



Campaigning for the Conservation of Wild Land in Scotland

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Convenor

Local Government and Communities Committee
Scottish Parliament
Edinburgh EH99 1SP

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Dear Sir

Call for Views on the Planning [Scotland] Bill: Contribution to Stage 1 Scrutiny

I am writing in response to the Call for Views on behalf of the Scottish Wild Land Group [SWLG], a registered Scottish charity SC004014. We are members of Scottish Environment LINK and we support the LINK response as submitted to you for consideration. In addition, we have some points to make that are specific to our interests and those of our members.

SWLG has 10 aims and objectives and among them are several that are relevant in the context of the Planning Review of 2017 and the current deliberations of the Committee. These include

- To promote and encourage the implementation of good planning policies
- Protection and promotion of Scotland's wild land
- Environmentally sensitive land and wildlife management
- Planning controls on the spread of Hilltracks
- Restoration of rare and missing species and habitats
- Connection of habitats and protected areas to allow ecological recovery and species movements.

We wish to comment on the following 2 questions only and then we will raise some additional issues.

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

No. Planning legislation currently prevents Simplified Planning Zones [SPZs] from being designated on land in a conservation area, in a NSA, forming part of a green belt and a SSSI in respect of which a nature conservation order or land management order made under Part 2 of the Nature Conservation [Scotland] Act 2004 has been made. The Bill would remove these restrictions and allow Scottish ministers to make regulations setting out new restrictions on land that cannot form part of a Simplified Development Zone [SDZ]. This has huge implications for our natural heritage and is a key concern for our members, as there is a possibility that this will promote unregulated developments of inferior quality that are not future-proofed on designated sites. There is no discussion of how or



even whether SNH would be involved in any evaluation of this and there is no mention of any consultation on proposals to allow development on designated sites.

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

Yes, but this should be delivered locally by independent specialists. The focus on such training should NOT be merely to encourage development but should be on community needs and best outcomes. The training should cover planning legislation, planning policy, the history of planning in Scotland, sustainability in terms of climate change amelioration and adaptation, international legislation including all relevant EU Directives [such as the EIA Directive, the Water Framework Directive, Birds and Habitats Directives and their transposition into Scottish law], other international natural heritage legislation [eg Ramsar], Aarhus Convention, national designated sites, National Parks and NSAs, and so on. The aim of the training should be to support and educate, NOT to influence.

SPECIFIC ISSUES

Wild Land Areas

In theory in Scotland, national parks and National Scenic Areas [NSAs] are excluded from some, but by no means all, developments that might have a detrimental impact, particularly on scenic quality. No such exclusion applies to Wild Land Areas [WLAs]. There is a need to make WLA a statutory designation so that potential impacts on them are properly appraised in development proposals. This could easily be done by using the defined characteristics of each WLA drawn up by Scottish Natural Heritage [SNH]. From several development proposals that we have scrutinised over the last couple of years since SNH produced the Wild Land Map it can be the case that developers, their agents and even planning officers are not aware of the existence of WLAs and they are rarely mentioned in the documentation associated with proposals. WLAs are briefly mentioned in the current SPP and NPF, and recognised as national assets, but from what we have seen recently in the case of renewable developments, their values [to national identity and the Scottish psyche, international reputation and regard, culture and arts, leisure and recreation] are not being upheld as they should be by Scottish ministers.

The omission of Equal Rights of Appeal [ERA] from the Planning [Scotland] Bill

SWLG strongly supports the aim to have ERA embedded in the Scottish planning system. There is a need to address this glaringly unfair failure to include it in order to make the system more equitable and democratic. The recent National Trust for Scotland survey points to serious discontent and a lack of trust in the system felt by many, both individuals and communities. The only way any opposition can be made to an inappropriate planning decision which has not taken account of public comment and valid objections, is to undertake an expensive legal route. Not only is this ultimately costly, but it also fails to address the merits or otherwise of a development, merely the procedures that have been followed.

Engagement with a development proposal in the planning process is time-consuming, stressful and intellectually challenging for citizens who are not planning specialists and are not able to access the resources that big developers can employ. There are no central or local support mechanisms at all. The very many underprivileged communities in Scotland and small communities in remote areas are at a huge disadvantage if they have to object to a proposal or even to achieve set conditions on the proposals of a wealthy and well resourced developer. They are disempowered and thus often do not even engage.

ERA is erroneously believed by some misinformed individuals and bodies to “slow down” the planning process, yet there is strong evidence from other countries where it operates that it does not. Systems, criteria and procedures can be devised to ensure that disruptive individuals and

groups do not misuse it. For example, ERA could be limited to certain categories of objector where a development proposal does not comply with the Local Development Plan, local authority policies and proposals, or where international legal requirements such as that around Ramsar wetlands have not been addressed.

There is a huge lack of trust in the planning system on the part of stakeholders and we do not consider that the proposals in the Call for Views, especially the exclusion of ERA, will do much to address this. The reasons for this are obvious:- when people respond to planning development proposals [including PACS] and development plans they feel they are ignored despite submitting often very detailed and knowledgeable comments; it has to be remembered that there are well qualified residents in communities who are at least just as able to, and often more so, evaluate specific proposals as staff in local planning offices for example.

The lack of feedback on issues raised by respondents contributes to this. The planning review consultation in 2017 mentioned feedback on points raised by communities and individuals but it is not a well defined feature of the Bill at present. There is a lot of rhetoric in Scottish Planning Policy about public engagement and “front loading”, but this rhetoric is precisely that – developers engage in consultation exercises which merely seem to be undertaken in order to tick the requisite box, there is often little intention to take the views of communities on board. Developments are consented in many cases, without any or only minor modification, despite a huge amount of public opposition accompanied by reasoned submissions. This makes communities feel absolutely disempowered. Another outcome is that citizens become reluctant to engage as they feel they can have no impact. Such disengagement is regrettable but inevitable.

The consultation considers the role of local communities - communities of place - but there is no mention of communities of interest. This should be rectified, as many proposals that affect local residents also have potential impacts and concerns for others not living in the area. Examples of this would be developments proposed in the National Parks, which have a wider interest and justifiably so, than only the immediate communities, and any proposals that might impact on designated sites and iconic landscapes.

Other Points

Sustainability and the Environment: Building Standards. There is no mention of specific features, in relation to housing, of quality of construction. There should be a presumption that all new housing is as environmentally friendly as possible; roofing should incorporate solar panel systems, there should be very high standards of thermal and noise reduction insulation, gardens should be small [indeed if any are to exist at all] and instead developments should incorporate green spaces and provide allotments for those who wish to cultivate [to avoid residents installing gravelled and paved gardens]. In estates there should be strong encouragement to incorporate communal systems such as CHP. Fuel oil and gas energy systems should be strongly discouraged in the interests of long term sustainability and future proofing.

Centralisation by Government: the proposals indicate a more centralised system, which is inappropriate. This is indicated by the fact that Scottish ministers will be able to amend NPF at any stage, they will be able to require planning authorities to amend their LDP, and the MIR is to be replaced by an evidence report, which is arrived at via exchange between Scottish ministers and the local authority. There seems to be an overall DECREASE in public consultation opportunities – which in itself is an increase in control by parliament.

Removal of Supplementary Guidance: SWLG members do not agree with this proposal, as these are an important feature of the current system in achieving appropriate development that takes account [at least in theory] of heritage features etc. Supplementary Guidance docs should be left unaltered or at the very least there should be a new system supported by sound legal credibility.

Enforcement: There is mention of improved enforcement. In order to achieve this, planning departments must have adequate resources to enable them to adequately monitor delivery of developments “on the ground” and to progress any enforcement that is required. From our

experience with the LINK Hilltracks work and other developments, this is far from the case and planning departments are very reluctant to take on any enforcement activity as they lack the resources required; so at present there is little, if any, enforcement in Scotland [despite many cases where it is required] and developers and contractors are well aware of this, with unfortunate consequences and poor quality construction resulting in some cases. There are thus associated cost implications for local authorities if they are to deliver on this aspiration.

Summary Observations

The main objectives of this initial paper on the Planning Bill at Stage 1 seem to indicate an intention to “speed up” the planning process, to facilitate development, especially for housing. This has the potential to disadvantage communities if there isn’t enough opportunity for scrutiny and consultation and well informed feedback. This will result in further disengagement and disillusionment with the system. We note that the paper does not once mention involving young people – developments and policy changes should be envisaged with this cohort in mind, especially in 2018 when there is to be so much focus on young people’s participation and involvement in national life.

The Bill contains inadequate consideration of the environmental and climate change issues which we know need to be addressed if Scotland is to have a sustainable future.

There is no reference to a credible and reliable demographic and economic activity evidence base for the type of developments and numbers of houses anticipated to be needed, in appropriate places and of identified need, in Scotland.

The omission of any description of a vision of what the planning system sets out to achieve in helping to make Scotland a desirable place to live, work, learn, and follow a healthy lifestyle with opportunities for leisure and recreation is very disappointing.

Please note that we agree to you making these comments publically available.

Yours faithfully

Beryl Leatherland

