required.

28. The quality and effectiveness of pre-application discussions with planning authorities and consultation by developers should be significantly improved.

Training, sharing of good practice, more transparent reporting and criteria for assessing quality could contribute to this. It may also be useful to strengthen specific requirements – for example if the applicant is required to hold at least two community consultation events there would be opportunities for fuller dialogue, negotiation and feedback in every case. Aligned with development plan engagement, non-statutory pre-application involvement ahead of this formal stage could also be encouraged. In addition, to increase public confidence in consultation on major applications, repeat applications should be managed more effectively.

29. National guidance on minimum requirements for validation is required.

A more detailed standard approach to setting out minimum requirements for validation would improve certainty for all parties and minimise delays. This should build on existing minimum requirements to provide a more comprehensive and therefore consistent list that can be applied by all planning authorities.

30. The Scottish Government should work with local authority enforcement officers to identify and/or remove any barriers to the use of enforcement powers.

We acknowledge that there are concerns about planning authorities not taking enforcement action. Our understanding is that the legislation already allows for a wide range of action to be taken and that there are already options to respond quickly to a breach including fixed penalties and interim stop notices. We also propose that this work considers whether fixed penalties and fees for retrospective applications should be substantially increased to provide a more effective deterrent.

31. Planning authorities should work together to identify the scope for significantly extending permitted development rights.

We believe there is significant scope to remove uncontroversial minor developments from the system and use this to incentivise developments which support policy aspirations such as low carbon living and digital infrastructure. We would suggest that Heads of Planning Scotland establish a working group to define this in more detail and establish the options for the Scottish Government to take forward to consultation.

32. A fuller study of the scope for combined consents, particularly planning, roads and drainage consents, should be carried out.

This may also be beneficial for aquaculture, given difficulties in reconciling planning and marine licensing matters. Higher fees could be payable where combined consents are offered. Given the importance of timing for investment decisions, applicants should be able to choose between individual or combined consents. Scottish Government consenting and decisions involving its agencies should form part of this review.

33. As with development planning, the use of information technology to improve accessibility and allow for more real-time data to inform decisions.

This may seem like a technical change but could have a game changing impact overall if pursued with ambition. Over time, this could be used to replace current costly and resource intensive methods of advertising and neighbour notification, and significantly improve access to information.

34. We recommend that the scope of powers of the Cairngorms National Park Authority is reviewed.

We heard evidence that, in contrast with Loch Lomond and The Trossachs National Park Authority, the specific arrangements for planning that are in place for the Cairngorms National Park Authority are causing confusion.

35. A stronger mechanism for a collective community perspective to be built into the matters explicitly addressed by Reporters in appeals, could go some way towards bridging the gap between local and central decision making.

The involvement of Reporters in appeals appears to be a cause for concern for some, but is viewed as an essential check and balance in the system by others. This would help to achieve a shift in the role of the Reporter from a late scrutiniser to an early facilitator. In the case of appeals, greater consistency in the operation of local review bodies is also required. This can be supported through training, as well as more consistent national standards.

7. Stronger leadership, smarter resourcing and sharing of skills



“Strong leadership is key to changing perceptions. The planning profession needs to be positively promoted, so that planners are recognised as enablers, rather than regulators.”



The challenge of resourcing is perhaps unsurprising, given the wider economic context. However, it has also brought with it opportunities to closely scrutinise efficiency and focus on priorities. Planning authorities have been forced in some cases to work differently, to maintain service standards and go beyond that to improve performance. We applaud these efforts but recognise that a more sustainable, smarter solution is required.

7.1. Despite continuing efforts to improve the system, planning can be the subject of considerable criticism and its positive role in delivering great places is not widely recognised or understood.

7.2. Whilst the ‘demotion’ of planning on the corporate agenda appears to be a concern for some, others view it as an opportunity to find new ways of working. Many professionals aspire to reposition planning at the centre of local government, and our view is that this can be achieved by ensuring that the development plan is linked with ongoing community planning. These links vary in practice, and planning is not usually directly represented within community planning partnerships. Addressing this would not only raise the profile of planning but could also create efficiencies, for example by allowing for joined up community engagement on a place based agenda. It will also be important to create synergies between development plans and emerging locality plans.

7.3. Future planning reform must take into account wider organisational change and a growing need for joined-up working within government both centrally and locally.

7.4. The evidence shows that, like many other services, planning has suffered for some years from a lack of investment. Local authority resources have become extremely stretched, and concerns about this go well beyond planning authorities, with private sector applicants and communities also raising it as a key concern. Research by the RTPI Scotland⁸ shows that there has been a 20% reduction in planning authority staff since 2010⁹, with expenditure in planning authorities having dropped by an estimated £40 million between 2010-11 and 2015-16.¹⁰ Planning accounts for a very small proportion of the local authority budget – estimated to amount to 0.63% of total expenditure. The average cost of each planning authority service to the tax payer is estimated to be £1.9 million.

7.5. Views vary about which parts of the planning service are now being de-prioritised in response to the financial constraints. Communities report particular concerns with the level of resource being afforded to enforcement, and there are also views that development planning, and in particular community engagement as part of the plan preparation process, are inadequately resourced. Major applications and more complex or controversial proposals which often demand significant pre-application discussions and are supported by an Environmental Impact Assessment can be particularly difficult to resource.

7.6. Within this context, there is widespread support for increasing planning fees to help to fill the resourcing gap and overcome the reported decline in staffing within planning authorities. We recognise that COSLA remain opposed to the principle of ring-fencing, and appreciate that local authority funding arrangements vary. This may limit the extent to which an easy equation can be defined to return any higher fee income directly to the planning service. Fee income also fluctuates, and so a full self-funding model may mean that service and staffing continuity may be difficult to maintain. We have noted however, that the full cost of the Building Standards service is recovered through fees.

7.7. There are some concerns about increased fees regardless of the level of service received, notably small businesses where margins are already limited and for householder applications. However, most of the evidence points to support for higher fees, providing that a significantly improved service can be guaranteed in return.

The need to secure the long term future of the profession in Scotland, and in particular to attract high quality graduates to the public sector, is a further challenge requiring new thinking.

⁸ ‘Progressing Performance: Investing in Scotland’s Planning Service’, RTPI Scotland (Thomas Fleming), October 2015 http://rtpi.org.uk/media/1496196/performance_and_resources_-_final_-_october_2015.pdf

⁹ Ibid, Page 13

¹⁰ Ibid, Page 7

7.8. We have considered the current fee structures and noted that the maximum fees in Scotland remain lower than the English cap. We took into account work undertaken in 2012 by the Scottish Government and their consultation on a potential new fee structure which proposed raising the maximum fee to £100,000 and balanced fees for smaller householder, agricultural and industrial developments. Whilst these proposals were welcomed by planning authorities, they were not taken forward, partly due to industry concerns about poor performance at that time.

7.9. Given that performance has since improved, we feel the time is right to reopen this debate. The development sector appears to be willing to pay more for a better service, particularly in the case of major applications. We believe that fees should be increased but that care is required to ensure changes do not deter development or disadvantage any particular applicant. A move to raise the cap would need to recognise that the current arrangement may be incentivising investment in Scotland and that the highest fee would be chargeable in only a small number of cases. At the same time, care is needed to avoid prejudicing those who are least able to pay.

7.10. COSLA and Heads of Planning Scotland are opposed to the principle of the penalty clause, arguing that penalising authorities where they are poorly performing will not support improvement. Others suggest that refunds for individual applicants are a better alternative to keeping fees low across the country as a whole. There is support for incentivising good behaviours and dis-incentivising poor behaviours through a more sophisticated charging system which would better reflect varying practices.

7.11. Planning authorities are using different approaches to discretionary charging for specific services. A small number of planning authorities charge for pre-application discussions – some wish to but are determining the legal position and others have decided against it to avoid deterring prospective developers from their area. We understand that charging has become standard practice in some English cities and appears to have been accepted by developers. In Scotland, some developers support paying for this part of the service provided that the advice they received was comprehensive (e.g. covered the views of key agencies) and integral to the application evaluation and determination.

7.12. There is also an ongoing debate about the role and skills of the planning profession. Much of the discussion relates to resources available within local authorities. There is also a recognition that there is a wider need for skills development, including on the part of developers, communities and local elected members. There are some positive examples of shared services but this appears to be limited at present. It is clear to us that supporting a wide range of technical specialisms within a single authority is no longer a realistic option.

7.13. Planners cannot all specialise in all aspects of the process, and we therefore call on the profession to lead the way in public service reform through further innovation and collaboration. Sharing of skills needs to move beyond good practice dissemination to provide firm and practical solutions to funding constraints. Local authority planners would benefit from greater access to wider professional expertise. The private sector and communities also have a role to play in this.

7.14. There has been a decline in planning schools in Scotland and there are difficulties reported in recruiting and training a cohort of Scottish Planners. Many believe that there is a need to improve the image of the profession to help address this, and in particular to ensure that the public sector is viewed as an attractive career option for graduates. The work of the RTPI to provide bursaries is clearly a welcome move towards this, but we would suggest that more could be done to invest in the future of the profession.

PLANNING FEES AND RESOURCES

- Planning fees in Scotland have increased 16 times since 1981, with the most recent increases of 20% in 2013 and 5% in 2014.
- Fees cover 26.5% of cost of full planning service.
- Fees cover 63% of cost of decision making.
- 20% reduction in planning authority staff since 2010.
- £40 million drop in gross expenditure between 2010-11 and 2015/16.
- 0.63% of local authority budget allocated to planning.
- £1.9 million average cost of planning authority service to tax payer.

A number of these figures were reported in 'Progressing Performance: Investing in Scotland's Planning Service', RTPI Scotland (Thomas Fleming), October 2015 http://rtpi.org.uk/media/1496196/performance_and_resources_-_final_-_october_2015.pdf

Recommendations: Stronger leadership, smarter resourcing and sharing of skills

36. Planning services should aspire to become leaders and innovators within the context of public service reform and the Scottish Government and key agencies should lead by example.

A planning service should be viewed as a central function of a local authority that is of direct relevance to a wide range of other services. To ensure this happens, we propose that Local Authority Chief Executives have a statutory responsibility for signing-off the local development plan before it is approved by full council. Planning and Architecture Division should be recognised as a leader and co-ordinator of the place agenda within the Scottish Government and adequately resourced to reflect this. The Improvement Service also has an important role to play in this.

37. Planning fees on major applications should be increased substantially, so that the service moves towards full cost recovery.

A revised cap should be considered to better reflect the level of resource they demand. An increase of fees for developments requiring an Environmental Impact Assessment would also be helpful. Whilst we accept that ring-fencing fees is not an optimal solution, local authorities must accept that all increases in fees must be directly linked with improved performance and that this will require investment in the resourcing of planning authorities. We also recommend a new means of measuring service quality which builds on performance frameworks, and a mechanism for penalties such as a refund in the planning fee to be incurred where this is not achieved.

38. Scope for further discretionary charging, for example for pre-application processes, should be considered further.

Innovative mechanisms to penalise negative behaviour and incentivise productive relationships, whilst also reflecting varying workloads should also be explored. Examples include higher fees for retrospective applications and combined consents, higher enforcement penalties and discounted fees for sites which are already allocated in the development plan. Charging by key agencies is also supported but must also be directly linked to improved service provision.

39. Alternative mechanisms to support improvements should be found and the threat of the penalty clause removed.

Given that the link between fees and performance continues to be critical, we recognise that positive intervention is required in cases of continuing poor performance. We therefore propose more solutions-based mechanisms are explored by the High Level Group on Performance. Building on the work by Heads of Planning Scotland for peer review, options could include a requirement to take forward independently defined solutions, or reinstatement of auditing by the Scottish Government or another party. Alternatively, Reporters, high performing authorities or an appointed expert could be tasked with redesigning processes where there are performance issues arising. To further deter poor performance, any such measures should be paid for by the planning authority concerned.

40. Skills development is required in a number of priority areas.

Project management, development finance, mediation and information technology are of critical importance. This applies to all those involved in planning, including the key agencies, developers and their agents as well as local authority planners. Training of elected members should be mandatory, monitored and enforced. A programme of training in community engagement for the development sector should also be rolled out.

41. Local authorities should pursue the establishment of shared services.

Radical solutions to resources need to be realised. Shared services would be particularly helpful in specialist areas such as minerals, aquaculture, GIS, environmental assessment and conservation where it is unrealistic to expect all local authorities to maintain a high level of expertise in-house. Arrangements for this should therefore be actively pursued and led by Heads of Planning Scotland in collaboration with the Scottish Government and potentially with other bodies such as COSLA, RTPI, RICS, the Improvement Service and the key agencies.

42. A planning graduate intern programme should be established.

To help invest in the long term future of the profession in Scotland, the Scottish Government, Heads of Planning Scotland and RTPI Scotland should establish an intern programme for planning graduates. Evidence suggests that there is a greater need for such a scheme to attract and retain staff in the public sector and to provide a broader resource of planning professionals with experience of both the public and private sectors.

8. Collaboration rather than conflict – inclusion and empowerment



“Communities need to be empowered and planning needs to reach out to those who have previously been excluded from debates about the future of their place. If that can be achieved, development will come to be recognised more widely as a positive, rather than negative, part of their future.”



Active citizenship and local democracy have risen up the agenda to gain much wider recognition in recent years. Planning has long provided opportunities for community engagement, but the effectiveness of this in practice has varied considerably.

8.1. The evidence shows that the planning system is not yet effective in engaging, let alone empowering, communities. Although it is accepted that consultation requirements have increased with the 2006 Act, the aim of front loading engagement has not reached its full potential. Constraints to effective engagement include resources and time and it appears that often consultation is minimal, rather than meaningful. Where resources are limited, local authorities often seek to manage expectations rather than being ambitious about securing community buy-in. Views vary on whether legislative change is required to ensure improvements or whether it can be addressed through improved practice.

8.2. There are some inspiring examples of community involvement, often in more rural areas. Examples include where the community's own plan has become part of the development plan and the creative use of social media and charrettes to achieve a step-change in awareness of, and involvement in, planning.

8.3. The experience of neighbourhood planning in England and Wales under the Localism Act 2011 provides an example of where communities can be given the space and support to create and deliver their own plan.¹¹ The evidence on this appears to be mixed.¹² We are concerned that there is potential for this to widen inequalities where more affluent communities are better equipped to deliver plans for their area and that, rather than enabling development, many neighbourhood plans reflect a preservationist agenda. In Scotland, whilst charrettes are widely welcomed, there are some reservations about whether or not they had a real impact, particularly where they appear to have been detached from the preparation of the statutory development plan.

8.4. Particularly in communities where there is significant development pressure, the evidence overwhelmingly suggests that public trust in the system has declined rather than grown. To establish more positive and productive relationships in all communities, a significant and substantive shift towards local empowerment is clearly required.

8.5. This will be challenging: communities are reporting consultation fatigue and have very limited resources for getting actively involved in the process. Community councils themselves have concerns about their ability to recruit a diverse and active membership and to represent their own communities. Despite this, community councils clearly have an appetite for taking responsibility for gathering views from their wider community, whilst recognising that this may require additional time and resources. There are some positive examples including use of local newspapers to generate income for community councils, as well as improving communication. In some cases there is sharing of resources and the internet is being used to bring individual community councils together. There are also reports of very positive individual relationships with local authorities, including planning officers and elected members. Scope for networking amongst community councils is limited at present.

8.6. It is important to recognise that communities can be based on shared interests as well as geography, and that different groups can all contribute to the strength and diversity of civil society. A strong movement of community development trusts and similar delivery focused local bodies is emerging and becoming actively involved in improving places. Whilst they should not be regarded as the only local representatives, there appears to be agreement that there is strong potential for community councils to be re-energised where

11 Localism Act 2011, Chapter 3, s.116 – s.121

12 'Neighbourhood Planning: Plan and Deliver?', Turley, March 2014 http://www.turley.co.uk/sites/default/files/uploads/news/Turley_%20Neighbourhood%20Planning_March_2014.pdf

their role in development planning is given new recognition. Given the limited resources of community councils, we believe frontloaded engagement could usefully be prioritised over the current resource-intensive involvement in development management decisions.

8.7. We also have an opportunity to lead the way in making a strong and meaningful commitment to engaging young people in the planning process. The evidence showed that at present they have little or no say in the future of their communities. Planning decisions that are made now will impact on future generations and there needs to be much greater effort to involve them. Broader and more diverse involvement could also help to re-energise and broaden the representation of overly stretched community councils.

8.8. There continues to be some support for third party or equal rights of appeal in Scotland. In addition to considering the written and oral evidence on this, we have revisited the information that was considered at the time of the 2006 Act, and reflected on experience in other countries in order to inform our response to this issue.

8.9. The argument for an equal right of appeal is based largely on concerns about the effectiveness of frontloaded engagement not being realised. Some of the evidence expressed strong concerns about the system being intrinsically unfair and biased towards developers. Some communities report feeling 'exhausted' or 'wounded' by their experience of the planning system. However, views vary on the extent to which any such additional right of appeal would apply. Some feel that even if rights of appeal were extended to communities, developers would still have an 'advantage' as they have better access to expertise and resources. Others have suggested it should apply only to decisions on allocated or non-allocated development sites.

8.10. The arguments against such a right of appeal focus on concerns over further delays to the planning process, adding more uncertainty for applicants, communities and investors. Some are concerned that wider rights of appeal would be open to misuse and would undermine the credibility of the system. Even defining a 'third party' would be challenging and we heard about tensions and conflict arising where there are differences between the views of local communities and 'communities of interest' and scope for a new right to be used by competing developers for reasons which are not in the public interest.

8.11. We were particularly concerned to hear evidence based on Ireland's experience that, rather than supporting local democracy, such a right could simply create further centralisation of decision making through appeals. We are conscious that Scotland would be the only part of the UK with such a right and that this raises questions about its impact on maintaining a competitive advantage and attracting investment. Recent changes to access to justice, including protected expenses orders and court rules are also relevant considerations.

8.12. In contrast with the differences in opinion about the need for a third party right of appeal, there is consensus that getting public involvement right early in the process is instrumental to securing positive outcomes. There are calls for more deliberative techniques to ensure engagement moves towards meaningful involvement, and many feel that more innovation and creativity are needed and could deliver significant benefits. The use of social media and other engagement techniques such as three dimensional visualisations have significant potential in this regard.

8.13. The wider context for planning is also relevant here. The Community Empowerment Act¹³ provides the impetus required for planning authorities and developers to go beyond what can sometimes be tokenistic consultation to establish a much more mature and positive relationship with communities.

Significant change is required to move the debate onto much more positive ground, so that planning is respected rather than resented for its role in representing the public interest.

13 Community Empowerment (Scotland) Act 2015

Recommendations: Collaboration rather than conflict – inclusion and empowerment

43. There should be a continuing commitment to early engagement in planning, but practice needs to improve significantly.

Front loading engagement remains a valid and attainable goal and must be at the core of the planning system. Planning authorities and developers need to promote innovation which empowers communities to get actively involved in planning their own places. Much smarter use of information technology, including 3D visualisation and social media could support a step change in the transparency of planning decisions.

44. Communities should be empowered to bring forward their own local place plans, and these should form part of the development plan.

Communities are best placed to define the future of their place and this may emerge from community planning as locality plans, or could be driven by land reform or charrettes. These plans should be given statutory status by forming part of the local development plan where it can be demonstrated that they play a positive role in delivering development requirements. Communities should also go beyond plan preparation and be supported to actively enable their delivery. Community development trusts, community councils and other community groups will play an increasingly important role in this.

45. Community councils should be given a statutory right to be consulted on the development plan.

This right should bring with it a responsibility to demonstrate that the wider community, including young people, have been involved. Given their limited resources, their existing statutory role in development management could be limited to major developments. Improved resourcing of community councils is required. More creative approaches to fees and wider work to build community infrastructure funds through developer contributions could support this.

46. We are not persuaded that third party rights of appeal should be introduced.

Effective planning depends on building positive and productive relationships. The evidence shows that a third party right of appeal would add time, complexity and conflict to the process, and have the unintended consequence of centralising decisions, undermining confidence and deterring investment. We believe that using time and resources to focus on improved early engagement would provide much greater benefits.

47. A working group should be established to identify barriers to greater involvement in planning, taking account of measures contained in the Community Empowerment Act and the Land Reform Act.

More effective and continuous engagement in the planning system is required. At present, the majority of Scotland's public are unaware or uninterested in planning, even although it affects everyone's quality of life. Although we expect that there are examples of good practice, during this review we saw little evidence that disabled people, young people, minority ethnic groups, or disadvantaged communities are being effectively and routinely involved in the planning system. We recommend a short life working group is established to follow up on this and if necessary to identify how engagement can be broadened and diverse groups can be more fully included in planning.

48. A new statutory right for young people to be consulted on the development plan should be introduced.

This would engender much stronger participation in place planning to realise the terms of Article 12 of the UN Convention on the Rights of the Child. It is also important that active citizenship is underpinned by education – place planning should be built into the Curriculum for Excellence and the Place Standard¹⁴ should guide much wider discussions on place in schools. Community council membership could be transformed where involvement of young people is a requirement rather than an exception. A mechanism for direct engagement between young people and elected members which focuses on place is also recommended. Training will be required in this area as well as a measure for monitoring inclusion.

¹⁴ Place Standard: How Good is Our Place? <http://www.placestandard.scot>

9. Conclusion



9.1. We recognise that many of these changes are potentially far reaching, and that the recommendations are being made at a time when there is already pressure on public sector resources. However, by making a relatively modest investment and prioritising efforts on areas where there will be greatest impact, the recommendations set out here should make the planning system much more efficient and effective.

9.2. We have been unable to address every issue that has been raised but we are confident that we have prioritised the right areas.

9.3. We recognise that views vary on many of the key challenges. However, we have identified where there are widely recognised issues arising, and have considered how improvements under the six key headings can work together to achieve significant change.

9.4. Our review has been strategic and we are conscious that the practicalities of some of our recommendations require further consideration and consultation. In responding to our report, the Scottish Government will need to consider how a balance can be struck between bringing forward short term solutions and pursuing more fundamental changes over the longer term. We look forward to seeing the Scottish Ministers' response to our recommendations in due course.

Annex I

The work of the panel



Background to the review

In September 2015, Alex Neil MSP, Cabinet Secretary for Social Justice, Communities and Pensioners' Rights announced an independent review of the Scottish planning system.

The review was to be carried out by an independent panel, appointed by the Scottish Ministers, and operating independently of the Scottish Government. Crawford Beveridge was invited to chair the panel, along with John Hamilton and Petra Biberbach.

The review provided an opportunity to assess the strengths and weaknesses of the current planning system 10 years on from the previous reforms, which culminated in the Planning etc. (Scotland) Act 2006.

Remit

The panel worked to the following remit:

- Consider the strengths and weaknesses of the current planning system.
- Explore game changing ideas to improve planning in six key areas: development planning; housing delivery; planning for infrastructure; streamlining development management; leadership, resources and skills; and public engagement.
- Provide an independent report with recommendations which will be used to inform the development of a future Scottish Government programme of further planning reform.

Evidence gathering

A call for written evidence ran from 20 October 2015 to 1 December 2015 and invited all with an interest in planning to make submissions to the panel. The call for evidence was publicised on the Scottish Government website, an e-alert, a press release and various social media channels. The panel received over 400 responses from a wide range of organisations and individuals. Kevin Murray Associates were commissioned to analyse the written evidence and provide a summary report.¹⁵

Over 100 organisations and individuals (**Annex III**) were also invited to take part in oral evidence sessions and roundtable discussions with the panel. This allowed the panel the opportunity to explore issues in more detail, particularly useful where views were mixed.

An online discussion forum was also hosted on the Scottish Government platform Dialogue from 18 January to 29 February 2016. This provided stakeholders another opportunity to put forward ideas and recommendations to the panel, as well as to discuss ideas and recommendations posted by others. Users posted 114 ideas, made 378 comments on those ideas and provided a rating of the ideas 936 times.

Regular updates were provided on the Review of Planning web page. This included any updates to the review timetable and the publication of documents such as the list of those invited to give oral evidence. Milestones, such as the beginning and end of the call for written evidence were also promoted on social media channels to ensure that stakeholder awareness was maximised.

ENGAGEMENT

Over 400 written evidence submissions

Over 100 oral evidence attendees

114 ideas posted to the online forum

378 comments made on those ideas

89 days of consultation and evidence gathering

¹⁵ The Planning Review: Analysis of Written Evidence, Kevin Murray Associates, March 2016

Annex II

Members of the panel



Crawford Beveridge is the chair of the Scottish Government's Council of Economic Advisors and Non-executive Chairman of the Board at Autodesk Inc.



John Hamilton is CEO at Winchburgh Developments Ltd. and former Chairman of the Scottish Property Federation.



Petra Biberbach is the Chief Executive of PAS (formerly Planning Aid for Scotland) and a Member of the Board and Chair of the Planning & Access Committee at Loch Lomond and the Trossachs National Park Authority.



Annex III

List of those who
provided oral evidence



Association of Directors of Education
Bob Reid
BT
Built Environment Forum Scotland
Cairngorms National Park Authority
Chartered Institute of Housing
Comhairle nan Eilean Siar
Community Land Scotland
Convention of Scottish Local Authorities
Dunblane Community Council
Echt and Skene Community Council
Edinburgh Association of Community Councils
Education Scotland
Facilitating Change
Federation of Small Businesses
Handelsbanken
Heads of Planning Scotland
Highland Council
Highlands and Islands Enterprise
Hillhead Community Council
Historic Environment Scotland
Homes for Scotland
Improvement Service
Independent Living in Scotland
Institute of Directors
James Miller
Jim Mackinnon CBE
Ken Ross OBE
Landscape Institute Scotland
Law Society Planning Subgroup
Lilliesleaf, Ashkirk and Midlem Community Council
Linlithgow and Linlithgow Bridge Community Council
Loch Lomond and The Trossachs National Park Authority
Luma3D Interactive Ltd.
Nick Wright
Ofcom
PAS
Planning Democracy
Pollokshields Community Council
Private Rented Sector Champion
Professor Cliff Hague
Professor David Adams
Professor Greg Lloyd
Royal Bank of Scotland
Royal Burgh of Tain Community Council
Royal Institution of Chartered Surveyors
Royal Incorporation of Architects Scotland
Royal Town Planning Institute Scotland
RTPI Young Planners
Ryden
Sanctuary Scotland
SCDI
SGN
Scottish and Southern Energy
Scottish Community Alliance
Scottish Enterprise
Scottish Environment LINK
Scottish Environment Protection Agency
Scottish Federation of Housing Associations
Scottish Futures Trust
Scottish Natural Heritage
Scottish Planning Consultants Forum
Scottish Power Networks
Scottish Property Federation
Scottish Renewables
Scottish Salmon Producers Organisation
Scottish Water
Shelter Scotland
Society of Chief Officers of Transportation
Society of Local Authority Chief Executives
Strategic Development Plan managers and conveners
Strathclyde Partnership for Transport
Strathclyde Pension Fund
Transport Scotland

Annex IV

Additional published
evidence considered
by the panel



In addition to written evidence, oral evidence and the online discussion forum, the thinking of the panel was informed by a variety of other evidence.

Review of the Strategic Development Plans in Scotland

Kevin Murray Associates

April 2014

<http://www.gov.scot/Topics/Built-Environment/planning/Development-Planning/Strategic-Planning/ReviewDocs>

International review of land supply and planning systems

Sarah Monk at el., Joseph Rowntree Foundation

March 2013

<https://www.jrf.org.uk/report/international-review-land-supply-and-planning-systems>

Building a Better Scotland: The RICS Scottish Housing Commission Report

Royal Institution of Chartered Surveyors

July 2014

<http://www.rics.org/Global/The%20RICS%20Scottish%20Housing%20Commission%20%E2%80%93%20Building%20a%20Better%20Scotland%20%E2%80%93%20July%202014.pdf>

Building for Growth

Lloyds Bank Research Series – Housebuilders

September 2015

<http://www.lloydsbankinggroup.com/globalassets/documents/media/press-releases/lloyds-bank/2015/150921-housebuildingreport.pdf>

Comparison of the planning systems in the four UK countries

National Assembly for Wales

January 2016

<http://www.assembly.wales/Research%20Documents/16-001%20-%20Comparison%20of%20the%20planning%20systems%20in%20the%20four%20UK%20countries/16-001.pdf>

Inquiry into fixed odds betting terminals

Local Government and Regeneration Committee

December 2015

http://www.scottish.parliament.uk/S4_LocalGovernmentandRegenerationCommittee/Reports/LGRS042015R06.pdf

Affordable Housing Need in Scotland

Ryan Powell, Richard Dunning, Ed Ferrari, Kim McKee; Shelter Scotland

September 2015

http://scotland.shelter.org.uk/__data/assets/pdf_file/0009/1190871/7909_Final_Housing_Needs_Research.pdf

Supporting Scotland's Growth – Housing: Location as a Barrier to Housing Delivery in the Central Belt

Nathaniel Lichfield & Partners

June 2015

<http://nlplanning.com/uploads/ffiles/2015/06/652350.pdf>

Rethinking planning obligations: balancing housing numbers and affordability

Sue Brownill, Youngha Cho, Ramin Keivani, Ilir Nase, Lesley Downing, Dave Valler, Nicholas Whitehouse and Penny Bernstock; Joseph Rowntree Foundation

July 2015

<https://www.jrf.org.uk/report/rethinking-planning-obligations-balancing-housing-numbers-and-affordability>

Planning for Infrastructure Research Project: Final Report

Mark Robertson and Fiona Clandillon; Ryden LLP

August 2015

<http://www.gov.scot/Resource/0048/00483680.pdf>

Progressing Performance: Investing in Scotland's Planning Service

Thomas Fleming; RTPI Scotland

October 2015

http://www.rtpi.org.uk/media/1496196/performance_and_resources_-_final_-_october_2015.pdf

Resources for Planning

Ove Arup and Partners with Phil Allmendinger, Geoff Peart Consulting and Anderson Strathern WS

2005

<http://www.gov.scot/Publications/2005/12/1591145/11453>

Review of Fees for Planning Applications

Arup with Geoff Peart and Paula Gilder Consulting

2009

[http://www.gov.scot/](http://www.gov.scot/Publications/2009/04/08155323/0)

[Publications/2009/04/08155323/0](http://www.gov.scot/Publications/2009/04/08155323/0)

Resourcing a High Quality Planning System – a Consultation Paper

Aileen Grant, Dundas & Wilson CS LLP

2011

[http://www.gov.scot/Resource/](http://www.gov.scot/Resource/Doc/317790/0101200.pdf)

[Doc/317790/0101200.pdf](http://www.gov.scot/Resource/Doc/317790/0101200.pdf)

Delivering Better Places

David Adams, Steve Tiesdell and George Weeks

2011

[http://www.gov.scot/resource/](http://www.gov.scot/resource/doc/336587/0110158.pdf)

[doc/336587/0110158.pdf](http://www.gov.scot/resource/doc/336587/0110158.pdf)

Resourcing a High Quality Planning System: Analysis of Consultation Responses

Aileen Grant, Dundas & Wilson CS LLP (Scottish Government Social Research)

2011

[http://www.gov.scot/Resource/](http://www.gov.scot/Resource/Doc/346424/0115283.pdf)

[Doc/346424/0115283.pdf](http://www.gov.scot/Resource/Doc/346424/0115283.pdf)

Briefing for the Public Petitions Committee - Petition PE1534 on equal rights of appeal

SPICe

[https://www.scottish.parliament.uk/](https://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/Petitions%20briefings%20S4/PB14-1534.pdf)

[ResearchBriefingsAndFactsheets/Petitions briefings S4/PB14-1534.pdf](https://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/Petitions%20briefings%20S4/PB14-1534.pdf)

A Guide to Development Viability

GVA Grimley for The Scottish Government

2009

<http://www.gov.scot/Resource/0042/00426778.pdf>

Development Delivery and Viability

GVA Grimley for The Scottish Government

2009

[http://www.scotland.gov.uk/Resource/](http://www.scotland.gov.uk/Resource/Doc/336436/0110101.pdf)

[Doc/336436/0110101.pdf](http://www.scotland.gov.uk/Resource/Doc/336436/0110101.pdf)

The Potential of Development Charges in The Scottish Planning System

GVA, DLA Piper, Turner & Townsend, Steven Tolson for The Scottish Government

2010

[http://www.scotland.gov.uk/Resource/](http://www.scotland.gov.uk/Resource/Doc/352736/0118674.pdf)

[Doc/352736/0118674.pdf](http://www.scotland.gov.uk/Resource/Doc/352736/0118674.pdf)

Home Truths: The true value of home-based businesses

Prof Colin Mason and Dr Darja Reuschke for Federation of Small Businesses

February 2015

[http://www.fsb.org.uk/LegacySitePath/policy/rpu/](http://www.fsb.org.uk/LegacySitePath/policy/rpu/scotland/assets/home%20truths%20-%20final.pdf)

A Guide to the Use of Mediation in the Planning System in Scotland

Core Solutions Group, Edinburgh for The Scottish Government

March 2009

[http://www.gov.scot/Resource/](http://www.gov.scot/Resource/Doc/263432/0078790.pdf)

[Doc/263432/0078790.pdf](http://www.gov.scot/Resource/Doc/263432/0078790.pdf)

Benefits of using Processing Agreements

Scottish Government

April 2015

<http://www.gov.scot/Resource/0047/00475120.pdf>

Planning as 'market maker': How planning is used to stimulate development in Germany, France and the Netherlands

Dr Alex Lord, Dr Phil O'Brien, Dr Oliver Sykes, Dr John Sturzaker

November 2015

[http://rtpi.org.uk/media/1562925/rtpi_](http://rtpi.org.uk/media/1562925/rtpi_research_report_11_planning_as_market_maker_november_2015.pdf)

[research_report_11_planning_as_market_maker_november_2015.pdf](http://rtpi.org.uk/media/1562925/rtpi_research_report_11_planning_as_market_maker_november_2015.pdf)

Planning and Environmental Appeals Annual Review 2014/15

Scottish Government

<http://www.gov.scot/Resource/0048/00485308.pdf>

Planning Performance Statistics

Scottish Government

[http://www.gov.scot/Topics/Statistics/Browse/](http://www.gov.scot/Topics/Statistics/Browse/Planning/Publications)

Develop to Deliver – Maximising the role of RTPs in furthering improvements to transport in Scotland

Scottish Government/Regional Transport Partnership/ COSLA Working Group

August 2015

[http://www.transport.gov.scot/system/files/](http://www.transport.gov.scot/system/files/documents/reports/SG-RTP%20Working%20Group%20-%20Report%20-%20Final%20-%20August%202015%20-%20PDF.pdf)

Joint Housing Delivery Plan for Scotland

Joint Housing Policy and Delivery Group

<http://www.gov.scot/Resource/0047/00477306.pdf>

Planning Advice Note 3/2010 Community Engagement

Scottish Government

<http://www.gov.scot/Resource/Doc/322754/0103851.pdf>

Circular 6/2013 Development Planning

Scottish Government

<http://www.gov.scot/Resource/0044/00441577.pdf>

Circular 3/2013 Development Management Procedures

Scottish Government

<http://www.gov.scot/Resource/0044/00441568.pdf>

Circular 5/2009 Hierarchy of Developments

Scottish Government

<http://www.gov.scot/Resource/Doc/278390/0083657.pdf>

Primary Schools Benchmarking Report December 2015

hub North Scotland

<http://www.hubnorthscotland.co.uk/uploads/files/downloads/hub-school-benchmarking-report-36pp.pdf>

Secondary Schools Benchmarking Report July 2015

hub North Scotland

<http://www.hubnorthscotland.co.uk/uploads/files/downloads/20017.pdf>

Making Things Last – A Circular Economy for Scotland

Scottish Government

February 2016

<http://www.gov.scot/Resource/0049/00494471.pdf>

Annex V

Call for written evidence questions



The following questions were published with the Call for Written Evidence to assist discussion and to help stakeholders consider priority areas for action.

1. Development planning

The aspirations for development planning reflected in the 2006 Act have proved difficult to meet in practice. The time is right to hear views on whether a different, more radical and fit-for-purpose system of plans might work better. It is also an opportunity to have an open and honest debate about their value within the system, and to constructively challenge long-held assumptions about their role.

- Do we need development plans?
- Is the current system of development plans fit for purpose or do we need to simplify or redesign it?
- Should the primacy of the development plan be retained as a fundamental principle of the Scottish planning system?
- Should we have a multi-tiered approach to development planning?
- How can relationships between tiers of plans work better?
- Could a different approach to development plans be quicker and more effective?
- Can development plans provide greater certainty for communities and investors?
- Can we improve development plan examinations?
- Can development plans be more flexible?
- How can we ensure development plans have a stronger focus on delivery and quality of place?

2. Housing delivery

Planning has an important role to play in facilitating housing delivery. Whilst there have been overall improvements in performance, planning decision times for major housing applications remain lengthy, particularly where a legal agreement is used. Although planning is not the only factor, house completion rates are still low across the country. There are signs that the situation is improving, but there remains much to be done to meet the housing needs of current and future generations. Planning for housing is often viewed as too complex, inconsistent, caught up in debating numbers and detached from the needs of developers and communities. In some places there is insufficient land available, whilst in others the land supply does not match development aspirations.

- How can planning improve the quality and scale of housing delivery?
- Are there continuing barriers to housing delivery from the planning system?
- How can planning ensure that the land needed is identified quickly and effectively?
- Should there be a Housing Needs and Demands Assessment to inform the approach to planning for housing?
- Should housing numbers be defined centrally rather than locally?
- What measures are needed to expose the scale and quality of land available for housing?
- How can housing land requirements be more actively, consistently and effectively audited/monitored?
- Are there other planning mechanisms which can be used to get housing sites moving?
- Should there be a different process for housing applications?
- What innovative approaches can be used to secure the delivery of more high quality homes on the ground?

3. Planning for infrastructure

Recently published research on infrastructure has shown that planning is not realising its potential to identify, co-ordinate and deliver infrastructure required to enable development. There has been considerable debate about the extent to which new approaches to infrastructure planning and investment could be deployed to unlock development land. Ideas vary from targeted interventions (for example to improve Section 75 timescales) to more fundamental changes such as more powers for land assembly.

- How can we better equip planning to scope out, co-ordinate and deliver infrastructure?
- How can planning be more active in delivering infrastructure – what models might work best?
- Should we look at mechanisms to capture increased land value to support infrastructure and place-making priorities?
- Should we retain Section 75 planning obligations and if so how can we improve them to reduce timescales and better support infrastructure delivery?
- If we abolish Section 75, what needs to be put in its place?
- Should we establish an infrastructure levy or similar area based approach to secure collective contributions?
- Is there scope for dedicated infrastructure funding (or improved links to existing funding sources) to support planning delivery?
- How can infrastructure investment be better aligned to support housing delivery?

4. Development management

Since previous modernisation, there has been improvement in the performance of the development management system as a whole. However, there is scope to consider whether more radical interventions could further improve the efficiency of the process. The review is exploring how planning can be empowered to enable development, including by identifying where unnecessary procedure is acting as a drain on limited resources. We have significantly increased permitted development rights but the time is right to consider whether this, or other streamlining mechanisms, can be taken further.

- What are the barriers to timely decision making within the development management service and how can they be overcome?
- Which aspects of the development management process need to change?
- Should we extend permitted development rights further? If so, what for?
- Is there scope to strengthen development plans to streamline decision making?
- Should authorities share development management expertise?
- How well is the development hierarchy working? Can/should it be taken further?
- Should opportunities for repeat planning applications (i.e. for substantially the same development on the same site) be limited?
- Are there issues with planning enforcement that need to be addressed?
- Should we revisit notification and call-in arrangements?
- Should Historic Environment Scotland policies and procedures for listing buildings be reviewed and listed building consents be speeded up?
- Is there a need to change the role of key agencies in development management?

5. Leadership, Resourcing and Skills

Resourcing the planning system will remain a challenge for the foreseeable future, given public sector spending constraints. There have been ongoing debates about planning fees and calls for a move towards full cost recovery. At the same time, there remain challenges around performance and concerns about skills and resources within planning authorities. This is a useful time to take stock on whether there is a lack of specific types of expertise, as well as the skills we will need in the future. The corporate profile of planning within local authorities is also a key consideration.

- Are planners equipped to provide strong and skilled leadership within planning authorities?
- Should planning fees be increased to better resource the planning system?
- Should we make provision for better resourcing of the pre-application stages, particularly for larger projects?
- What is the role of the penalty clause in the Regulatory Reform Act?
- What skills and resources are currently lacking?
- What skills will be in most demand in the future?
- Is there a case for more shared services or exchange of expertise?
- Is there a need for more training of elected members?
- Can planning authorities be better equipped to actively enable development?
- How might local government support planning delivery across service areas?
- How can spatial planning be better integrated with Community Planning and corporate priorities?
- What are the long term prospects for the planning profession in Scotland?

6. Community engagement

The modernised planning system was designed to frontload engagement in the process. There has been growing evidence of innovation and good practice in engagement in planning, but the approach to this varies in practice. The public's perception of planning remains mixed, with its regulatory role often being a focus, and involvement is often reactive. There is scope to explore new ideas, to move the debate on planning onto more positive ground, where planning is seen as an enabler, a place delivery agent, an innovator and a leader of positive change. Engagement through active citizenship with young people is a key opportunity.

- Are the provisions for front loaded engagement in development plans working?
- How can we build on existing models of engagement (such as participatory design including 'charrettes') to encourage active participation in planning?
- Do we need to change the system to ensure everyone has a fair hearing in plan and decision making?
- Does mediation have a role to play in resolving conflict in the system?
- Should the statutory role of community councils be extended – for example to development planning?
- How can development plans be more explicitly linked with community planning?
- How can we involve more young people in planning?
- Is it possible to improve public perceptions of the planning system?

Annex VI

Glossary



Charrette	An interactive design process, in which the public and stakeholders work directly with a specialised design team to generate a specific community vision, masterplan and action plan.
Compulsory purchase orders	A compulsory purchase order can allow certain organisations to buy property without the owner's permission, if there is a strong enough case for this in the public interest.
Effective housing land supply	The part of the established housing land supply which is free or expected to be free of development constraints in the period under consideration and will therefore be available for the construction of housing.
Environmental impact assessment	A means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects.
Housing Needs & Demands Analysis (HNDA)	HNDAs provide an evidence-base to underpin decisions taken in the Local Housing Strategy (LHS) and Development Plan. They are designed to give broad, long-run estimates of what future housing need might be, rather than precision estimates.
Local review bodies	A group of Councillors who on request will review planning applications refused by their authority's planning officials under delegated powers.
Main Issues Report	A document prepared as part of the local development plan which sets out the authority's vision for their area and is used as a consultation tool to seek communities' views on the proposals it contains.
Majority land assembly	Majority land assembly (MLA) is a legal procedure intended to speed up the redevelopment of land in multiple ownership without the need for state intervention through compulsory purchase.
Penalty clause	A power taken by Scottish Minister's under Section 55 of the Regulatory Reform (Scotland) Act 2014 which would allow them, where they consider it necessary, to reduce the planning fee payable to any local authority they consider is not performing at an appropriate level.
Permitted development	Some developments are classed as permitted development and a planning application is not required.

Planning performance framework	A report designed by Heads of Planning Scotland in conjunction with the Scottish Government which is designed to allow planning authorities to report annually on the work undertaken by the service that year, using both qualitative and quantitative information.
Planning permission in principle	The application for, or permission granted, that sets the principle for the type of development allowed on a particular site. Any grant of PPP will require a more detailed consent through an application for approval of matters specified as a condition (AMSC) before work can begin.
Processing agreements	Processing Agreements are project management tools used to set a timetable for deciding planning applications.
s.75 agreement (planning obligation)	A legal agreement, usually between the developer and planning authority which, if it meets the appropriate policy tests, can be used amongst other things to secure financial provision relating to the development.
Simplified Planning Zone	A Simplified Planning Zone scheme grants planning permission for the types of development it specifies within a set zone without the need for any individual planning permission.
Supplementary guidance	Councils can also prepare supplementary guidance. Common types include development briefs, master plans, strategies or frameworks on specific issues; and detailed policies, for example on the design of new development.
Validation	The administrative procedure by which the content of applications for planning permission are checked against the requirements set out in the Development Management Procedure Regulations 2013.

Further information on the current Scottish planning system can be found in '**A Guide to the Planning System in Scotland**', produced by the Scottish Government in 2009 – <http://www.gov.scot/resource/doc/281542/0084999.pdf>

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