

Scottish Wildlife Trust

Local Government and Communities Committee

Planning (Scotland) Bill – Stage 1 Evidence



The Scottish Wildlife Trust welcomes the opportunity to submit evidence to the Local Government and Communities Committee on the Planning (Scotland) Bill.

The Scottish Wildlife Trust believes that inappropriately located and badly designed developments can have significant, detrimental impacts on people's quality of life as well as Scotland's biodiversity. We believe that delivering high quality sustainable places where people want to live can only be achieved by having a robust, well-resourced planning system which recognises that planning is about creating places for communities to flourish as opposed to just building houses.

The Trust's response aligns with our position on planning and our vision for a connected network of healthy, resilient ecosystems supporting Scotland's wildlife and people. The Trust has also contributed to Scottish Environment LINK's evidence response and for brevity has not repeated the points made therein on issues such as equal right of appeal.

Questions

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

General points

- The Scottish Wildlife Trust is supportive of a plan-led planning system.
- The planning system should be open, transparent and accountable and must not give undue weight to short-term economic gains over environmental and / or social needs. The Trust believes that planning should also take account of the advice from, and priorities of, communities of interest as well as communities of place.
- The Policy Memorandum states that the purpose of the Bill is to: *ensure planning better serves Scotland's communities and economy*. The Trust believes the Bill's purpose should be strengthened by explicitly referring to the environment, or Scotland's natural capital.
- A healthy environment, when considered alongside a prosperous economy and a fair society, is what delivers sustainable development. It should be recognised that planning can make a valuable contribution to improving the quality of people's lives through protecting and enhancing the environment and by designing places in such a way that they contribute to a resource-efficient, low-carbon economy. We believe that such an approach would also better reflect the intent set out in the Scottish Government's position statement on *Places, People and Planning* which recognised that the core purpose of planning includes the importance of working with our environmental assets to create better places for people and inter-alia the need for robust environmental assessment.
- At Stage 1 the Trust would therefore like greater clarity from the Scottish Government regarding the overall purpose of planning and how it will deliver other high level policy objectives such as the commitment to the UN Sustainable Development Goals¹ (particularly Goals 3 - Good Health and Wellbeing; 11 - Sustainable Cities and Communities; 13 - Climate Action; and 15 - Life on Land), climate change targets and Scotland's Land Use and Biodiversity strategies.

¹ Please see: <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

The National Planning Framework and Scottish Planning Policy

This Bill enhances the National Planning Framework which is described by the Scottish Government as:

“...the spatial expression of the Scottish Government’s Economic Strategy”

The Scottish Government’s Economic Strategy² states that: *“natural capital, which includes our air, land, water, soil and biodiversity and geological resources is fundamental to a healthy and resilient economy.”*

The Trust believes the Scottish Government should be more explicit regarding planning’s role in protecting, enhancing and restoring natural capital. The Trust would also like to see the Bill strengthened regarding sustainable development. This could be achieved by introducing an overarching purpose of planning which states that sustainable development is the central purpose of the planning system.

As it is an intention of the Bill to incorporate Scottish Planning Policy into the National Planning Framework the Trust is seeking assurances at Stage 1 that environmental policies including those listed below will be placed on a statutory footing in the National Planning Framework. These include policies relating to:

- valuing the natural environment (Scottish Planning Policy, sections 194-206)
- peat extraction (section 241)
- maximising the benefits of green infrastructure and green networks (sections 220 - 233)
- protected species (section 214)
- protected sites including local nature conservation sites (sections 207 -213)
- woodlands (sections 216-218)
- sustainability (sections 28-35)
- wind power (Sections 161-174)

This would both deliver better environmental outcomes and help address inequality issues. It would also align with the commitments made in the Scottish Government’s Economic Strategy and commitments to apply the UN’s Sustainable Development Goals.

In regard to maximising the benefits of green infrastructure through planning, the Trust believes that developments across Scotland fail to deliver consistently high quality green infrastructure, despite Scottish Planning Policy guidance. To address the inconsistency in the *quality* of green infrastructure between developments and between local authorities, the Scottish Wildlife Trust has developed a tool - the Natural Capital Standard for Green Infrastructure - which assesses both the quality and quantity of green infrastructure within a specific development, be it new housing, a school, a retail park or an industrial zone.³

This type of tool has been used by planners in Berlin, Malmo, Seattle and Chicago⁴. In some of these places it is statutory and where it is not developers are incentivised to use it because when applied it helps speed up the processing of their application in the planning system.

As it is clear that policies to date on green infrastructure have not been sufficiently robust we would like planners to adopt such a tool to assess and improve the variability in green infrastructure quality as part of the planning and design process. This would enable communities, wherever they are located, to reap the benefits that arise from being close to nature and would contribute towards tackling inequalities.

² See <http://www.gov.scot/Resource/0047/00472389.pdf>

³ The tool scores the quality of the total green (and blue) areas within the development based on the estimated ecosystem services provided by the types of green infrastructure. For example, native trees and shrubs score more highly than non-native (because they deliver a greater range of ecosystem services). Sustainable urban drainage systems which are designed to be attractive to wildlife (and also have high aesthetic appeal) score more than those that are based on hard engineering (due to the greater range of ecosystem services they deliver). Hard surfaces score zero because they do not deliver ecosystem services.

⁴ See: GRaBS Project Website <http://www.grabs-eu.org/>

Within Part 1 of the Bill regarding a National Planning Framework there is also the opportunity to include reference to environmental considerations such as a National Ecological Network,⁵ the mitigation hierarchy and the potential for 'no net loss' models. This could be achieved by amending 3A(3) of the 1997 Act to state "The National Planning Framework must contain — *a statement regarding the use of the mitigation hierarchy, the consideration of 'no net loss' options and the contribution the development will make to the National Ecological Network*".

The Trust supports the greater scrutiny period of 90 days for the National Planning Framework.

Engagement and transparency

The Trust notes the purpose of Part 1 Section 7 of the Bill is to allow Scottish Ministers to amend the National Planning Framework at any time and a planning authority to amend their Local Development Plan at any time if required by Scottish Ministers. The Trust is concerned that this may decrease the amount of engagement by citizens and communities of interest as well as parliamentary scrutiny. This would be contrary to the Bill's purpose which is to: *give people a greater say in the future of their places*.

Resourcing

The purpose of Part 4, of the Bill is to effectively resource the planning system to ensure it supports a high-performing planning system, by moving towards full cost recovery from planning applications. As part of this process, the Trust believes it is essential that ecological advice is seen as a priority and appropriately resourced at the local authority level. Proper scrutiny of environmental matters as part of decision-making allows planning authorities to fulfil their Biodiversity Duty under the Nature Conservation (Scotland) Act 2004.

2. *To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?*

Planning is more than just building houses, it is about creating vibrant communities and social cohesion, tackling inequalities, contributing to health and wellbeing and achieving high-quality places where people want to live their lives. As we stated in our response to the review of Planning⁶, for Scotland to consistently deliver *sustainable* settlements, decision-makers must take a more rounded view than simply focusing on numbers. This accords with the Scottish Government's "Creating Places - A policy statement on architecture and place for Scotland" where the Architect Jan Gehl is quoted as saying:

"First life then, then spaces, then buildings: the other way around never works".

4. *Will the changes in the Bill to the content and process for producing Local Development Plans (LDPs) achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?*

The Trust agrees that a robust evidence base should be the foundation of Local Development Plans and we support in principle the requirement of an Evidence Report. With regard to ecological surveys carried out as part of the environmental assessment to inform the Evidence Report, and particularly in relation to allocation of Simplified Development Zones, the Trust seeks clarity on standards that will be set for the type, period and methods of surveying required, area to be covered, species and habitats of interest to be included and how the quality of existing sources of information will be validated. The Trust would like to see a clearer and more specific role articulated for the statutory bodies in providing guidance on the evidence standards which should be met. Without adequate ecological information to inform decision making for each Local Development Plan, planning authorities could risk failing to comply with the Biodiversity Duty.

It is also important to note that ecological conditions can change markedly over time and it is not clear from the Bill or the Policy Memorandum how dealing with such changes will be taken into account during the "life" of a

⁵ See <http://www.biodiversityscotland.gov.uk/doing/route-map-to-2020/>

⁶ See: https://scottishwildlifetrust.org.uk/wp-content/uploads/2016/09/002_433_swtplanningfinaldec2015_1448970133.pdf

Local Development Plan, which will become a ten-year plan. This is particularly relevant with regard to the presence or absence of protected species.

(See also LINK's position regarding the increased importance of Strategic Environmental Assessment and Habitats Regulations Assessment. These would both need to be fully integrated into the plan preparation process.)

The Trust seeks assurances at Stage 1 that there will be complete transparency regarding the Evidence Report. The Trust would like the Report to be made publicly available for comment, as part of the 'gatecheck' process, when it is being submitted to the appointed person (most likely a Scottish Government Reporter, as stated in the Policy Memorandum). We believe there should be a process whereby any concerns regarding the robustness of the Report by communities of place or interest are accounted for as part of the examination process.

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

The Trust is deeply concerned regarding the future protection afforded to European / international environmentally designated sites. It would appear that internationally protected sites may not be exempt from consideration as part of a Simplified Development Zone (see section 90 of Policy Memorandum). This would be counter to the Scottish Government's commitment to ensuring Scotland leads by example on environmental standards post Brexit.⁷ The Trust believes that internationally and nationally important sites designated for nature conservation (including local nature conservation sites) should not become part of Simplified Development Zones. At Stage 1, we seek assurance that the Government's intention is not to roll back on its commitments to European nature legislation. An amendment under Section 5A – *Land that cannot be included in a scheme* - would be an appropriate place to re-affirm the commitment to safeguarding the environment.

It would also be useful at Stage 1 if the Scottish Government could set out the role of the statutory agencies in providing advice for proposed Simplified Development Zones and set out more clearly the set of circumstances in which Scottish Ministers can provide direction on Schemes.

When Simplified Development Zones are being assigned it is important to consider from the outset any impacts on, and opportunities to enhance, green infrastructure and ecological connectivity. The Trust is concerned that the level of ecological expertise required to assess this and other matters relating to the environment may not be present within some planning authorities. Furthermore, it is highly likely that Scottish Natural Heritage will not have the resources to become involved in each assessment.

The Trust recommends that as part of the Evidence Report which is required for the Local Development Plan (see also answer to question 4 above), natural capital-based scenario planning is carried out on proposed Simplified Development Zone areas. Stirling Council is pioneering this approach as part of the Stirling City Region Deal; natural capital assessment is being used to consider the possible return on investment from natural capital investments.

We can envisage many proposed Simplified Development Zones having to be considered at the same time and this may overstretch the capacity of advisory bodies and decision-makers, as well environmental NGOs. Sufficient resource must be made available and adequate scrutiny time periods set to enable the environmental impacts of each proposed Simplified Development Zone, or indeed the cumulative effects, to be considered. Furthermore, it will be difficult for members of the public to properly engage if multiple zones are proposed together. There must therefore be adequate visibility in relation to all proposals.

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?*

⁷ Cabinet Secretary for Environment, Climate Change and Land Reform recently stated that: "Our commitment has always been to securing the highest standards of environmental protection in Scotland and across Europe. We know that Brexit challenges this and we are heartened that leaders in Scotland are working to preserve these hard-fought protections and stop a race to the bottom"

The Trust supports the requirement for training as well as some form of assessment or accreditation before councillors are deemed competent to make planning decisions. The Trust believes it is important that local government councillors are required to have a certain level of environmental understanding as this will lead to better decisions in support of sustainable development. Furthermore, the Trust believes ecological training should be provided to planning authority staff as part of continuous professional development. The Trust would like to see all forms of training carried out in a consistent manner across planning authorities so that any disparity in expertise is reduced.

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

The proposal to establish a planning performance co-ordinator to monitor performance and to support improvements is noted. Expansion of the range of issues on which the co-ordinator will make performance assessments and the expert technical advice on which they will be able to draw would be helpful. Further details of how Scottish Ministers would intend to ensure that local authorities adhere to improvement plans and the timescales for improvement to be achieved could be provided.

The Trust's planning volunteers have raised concerns on numerous occasions that applications repeatedly come forward (after being rejected) for the same location. Such repeat applications can create a feeling amongst those engaging in the planning process of being ground down by the system and this places a strain on communities of place and interest. We recommend that consideration is given in the Stage 1 process to how the Bill could address this problem.

For further information please contact:

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