



## Community Guide to the Consultation Planning People and Places

**2 weeks left to respond to once-in-a-generation consultation on Scottish planning system.**

The public consultation Planning People and Places will help to inform the Government's upcoming Planning Bill. We think it's important that as many people as possible respond to the consultation. It's a technical area and the number of questions in the consultation can be overwhelming. Some of the questions are also "closed" or have been framed narrowly, so we've come up with some guidance to help people respond to 20 proposals contained in the consultation.

We have already published a blog outlining our views on the consultation [here](#).

The table on page 3 is not a comprehensive document, but we hope it helps stimulate some thoughts about what you might include in your own responses.

**If nothing else, we ask you to comment on providing communities with a right of appeal (Equal Right of Appeal) under proposal 9.**

We ask the Scottish Government to introduce an Equal Right of Appeal for communities.

Currently the planning review rejects the case for equalising appeal rights.

We ask that the Scottish Government look at the positive gains that might be made by providing communities with even a limited right to appeal decisions.

These are:

Create a level playing field to ensure meaningful public engagement and address an unacceptable inequality

Enhance public trust in the planning system

Strengthen the plan-led system and incentivize developers to ensure that proposals are in accordance with the development plan, (if proposals outwith or contrary to the development plan are subject to appeal)

Improve decision-making by correcting weak proposals. There may be times when permission is granted, but the reasons for doing so are tenuous or weak. ERA would enable such weak approvals to be changed (i.e. have their attached conditions amended) or dismissed entirely if it is exceptionally weak

Improve plans and decisions by ensuring that complex and often highly contentious decisions to grant permission are subject to the same level of scrutiny as decisions to refuse permission.

We have asked two key questions of the consultation proposals:

- 1) Will the proposals improve public confidence in planning by actually empowering communities by giving them stronger rights and more effective opportunities to engage?
- 2) Will the proposals lead to better quality development in places where it is needed?

**Our overall view** is that the proposals following the review will not improve public confidence in planning because it *does nothing to increase the quality or quantity of engagement opportunities*. The only significant proposal is to introduce a parallel process of local place planning which may confer some greater community control over development. However, without proper resourcing and other changes elsewhere, this may well just make the current shortcomings worse. The proposals do not adequately address the structural inequalities within planning and provides few additional rights for communities, particularly no right to appeal decisions.

The proposals offer few concrete proposals to ensure better quality development is delivered. The Review that generated the proposals was driven largely by a short-term interest to increase efficiency of decision-making processes. But good planning is complex and streamlining decisions for all large scale developments will not necessarily serve Scotland's long-term interests. We are disappointed because, despite all the rhetoric, the proposals currently reflect a more limited view of the potential for planning to shape better futures for people in Scotland.

We will continue to advocate for measures that will put the people back into Scotland's planning system. If enough communities make their voices heard, the people of Scotland can still shape this future legislation.

- **Please use your own words as much as possible for maximum impact**
- **Please qualify your answers with examples of your own experiences**
- **Responses to the consultation should be submitted to Planning and Architecture Division of the Scottish Government by 5pm on Tuesday 4 April 2017.**
- **You can view and respond to this consultation online at <https://consult.scotland.gov.uk/planningarchitecture/a-consultation-on-the-future-of-planning>. You can save and return to your responses while the consultation is still open.**
- **If you are unable to respond online, send response to [Planningreview@gov.scot](mailto:Planningreview@gov.scot) or Planning and Architecture Division The Scottish Government 2-H South Victoria Quay Edinburgh EH6 6QQ**

## Proposals

## SECTION 1: MAKING PLANS FOR THE FUTURE

	<b>Scottish Government Proposals</b>	<b>Issues identified by Planning Democracy</b>
1	<b>Align community planning and spatial planning</b> by “introducing a requirement for development plans to take account of wider community planning”	<p>Good in theory, but how will it work in practice?</p> <p>At present, neither community planning or spatial planning process is very inclusive, how will that be changed?</p> <p>How will the process overcome potentially conflicting priorities of different partners? In particular, how can Community Planning commitment to tackling deprivation square with spatial planning's reliance on private developers seeking profitable development opportunities?</p> <p>If community planning and spatial planning priorities conflict, which will have the greater weight?</p> <p>Requires resourcing and skilling up of planners</p>
2	<b>Abolish strategic development plans</b> and replace with “more proactive regional partnership working”	<p>Unclear as to the reasoning behind strategic plans being abolished. Will regional partnership working really be more efficient and effective?</p> <p>Will the proposal lead to increased centralisation of planning? How will this fit with community empowerment objectives of more localised planning?</p> <p>Who provides the resources to enable effective collaboration in regional partnerships?</p> <p>Will this reduce public engagement opportunities on important regional issues such as green corridors, transport issues.</p>
3	<b>Develop the NPF to better reflect regional priorities;</b> Use NPF to make LDPs simpler and more consistent.”	Greater statutory weight for the NPF seems another highly centralising prospect.

4	<p><b>Extend the LDP plan period to 10 years. Remove MIRs and SPG.</b> Introduce 'gatecheck'</p>	<p>The LDP will require reviews and changes during those 10 years or risk becoming outdated. How will public be consulted during these reviews?</p> <p>Public engagement on LDPs is currently inadequate. How will public engagement opportunities be improved in future to ensure meaningful debate and high quality involvement, where the public's views are taken into account?</p> <p>Main driver of abolishing Main Issues Report in LDP process seems to be efficiency. But more effective public involvement, gate check etc requires more time and effort, not less.</p> <p>We propose planners acquire a better understanding and use of participatory techniques to improve MIR process rather than removing a consultation opportunity.</p> <p>Proposal for citizen panels is interesting, and a great potential to use elsewhere in planning too, eg LRB's.</p>
5	<p><b>Making plans that deliver.</b> Strengthen the commitments in the plan and ensure planned development happens on the ground.</p>	<p>Proposals make plan-making more complex, which puts extra pressure on development planning rather than development management without necessarily resolving any problems.</p> <p>Relies on the flawed assumption that early engagement irons out contentious issues. More likely to get "plans that deliver" if those plans are formulated and "owned" by communities</p> <p>Stronger development plans have the potential for better planned development if resources allow, however often the detail of the application itself is crucial, conferring planning permission in principle is therefore risky. Eg in</p>

		<p>environmental protection, initial proposals may miss crucial information that would later lead to a dismissal of a proposal.</p> <p>Changes to the system should not make the assumption that allocating sites in the LDP reduces the right of communities to respond to individual applications at a later date</p> <p>Besides, surely a designation in a plan already confers a sort of outline planning permission, what does the SG intend to gain from granting planning permission in principle to sites allocated in the plan, which only increases the workload of local planning authorities.</p> <p>Disenfranchises late challenges but does not really penalise speculative development applications that are made against the provisions in a plan</p>
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*PEOPLE MAKE THE SYSTEM WORK –*

6	<p><b>Community-prepared local place plans to form part of the statutory LDP</b> Building local community capacity</p>	<p>The idea of Local Place Plans is POTENTIALLY empowering for local communities but much depends on the detail of implementation.</p> <p>Key issue is resourcing communities to develop their own Local Place Plans, particularly disadvantaged communities.</p> <p>Community aspirations that do not conform with development plans will be subjugated under this proposal, this suggests a very negative view of people's motivation for getting involved in planning.</p>
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		<p>Uncertain what additional value the new duty to consult community councils in preparing LDP plans will bring or how it will operate.</p> <p>Concern about the emphasis on charrettes to deliver community involvement, other techniques can provide additional value and can provide better opportunity to iron out contentious issues, rather than gloss over them.</p> <p>See also appeal rights</p>
7	<p><b>Involve more people in planning, especially “children and young people”</b></p>	<p>The emphasis on children and young people is welcome enough but is it really the major problem in terms of getting people involved in planning?</p> <p>To engage people in planning they need to see that their views are being listened to, they need to be able to say no to developments without being accused of NIMBYism or being anti-development. People need to feel trusted and respected. They need to see that engagement leads to better development that reflects community needs not developer’s profits.</p> <p>If proper respect and trust is established, engagement will follow.</p> <p>‘Front-loading’ welcome but better more innovative methods (eg citizens juries, deliberative polls) need to be used to discuss contentious issues early on. More use of community engagement specialists in the consultation processes and better understanding of community development by planners.</p> <p>We don’t believe frontloading can work unless people know that decisions made at development management stage will reflect their input at the earlier stages. The best way to do this would be to</p>

		introduce an equal right of appeal for communities when decisions are made contrary to an agreed development plan (see below).
8	<b>Improve public trust</b> through better pre-application consultation; greater community involvement on applications not supported in the plan; discouraging repeat applications and improving planning enforcement.	<p>The proposals for greater community involvement on applications not supported in development plans do not provide a big enough incentive to encourage developers to put in proposals that conform with the development plan.</p> <p>A stronger incentive would be provided by the creation of the right for communities to appeal applications that do not conform with the plan, and removal of the developers right to appeal if the proposal does not conform with the plan.</p> <p>Action to discourage repeat and retrospective application welcomed, but need to be strengthened further. Repeat applications waste significant officer time and cause major unrest for communities.</p> <p>Proposals to encourage better enforcement need to be strengthened further, particularly with a clear commitment of resources to investigate all reported breaches of planning control.</p>
9	<b>Keeping decisions local – rights of appeal.</b> More review decisions should be made by local authorities rather than centrally	<p>We disagree strongly with the rejection of an equal right of appeal. This has been done without evidence, despite significant call for it from communities throughout Scotland. A right of appeal <b>must</b> be proposed if planning is to regain the trust of the public.</p> <p>There are many ways a limited right of appeal could be legislated for that will not undermine local decision making or lead to vexatious appeals. Rather than seeing appeal rights for communities as a threat the SG should appreciate the</p>

		<p>benefits it brings, including improving weak proposals that are currently approved with no further scrutiny and providing an incentive for public engagement at earlier stages of planning.</p> <p>Local Review Bodies remain a concern to many because of their lack of independence – should the initial decision-maker also hear an appeal against their decision?</p> <p>We would support any suggestion that involves training (and testing) of LRB members.</p> <p>Proposal to create citizen panels to ‘gate check’ examination of plans could be extended to LRBs, where the lack of independence of the panel could be enhanced by including citizens or independent experts onto the LRB on the model of citizen’s juries or planning review panels as used in parts of Australia.</p> <p>We question the notion that giving more appeal decisions to Scottish Ministers is more democratic.</p>
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*BUILDING MORE HOMES AND DELIVERING INFRASTRUCTURE –*

10	<p><b>Clearer and more strategic view of the land required for housing</b></p>	<p>Starts from flawed assumption that planning system has slowed housing development. Also presents housing requirements as technical issue to be decided by experts rather than political decision about how society wants housing to be planned.</p>
11	<p><b>Planning authorities to take more steps to actively help deliver consented development. “Land reform could help to achieve this”</b></p>	<p>Starts from flawed assumption that planning system has slowed the delivery of new development. Does not really question whether Scotland has a fit for purpose housebuilding industry or explore how land reform could effect real change in prevailing models of</p>



		<p>development by encouraging much more public buying and selling of development land.</p> <p>Proposals for development land tax should apply to all development land, not just land that developers 'hoard' beyond a specified time period?</p>
12	<p><b>Plans should take a more strategic and flexible approach to identifying land for housing</b> e.g. through Simplified Planning Zones.</p>	<p>SPZ's already being implemented so it is not clear what our responses will change.</p> <p>SPZs may deliver a bigger and earlier financial return to developers, but what is the benefit to the community?</p> <p>Will making plans more powerful increase their complexity, resulting in more legal challenges?</p> <p>Stops short of paying for compulsory purchase and public funding of infrastructure by taxing the uplift in land values that the grant of planning permission brings.</p> <p>Not clear what if any public/community involvement there would be in the 'infrastructure and development delivery group'</p>
13	<p><b>Better co-ordination of infrastructure planning at national and regional level</b> - stronger commitment to delivering development from all infrastructure providers.</p>	
14	<p><b>Fund infrastructure through a new local levy</b></p>	<p>This ducks key issues around how infrastructure could and should be funded through either public buying of development land at existing use value (e.g. as farmland and not housing land), or proper taxation of the large uplift in land values that comes when land use is changed (e.g. when farmland becomes housing)</p>
15	<p><b>Improve infrastructure planning</b> to deliver low carbon solutions, new digital technologies etc</p>	<p>Need to have climate change and other environmental protection aims and targets at heart.</p>

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*STRONGER LEADERSHIP AND SMARTER RESOURCING –*

16	<b>Improve and broaden skills of planners</b>	Planning departments must be better resourced. Many concerns regarding lack of efficiency raised by the review could be addressed by increasing resources to over stretched planning departments.
17	<b>Increase planning fees</b>	There is a risk that this leads to further inequalities for communities as applicants' demand rights to a better service from paying a higher fee.  Need to add requirements to ensure what few rights communities have are underpinned and enforced.
18	<b>Strengthen the way planning performance is monitored, reported and improved</b>	Need to introduce proper reporting of qualitative indicators in planning performance framework relating to public engagement. Include impact of public engagement on planning decisions and the development of places, quality of public engagement processes.
19	<b>Extend the categories of 'permitted development' plus targeted changes to development management to enhance speed and transparency of decisions</b>	Speed versus scrutiny? Review assumes any development is good and quick development is best. We disagree.
20	<b>Make planning work better through the use of information technology</b>	Needs to ensure that inequalities are not increased by relying heavily on IT that rural areas, disadvantaged, and older populations might be unable to access

**What is missing from the review?**

- a) There is no mention of the environmental challenges we currently face and how planning can help to address these (apart from token permitted rights for cycle paths and micro generation). There is nothing to suggest that environmental protection is a function of the planning system and there are some concerning elements. For eg paragraph 1.37 on environmental assessment and reporting states it needs to be 'proportional' suggesting an impending reduction in requirements.

- b) Although it talks about delivering homes it is apparent that the priority is not to tackle the housing crisis, but to help developers build houses. The review provides no discussion about creating sustainable and good quality housing, social or affordable housing, nor does it look at what sector is going to deliver the housing. It is too focussed on housing as a number of completed units and not on how we can create high quality housing in well-planned places that improve people's quality of life.

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**Here are the review questions should you wish to answer in detail.**

1. Do you agree that local development plans should be required to take account of community planning?
2. Do you agree that strategic development plans should be replaced by improved regional partnership working?
  - 2(a) How can planning add greatest value at a regional scale?
  - 2(b) Which activities should be carried out at the national and regional levels?
  - 2(c) Should regional activities take the form of duties or discretionary powers?
  - 2(d) What is your view on the scale and geography of regional partnerships?
  - 2(e) What role and responsibilities should Scottish Government, agencies, partners and stakeholders have within regional partnership working?
3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?
  - 3(a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?
4. Do you agree with our proposals to simplify the preparation of development plans?
  - 4(a) Should the plan review cycle be lengthened to 10 years?
  - 4(b) Should there be scope to review the plan between review cycles?
  - 4(c) Should we remove supplementary guidance?
5. Do you agree that local development plan examinations should be retained?
  - 5(a) Should an early gatecheck be added to the process?
  - 5(b) Who should be involved?
  - 5(c) What matters should the gatecheck look at?
  - 5(d) What matters should be the final examination look at?
  - 5(e) Could professional mediation support the process of allocating land?

6. Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?

7. Do you agree that plans could be strengthened by the following measures:

7(a) Setting out the information required to accompany proposed allocations

7(b) Requiring information on the feasibility of the site to be provided

7(c) Increasing requirements for consultation for applications relating to non-allocated sites

7(d) Working with the key agencies so that where they agree to a site being included in the plan, they do not object to the principle of an application

8. Do you agree that stronger delivery programmes could be used to drive delivery of development? 8(a) What should they include?

Do you agree that our proposed package of reforms will increase community involvement in planning? Please explain your answer.

9. Should communities be given an opportunity to prepare their own local place plans?

9(a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?

9(b) Does Figure 1 cover all of the relevant considerations?

10. Should local authorities be given a new duty to consult community councils on preparing the statutory development plan?

10(a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?

11. How can we ensure more people are involved?

11(a) Should planning authorities be required to use methods to support children and young people in planning?

12. Should requirements for pre-application consultation with communities be enhanced? Please explain your answer(s).

12(a) What would be the most effective means of improving this part of the process?

12(b) Are there procedural aspects relating to pre-application consultation (PAC) that should be clarified?

12(c) Are the circumstances in which PAC is required still appropriate?

12(d) Should the period from the serving of the Proposal of Application Notice for PAC to the submission of the application have a maximum time-limit?

13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?

14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?
15. Should current appeal and review arrangements be revised:
  - 15(a) for more decisions to be made by local review bodies?
  - 15(b) to introduce fees for appeals and reviews?
  - 15(c) for training of elected members involved in a planning committee or local review body to be mandatory?
  - 15(d) Do you agree that Ministers, rather than reporters, should make decisions more often?
16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?

Will these proposals help to deliver more homes and the infrastructure we need? Please explain your answer.

17. Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?
18. Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?
19. Do you agree that planning can help to diversify the ways we deliver homes?
  - 19(a) What practical tools can be used to achieve this?
20. What are your views on greater use of zoning to support housing delivery?
  - 20(a) How can the procedures for Simplified Planning Zones be improved to allow for their wider use in Scotland?
  - 20(b) What needs to be done to help resource them?
21. Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?
22. Would the proposed arrangements for regional partnership working support better infrastructure planning and delivery?
  - 22(a) What actions or duties at this scale would help?
23. Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?
24. Do you agree that future legislation should include new powers for an infrastructure levy? If so, 24(a) at what scale should it be applied?
  - 24(b) to what type of development should it apply?

24(c) who should be responsible for administering it?

24(d) what type of infrastructure should it be used for? 24(e) If not, please explain why.

25. Do you agree that Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009, should be removed?

Do you agree the measures set out here will improve the way that the planning service is resourced? Please explain your answer.

26. What measures can we take to improve leadership of the Scottish planning profession?

27. What are the priorities for developing skills in the planning profession?

28. Are there ways in which we can support stronger multidisciplinary working between built environment professions?

29. How can we better support planning authorities to improve their performance as well as the performance of others involved in the process?

30. Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)?

30(a) Do you have any ideas on how this could be achieved?

31. Do you have any comments on our early proposals for restructuring of planning fees?

32. What types of development would be suitable for extended permitted development rights?

33. What targeted improvements should be made to further simplify and clarify development management procedures?

33(a) Should we make provisions on the duration of planning permission in principle more flexible by introducing powers to amend the duration after permission has been granted? How can existing provisions be simplified?

33(b) Currently developers can apply for a new planning permission with different conditions to those attached to an existing permission for the same development. Can these procedures be improved?

33(c) What changes, if any, would you like to see to arrangements for public consultation of applications for approvals of detail required by a condition on a planning permission in principle? 33(d) Do you have any views on the requirements for pre-determination hearings and determination of applications by full council?

34. What scope is there for digitally enabling the transformation of the planning service around the user need?

### **Optional technical questions**

35. Do you think any of the proposals set out in this consultation will have an impact, positive or negative, on equalities as set out above? If so, what impact do you think that will be?

36. What implications (including potential costs) will there be for business and public sector delivery organisations from these proposals?

37. Do you think any of these proposals will have an impact, positive or negative, on children's rights? If so, what impact do you think that will be?

38. Do you have any early views on whether these proposals will generate significant environmental effects? Please explain your answer.

GOOD LUCK WITH YOUR RESPONSE!