

INDEPENDENT REVIEW OF PLANNING

INFORMATION NOTE BY CHIEF PLANNING OFFICER

PLANNING & BUILDING STANDARDS COMMITTEE

7TH DECEMBER 2015

INTRODUCTION

The Scottish Government announced its intention to review the planning system in its programme for government 2015/16. The review is being undertaken by an independent panel, chaired by Crawford Beveridge (Chair of Council of Economic Advisors), and also including Petra Biberbach (Planning Aid Scotland) and John Hamilton (Scottish Property Federation). The Panel's brief is to take a strategic perspective of planning and to be open to 'game changing' views and ideas.

The review will focus on 6 key issues.

- Development planning;
- Housing delivery;
- Planning for infrastructure;
- Further improvements to development management;
- Leadership, resourcing and skills; and
- Community engagement.

A series of questions have been set by the Review Panel to stimulate discussion and these are set out in Paper 1 below. All written submissions were required by 1 December and in order to meet that tight deadline officers prepared and submitted the response set out in Paper 2 below.

The Panel will also be inviting oral evidence from certain stakeholders. However, oral evidence will be by invitation only and there is no guarantee that SBC will be able to make further representations. Invitations will be issued in late November for the oral hearings.

The Review Panel aims conclude taking evidence by the end of January 2016 with the final report published by the end of March. The timescale for the review is set out in Paper 3 below.

Ian L Aikman
Chief Planning Officer

PAPER 1 - REVIEW QUESTIONS

The following questions were provided by the Review Panel to prompt thinking and discussion during the review.

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?

PAPER 2 - RESPONSE BY CHIEF PLANNING OFFICER ON BEHALF OF SCOTTISH BORDERS COUNCIL

Independent Review of Planning October 2015

The Planning Review provides a real opportunity to make substantive change to the planning system in Scotland; to make it more effective, responsive and focussed on delivering sustainable economic development, improving and protecting the quality of our built and natural heritage and creating better places.

The review must deliver a properly funded and skilled planning service with simplified processes and reduced bureaucracy, so that planners have the capacity to focus on pro-active action to deliver these objectives.

In our response we set out a number of options that could be “game changing” for planning in Scotland.

Ian L Aikman
Chief Planning Officer
26th November 2015

Response by Chief Planning Officer on behalf of Scottish Borders Council

1. Development planning

Development Plans are valuable as they provide confidence to the general public and businesses on those development proposals that would be acceptable and should be retained, albeit in a modified form. Confidence in the planning system relies upon plans being seen to have primacy, and this should also be retained. Proposals should continue to be scrutinised firstly against the Development Plan and then balanced against the materiality test within Section 25 of the Act.

The current Development Planning system has too many tiers in relation to a relatively small country such as Scotland and results in a large degree of overlap or duplication. The national and strategic levels of planning could be brought together to provide a clearer focus on the delivery of infrastructure, and to set high level supply targets on matters such as housing land. This could be delivered through an enhanced National Planning Framework (NPF). The revised NPF should concentrate on national/strategic matters and allow local development plans the scope for greater innovation and flexibility to deliver those objectives. The NPF, as a longer term strategic plan, could be reviewed at periods greater than 5 years.

Development plans do not currently have flexibility to deal with emerging matters. Any review requires the entire Plan to be reviewed as there is no scope for amendments. The system should be amended to make it more agile and responsive to change. The need to review Plans at least every 5 years is sound in theory, but is impractical due to the scale of bureaucratic processes and the related requirements including HNDA, HST, SEA, EqIA and HRA. Plan monitoring,

which could be a requirement for submission to the Government on an annual basis, should dictate when plans should be updated either in part or in full. The scope of and need for supporting assessments, such as SEA, could be better defined and made fit for purpose.

There is merit in reducing the stages and processes required in producing a Development Plan. Timescales could be reduced by moving directly to the Proposed Plan and omitting the Main Issues Report stage. This would be particularly relevant if we move to an annual monitoring regime. It is also suggested that neighbour notification, at this stage, be focused on the early stage of plan development to be effective, and to provide opportunity for input by those potentially affected by Plan proposals. The current requirement to list all land owned by councils that relates to proposals within the Plan is time consuming and provides little value, and could be removed from the process.

Development plan examinations have quickly become unwieldy and time consuming. Equally, they have become more distant from the general public and businesses, leading to a greater sense of dislocation. The examination should only deal with national or strategic matters of concern, leaving the local planning authority to deal with local matters.

The automatic grant of planning permission in principle should be introduced for allocated sites for the period of the Local Development Plan avoiding the need for unnecessary applications. This should be aligned with a "use it or lose it" clause that rescinds permission if development has not commenced with the LDP period.

2. Housing delivery

A significant amount of time, effort and money is expended by all parties arguing about housing land requirements. This is wasteful and unnecessary.

Housing is a UK national issue in that the key issues relate to national financial measures. Planning has a facilitative role in seeking to ensure that there is a supply of land that can be developed.

The HNDA/HST numbers game currently applied to housing is meaningless, but expensive and disruptive in that it diverts resources from positive planning. National/regional targets could be set for each planning authority which would then allow time to be spent on place making in association with setting out the detailed supply provisions.

Plans should meet the national/regional targets, and be monitored to ensure that prospective demand continues to be met through the plan period. As noted above, there could be a requirement to submit an annual monitoring report to Government.

There is the need to re-focus resources on delivery of housing and development within town centres and on brown field sites in accordance with the placemaking agenda. This can be achieved through masterplanning, area re-development initiatives and pro-active site assembly. This is particularly important in areas with weak housing market conditions.

3. Planning for infrastructure

Planning authorities currently have little control over major infrastructure provision. Trunk roads are Government, water and waste water are dealt with by a body responsible to the Government, with only education infrastructure still dealt with by the local education authority.

Therefore, as noted above, major infrastructure should be dealt with at the national/strategic level where the majority budget resource lies. The enhanced NPF could be backed by an infrastructure fund + action programme directed by central government. If this were done there would be limited need for authorities negotiate development contributions, freeing up officer time and scarce resources and reducing timescales to determine planning applications.

Planning obligations are becoming increasingly difficult to implement, and can be challenged over time. Although an infrastructure levy has some attraction it is focused on the house builder, whereas all sections of the economy will benefit from improved infrastructure. Additionally, higher levies on the house builder generally tend to result in higher house prices and this is counter to the need to provide housing for the population as a whole. Ultimately, there is a political decision to be made in relation to the national procurement of land from landowners in order to promote development.

4. Development management

There are a myriad of different consents required for development through the planning process. This is unnecessary and confusing for all parties. The introduction of a single consent regime is suggested to address this. This would involve merging planning permission, listed building consent, advert consent and the other "planning related" consents under the requirement for planning permission only. A provision to amend planning consent (like an amendment to warrant) that does not introduce a new permission as per Section 42 is also recommended.

The removal of Prior Notification procedures is also recommended. This process is a complicated middle ground that causes confusion for applicants and planning authorities alike. You should either need planning permission or not.

A wide ranging increase in permitted development rights across a broad range of development types would remove applications from the system for developments that are generally permitted anyway, freeing up capacity to consider the more complex and important applications.

The fee regime must cover the cost of the whole planning system from the production of development plans and supplementary guidance to pre-applications enquiries, screening and scoping responses, applications, condition monitoring and enforcement. Parity with fees charged in England would help towards achieving this objective. Planning authorities should get the full fee for Section 36 applications as they carry out the majority of the assessment of the application.

The ability, as in England, for applications to be "finally disposed of" should be introduced, so that legacy cases can be removed from the system where there has been inactivity through no fault of the planning authority.

There is a need to simplify and standardise registration and validation requirements. This will reduce delays in waiting for information, ensure that information requests are proportionate and that all information required to determine applications is lodged when an application is submitted.

There is the need to support, enhance and invest in the e-delivery of planning services ensuring that systems are up to the job and provide ease of use for customers and practitioners alike.

A review of “meaningful start” in terms of keeping a planning consent ‘live’ is necessary. The ability to keep consents live with no intention to develop has the potential to block infrastructure capacity, causing other proposals to be resisted and gives rise to uncertainty for communities.

In terms of enforcement, there is merit in introducing charging orders in respect of direct action works, so that important interventions are made in the public interest but that the risk of non-recovery of costs for local authorities is minimised.

5 Leadership, Resourcing and Skills

As stated already, resources are a key requirement, and this could be assisted by the suggested increase in planning fees, but they should be allied with a careful review of the need for different planning tiers and other ancillary planning processes.

Whilst there are linkages with Community Planning, some effort should be made to more clearly focus Community Planning (a change in name would help) on community service delivery.

There is a need to invest in skills development and for authorities to share resources through introduction of a skills bank and more joint working. There is also the need for planners to have greater commercial awareness. This should involve training provided by the private sector and greater interaction with the development industry on matters such development finance, project management and implementation. There is the need for planners to be confident in their role and to have the skills to influence development outcomes in a positive way.

6 Community engagement

The front loading of engagement on plans has not been altogether successful. Examinations have resulted in key changes that have not been subject to public involvement. Resources are not currently available to develop community engagement, and it might be questioned how much of the population would be actively interested in matters that don’t directly affect them.

It is proposed to remove Proposal of Application Consultation (PAC) processes. This has added little value and led to delays in applications being submitted. A best practice advice and voluntary code would be more appropriate.

Remove the need for newspaper adverts. This is costly and not effective in engaging communities with the planning system or informing them of development proposals. Information can be provided electronically and

engagement delivered using a more innovative range of engagement tools, including web sites, social media and targeted public events, such as charrette's and Planning for Real.

PAPER 3 – REVIEW

	5/10/15	12/10/15	19/10/15	26/10/15	2/11/15	9/11/15	16/11/15	23/11/15	30/11/15	7/12/15	14/12/15	21/12/15	28/12/15	4/1/16	11/1/16	18/1/16	25/1/16	1/2/16	8/2/16	15/2/16	22/2/16	29/2/16	7/3/16	14/3/16	21/3/16	28/3/16	
Planning Review Timetable October 2015																											
1st meeting of the panel																											
<ul style="list-style-type: none"> Explore issues Agree detailed programme of work Agree call for evidence Look ahead to outputs 																											
Call for written evidence open																											
2nd meeting of the panel																											
<ul style="list-style-type: none"> Consider written evidence received to date Agree approach to oral evidence sessions Agree invitations to oral evidence sessions 																											
Invitations to give oral evidence issued																											
Analysis of written evidence and outline of draft analysis provided																											
Oral evidence session 1																											
Oral evidence session 2																											
Oral evidence session 3																											
3rd meeting of the panel																											
<ul style="list-style-type: none"> Consider oral evidence sessions 																											
Report drafting																											
4th meeting of the panel																											
Report final drafting																											
Report finalised																											
Report submitted to Scottish Ministers																											
Publication																											