

Places, People and Planning

CONSULTATION QUESTIONS	COMMUNITY COUNCIL RESPONSES
P.15 MAKING PLANS FOR THE FUTURE	
KEY QUESTION	
A: Do you agree that our proposed package of reforms will improve development planning? Please explain your answer.	Potentially. There are some great proposals, a great deal of window-dressing which may satisfy some that change is being made, a disturbing trend towards unnecessary greater centralisation, and a number of the proposals open up the risk of greater opportunity for those developers at the greedy end of the spectrum.
Optional technical questions	
1. Do you agree that local development plans should be required to take account of community planning?	It sounds like a good idea, but carries the potential to create an awful lot of process for little real gain. In particular, how could the commitment to tackle deprivation (Community Planning) be aligned with reliance on private developers seeking profitable opportunities (land-use planning)?
2. Do you agree that strategic development plans should be replaced by improved regional partnership working?	No – unless great clarity is provided on how this will deliver better outcomes, setting out what this really means in detail, how delivery will be tested, and what sanctions will apply where the lack of regional partnership working results in poor outcomes
2 a) How can planning add greatest value at a regional scale?	By making it necessary for adjacent Councils with overlapping interests to work together
2 b) Which activities should be carried out at the national and regional levels?	Definition of needs for infrastructure, residential, community services, business and other space requirements in the relevant quantities
2 c) Should regional activities take the form of duties or discretionary powers?	Maintain a duty to talk constructively to adjacent Councils for mutual benefit (since without this a Council having to cut its activities could drop out of the conversation)
2 d) What is your view on the scale and geography of regional partnerships?	Partnerships (or Regional plans) work where the relevant Councils share an interest in cross-Council solutions, and on the scale where local knowledge and understanding will lead to a more-efficient and better solution than relying on a national view
2 e) What role and responsibilities should Scottish Government, agencies, partners and stakeholders have within regional partnership working?	Encourage and support the creation and maintenance of a shared plan, and confirm that each such plan is carrying the appropriate share of the national need for the various types of land use
3. Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?	These should be key for National developments, but Major and other developments should remain clearly delegated to local government. “Places, people and planning” 2.12 sets out the need to focus on communities where change is needed most. In whose view? - the stress on NPF and SPP suggest that the view of the Scottish Government is more important than those of local government or the communities.

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3 a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?	<p>No. Referring to “Places, people and planning” paragraphs:</p> <p>1.24: increasing the review cycle to 10 years introduces a lot of risk for minimal gain; just one interim update either re-introduces the same level of effort as a formal 5-year review, or opens the door to less-well-considered changes especially if those changes are proposed by developers.</p> <p>1.25-27: whether policy content is published as an addendum to LDPs, is contained within LDPs, or all ‘repetitive’ policy is contained in a national document with local additions as required, affects presentation and ease of use but does not change substance at all.</p>
4. Do you agree with our proposals to simplify the preparation of development plans?	<p>No. The proposals are silent on how to achieve greater community engagement (referred-to in many places), let alone how this can possibly be achieved in a simplified process.</p> <p>Further, the proposed removal of ‘technical written policies’ and procedures in service of making plans inspirational and creating confidence carries a huge risk of leaving Planning Officers without tools founded in property and planning law, which they currently use to support positive development and refuse permission for unsuitable or egregious proposals.</p>
4 a) Should the plan review cycle be lengthened to 10 years?	<p>No. LDPs are often out-of-date within 5 years. Extending the review to 10 years will mean every-other elected Council will have no engagement with their LDP. Planning-department expertise in refreshing the LDP will not survive 10 years. Almost all ordinary members of communities are going to find it extraordinarily hard to engage with a 10-year plan. A 10-year cycle goes against the declared importance of flexibility and for plans to keep pace with the way that society works today.</p>
4 b) Should there be scope to review the plan between review cycles?	<p>No. Just one update within the 10 years keeps total effort at the level required today - or opens the door to poorly-tested developer-driven changes.</p>
4 c) Should we remove supplementary guidance?	<p>No. Especially for the myriad of small developments, Supplementary Guidance provides clarity on what is needed to maintain and improve the sense of place both in existing built environments and in Green Belt and rural areas.</p>
5. Do you agree that local development plan examinations should be retained?	<p>Yes if changed as proposed in 1.34 – switching the intent from interfering with detailed outcomes, to supporting rigour in the process, could deliver great value and a far-greater sense of engagement locally.</p>
5 a) Should an early gatecheck be added to the process?	<p>No, not added – make the early gate-check the sole formal national involvement, and as set out in 1.34, make it a check on the rigour and quality of the development process.</p>
5 b) Who should be involved?	<p>The gatecheck can be conducted by a small, national-level body – as at present – but in support of all the messages in the consultation paper, it will need to include the gathering of evidence from a reasonable sample of all the groups who should be involved in developing the plan</p>

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5 c) What matters should the gatecheck look at?	It should check that the LDP development process is working properly - engaging appropriately, taking account of national and regional goals, and working efficiently towards a plan which both meets community and local needs and is realistic for developers. There is no place for questioning detailed outcomes – this undermines the responsibility of local government, and creates a culture antagonistic to the future involvement of communities.
5 d) What matters should be the final examination look at?	As long as a final examination is retained, intervening in the detailed outcomes, Edinburgh is relieving local government of the obligation to get their plans as good as they can be, and eroding any hope of true community engagement. Our LDP underwent 18 months of development, consultation and debate between Councillors, the administration, communities, and Community Councils, and then at the final step, the Examination overturned locally-significant (but not unresolved, as set out in 1.36) decisions. How exactly can any of us seriously expect members of the community to invest the time and energy in engaging with the development of the LDP when experience says Edinburgh will change it anyway?
5 e) Could professional mediation support the process of allocating land?	Unlikely to make a difference as long as developers and landowners see little difficulty in bringing forward proposals on off-plan sites
6. Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?	Yes, under current definitions. Whilst an application (say) for housing on a site allocated as Residential should not be challenged just because it is for houses, we need to retain the ability to test and challenge the quality, appearance, density, types of houses and flats, provision of access, amenities &c, and delivery of environmental protection
7. Do you agree that plans could be strengthened by the following measures:	No – with the exception of 7(d), these are tinkering at the edges. The better developers already do these things; the greedy will continue to pay lip-service.
7 a) Setting out the information required to accompany proposed allocations	Does any worthwhile developer not already know what is needed?
7 b) Requiring information on the feasibility of the site to be provided	Since most sites are proposed in the first place by developers, this will already have been considered by them. Introducing a formal conversation on feasibility risks encouraging developers to find less-feasible those sites they are less-confident of making money on, in service of getting the sites they really want to develop approved instead.
7 c) Increasing requirements for consultation for applications relating to non-allocated sites	No. The intention to make development more difficult on sites not allocated in the LDP is a really-important step. We want to see the hurdles for all except individual householders and farmers made really large: appropriate to the scale of the economic value of a successful application. The thing which makes communities despair of the planning system is seeing greedy developers and landowners driving through egregious proposals for developments which have not been included in the LDP. This specific proposal to increase consultation is a trivial obstruction for such developers – just ask the people of Banchory, faced with a plan to build more houses in one go than

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	<p>were set out as being required over the following 5 years for the entire area, on a site not in the LDP. The developer's behaviour provided a magnificent case-study in how to drive a proposal through regardless of the controls in the planning system.</p> <p>We can say 'consult' as often as we like, and the greedy developer will go through the motions and take no notice of what is raised. These are people who fear nothing but a level of real power able to stop them. The one mechanism which will give such developers pause is the Equal Right of Appeal (ERA).</p> <p>ERA is dismissed (on trivial grounds) in 2.40. ERA does not ignore the role of elected members in planning decisions – correctly structured, it provides the means to engage exactly the same Local Review Body of local Councillors to determine a developer's appeal, to review an approval seen as either weakly-founded or deeply contentious. Appropriate constraints on when ERA could be used (such as only for off-plan cases, with a defined level of community objection, and similar) would avoid ERA acting as a general disincentive to investment and avoid it being used (inappropriately) by commercial competitors. Provided the direction set out in 2.42 is followed, about moving more reviews to local government, the assertion of more decisions being taken by central government would not hold.</p> <p>The real benefit of ERA, of course, is that developers will have an incentive actually to listen at an early stage and change things, to avoid the risk of an appeal later.</p>
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	This is a good step
8. Do you agree that stronger delivery programmes could be used to drive delivery of development?	No. If developers do not believe they will make money during a particular period of time on a particular site, they will not invest. If there are weaknesses in delivery of schemes under local-government control, then the solution should be better project management.
8 a) What should they include?	
<p>P.27 PEOPLE MAKE THE SYSTEM WORK</p>	
<p>KEY QUESTION</p>	
<p>B: Do you agree that our proposed package of reforms will increase community involvement in planning? Please explain your answer.</p>	<p>No. There are no proposals to increase the <i>quality</i> of consultation and drive a shift in how decisions are made. Once any community sees that 'consultation' doesn't result in changes, or that a developer has managed to obtain consent for a major development on a non-allocated site, or the community's input to the LDP has been overturned by central government, that community is deeply unlikely to see its members invest the time and energy again for a very long time</p>

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Optional technical questions	
9. Should communities be given an opportunity to prepare their own local place plans?	Yes. Communities will require a great deal of support, to come up with LPPs which can shape the future development of their community whilst also being deliverable under planning and property law and offering enough value to attract development.
9 a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?	Both. An LPP has to fit with the housing needs &c of the existing local LDP, but equally the next refresh of the LDP should be informed by the LPPs existing at that time.
9 b) Does Figure 1 cover all of the relevant considerations?	Clarity is needed: what role does a Community Council have if another body takes on the LPP preparation; and how does the body developing the LPP obtain the community's approval (this could be simple and sensible, or so onerous as to make the whole process unworkable).
10. Should local authorities be given a new duty to consult community councils on preparing the statutory development plan?	This seems unnecessary, unless there are areas where Community Councils have not been engaged in Major Issues Reports/LDP preparation.
10 a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?	There is a huge tension between the wish to simplify and speed up the LDP refresh process, and the wish to increase consultation. This proposal could place a major burden on planning departments, and still lead to little true engagement.
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?	This needs careful specification. How do we set up a virtuous cycle whereby we collect ideas from the young, and on finding that many of the ideas cannot be incorporated, provide feedback such that the same people will engage again during the next plan cycle instead of feeling that they weren't listened to?
12. Should requirements for pre-application consultation with communities be enhanced? Please explain your answer(s).	The better developers already consult well. The greedy developer may choose to follow the process steps, regarding them simply as another cost of planning, but will continue to take no notice of any feedback.
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?	

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13. Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?	Yes – but let us not kid ourselves that this will put off the greedy developer, who will simply regard the fees for a repeat application as a cost of obtaining planning (then recouped through higher prices for the houses built)
14. Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?	A far-bigger issue in our area is failure to take enforcement action in the first place
15. Should current appeal and review arrangements be revised:	Yes, to introduce the ability for affected communities to appeal a weakly-founded or contentious decision to a Local Review Body (Equal Right of Appeal) under appropriate conditions. This brings benefits to the whole planning system: it provides further scrutiny for weak decisions using the existing planning processes, provides a big incentive for developers to engage communities at an early stage and change proposals so that they will not trigger an appeal, and will build hugely-greater trust in the planning system throughout the public. Is there a better way to deliver ‘Planning must be done with, rather than to, communities’ (“Places, people and planning” para 2.30)?
15 a) for more decisions to be made by local review bodies?	Yes. Local government is charged with making decisions on the great majority of applications. For any appeal to be moved not to a higher level in local government, but to central government, undermines the ownership by and responsibility of local government.
15 b) to introduce fees for appeals and reviews?	Yes - but let us not kid ourselves that this will put off the greedy developer, who will simply regard the fees for a repeat application as a cost of planning.
15 c) for training of elected members involved in a planning committee or local review body to be mandatory?	Yes – although training is not enough; it should be reinforced by spot-checks of decisions with consequences for those who go against the training without good cause
15 d) Do you agree that Ministers, rather than reporters, should make decisions more often?	Yes, if practical.
16. What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?	
P.39 BUILDING MORE HOMES AND DELIVERING INFRASTRUCTURE	
KEY QUESTION	
C: Will these proposals help to deliver more homes and the infrastructure we need? Please explain your answer.	No. Since the core issue seems to be that enough houses are given permission, but only a limited proportion are being built, this speaks to developers seeing a lack of value in building out approved sites. How will changing the mechanics of granting permission address this?

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Optional technical questions	
17. Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?	The proposal appears to be a more-centralised approach. This will only prove to work if it is also (i) founded on political decisions about how society wants housing and other development to be planned, and (ii) thoroughly well-informed about local needs. The proposals are silent on how either of these could be included in the process
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?	This feels like too late in the process. The most-effective time to have the viability conversation is during plan creation/refresh.
19. Do you agree that planning can help to diversify the ways we deliver homes?	Only at the margins. Until an alternative route of financing is brought in, developers will remain the one vehicle available for building at scale.
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?	3.13 makes the point very clearly that consents are being granted but there is a material gap in how quickly houses are being built. Let's stop beating ourselves up about the planning system needing to be quicker (yes of course developers will always ask for a faster rather than a slower system). Does going through the current planning system really, truly cause undue cost and delay when developers act reasonably – or are the examples of slow approval quoted by developers actually to do with attempts to get approval for outrageous schemes? Zoning would remove some small level of work, but only at the cost of reduced scrutiny and reduced opportunity to engage communities.
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?	No. Whether co-ordination is done 'nationally' within current organisational structures, or the same people are moved into a new agency, either could deliver improvements if properly led.
22. Would the proposed arrangements for regional partnership working support better infrastructure planning and delivery?	No. See comments under Question 2 – 'regional partnership working' is fuzziest and ill-defined, and therefore more likely to take more time and effort to deliver anything.
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?	No need to change the law provided the Planning Authority has the powers to reject suggestions which undermine the original intent

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24. Do you agree that future legislation should include new powers for an infrastructure levy? If so,	This has to depend on the scale of infrastructure provisions the levy is designed to cover. Any levy raised on a particular site will translate into higher sale prices for the buildings created, whether they be homes, offices or other.
24 a) at what scale should it be applied?	It is easy to say that roads, paths and other infrastructure servicing a specific development should be paid-for by that development. Once we include improvements to wider infrastructure required by the increased loading imposed by the development, costs are greater- and should be allocated partly to the new site and partly to general taxation because existing development also benefits. In the case of a housing development, any developer will seek to recover the full cost of the levy through higher house prices – which could imperil rates of building (if the desired prices are already at or above the local market), or limit the availability of cheaper housing which young families could afford.
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?	Yes. Requiring low-carbon generation is fundamentally the wrong tack; focus instead on better insulation and not using energy in the first place, which is what improved building standards promote (as noted in 3.50).
P.47 STRONGER LEADERSHIP AND SMARTER RESOURCING	
KEY QUESTION	
D: Do you agree the measures set out here will improve the way that the planning service is resourced? Please explain your answer.	Yes. Better resourcing (on the back of fees which represent the real cost of running Planning teams), and increasing the skill sets particularly to include project management, financing, and two further areas not listed, understanding the commercial behaviour of the development industry, and negotiation skills, could significantly change the balance of power in what are in truth commercial negotiations over material developments.
Optional technical questions	
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?	

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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)?	Two key needs are (i) to monitor the point at which proposals are refused, to make sure that inappropriate development is indeed refused permission, and that appropriate development is approved; and (ii) to measure the impact of public engagement on planning decisions and the delivery of quality places.
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?	<p>Set fees to cover the true costs of running the planning system. In particular, recognise the cost of proper scrutiny of the supporting studies developers can submit in support of Major developments – they have had months to prepare these, and especially if the time provided for Planning to revert on proposals remains unchanged, there needs to be enough money available through the fees to fund the level of use of consultants required to review the mountains of paper swiftly enough. An off-plan proposal in Banchory for 700 houses was supported by a number of 1000-page reports (all of which the local community found were slanted to provide a falsely-positive view of the proposal) and the planning department admitted they had no capacity to review these reports in the time available.</p> <p>Be extremely careful about a higher-fee, higher-service model. Those developers who are the greedy will love such an offer.</p> <p>Higher fees for retrospective applications and for off-LDP developments are a risky proposition – this undermines the principle of the fees being levied to pay for the planning service, and further, if a developer chooses to game the system and deliberately pick one of these routes, the additional costs are still going to be trivial compared with the value of the development (and so will provide no deterrence).</p>
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?	'simplify' and 'clarify' are the enemies of the rigour required to refuse permission for egregious proposals.
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?	This would provide more opportunity for developers to game the system. No proposals in service of creating better places have been made.

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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?	As with proposals for non-allocated sites, make this much more difficult than at present.
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?	If Scottish Government is serious about increasing public engagement, then there need to be equivalent opportunities to engage in all aspects of the proposal, whether the route chosen is straight to Detailed Planning Permission, or via SPZs or Planning Permission in Principle followed by approvals of conditions.
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?	4.30 proposes 3D visualisation as a way to get people excited about proposals. Just don't expect this to increase communities' willingness to accept rotten, greedy schemes.
P.49 NEXT STEPS – 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?	<p>Yes. There is a persistent under-current throughout the proposals that communities will be engaged in, and will accept, proposals provided better tools are used (eg 3D visualisation, 'charrettes'). Early engagement in and of itself is not going to resolve contentious issues.</p> <p>Communities will only feel engaged when matters they raise are taken seriously, and lead to changes in or even the scrapping of proposals. This is all about the outcomes, not about the methods (which the less-well-intentioned developers will treat as tick-box steps).</p>
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.	The proposals are remarkably silent on environmental effects, so it is hard to see them leading to any improvements in the treatment of environmental matters, and very easy to see all the references to streamlining, and speeding up the processes, leading to lack of proper consideration of environmental matters.