

Planning (Scotland) Bill: Stage 3 Briefing

INTRODUCTION

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

This briefing sets out our views with respect to the amendments required to ensure that the Planning Bill delivers an inclusive, sustainable plan-led approach in Scotland.

To ensure that planning delivers for our communities and the environment, Scottish Environment LINK members support the following changes to the Planning Bill:

- The introduction of a strong statement of purpose
- Support for a plan-led system of planning
- A planning system that is compatible with urgent climate change and biodiversity needs
- Enhanced consultation and public engagement opportunities in development plans
- Introduction of rights of appeal for communities
- Enhanced controls of hill tracks

LINK RECOMMENDS the support of the following amendments

14, 15, 16, 17, 18, 114, 173, 174, 174A, 194, 196, 160, 161, 181, 195, 200, 201, 202, 204, 205, 207, 209, 210, 211, 213, 214,

LINK RECOMMENDS the rejection of the following amendments

36, 91, 85, 86, 104, 113, 138

1) A Statement of Purpose for All of the Planning System

We welcomed the introduction of a statement of purpose for planning at stage 2.

We support the wording for the purpose of planning in **amendment 114**, particularly the use of the sustainable development. But we feel it is more appropriate for a purpose to cover the planning system as a whole rather than only relate to limited sections on development planning, but not development management. Therefore, we ask members not to support **amendment 113** that removes an overall purpose from the Bill.

2) Planning for Climate Change

The Scottish Government have rightly declared a climate emergency. It is imperative that reducing greenhouse gases and achieving climate change targets is at the heart of all planning decisions. We

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welcome **amendments 186 and 200** that strengthens commitment to existing strategies and targets on climate change with regard to assessment of environmental effects of national developments. We welcome **amendment 209** which requires the automatic suspension of peatland extraction in certain circumstances and **amendments 210 and 211** relating to the phasing out of commercial peat extraction.

We believe it is important to have independent advice to demonstrate compatibility with climate change targets. **Amendment 36** removes a key section requiring advice to be sought before publishing a revised NPF and we do not support this revision. **Amendment 174** replaces **amendment 35** and includes the preservation of peatland into the list of strategies to have regard for whilst drawing up the NPF which we welcome. We welcome **amendment 174A** that strengthens the language to ensure the NPF is compatible with climate change and land use strategies.

3) Introducing Biodiversity Safeguards

- a) We welcome **amendment 173** which make securing positive effects for biodiversity an outcome of the NPF and **amendment 181** which requires that net positive effects on biodiversity are to be considered in environmental assessment. However, these fall short of requiring developments to provide net positive effects (or net gain) for biodiversity which is essential to address the cumulative and residual effects of development and we would welcome further consideration of this issue by the Scottish Government.
- b) We welcome **amendment 201** that includes consideration of green infrastructure and community open space requirements in the granting of planning permission along with **amendment 202** introducing cycling facilities.
- b) LINK considers the proposed infrastructure levy should include provision for works for 'green infrastructure' to be funded. We support **amendments 213 and 214** which include green and blue infrastructure in the definition of types which could be funded via the proposed infrastructure levy in Part 5 Section 29 of the Bill.
- c) Forestry and woodland strategies produced by planning authorities are even more important in the context of the declared climate emergency and biodiversity decline crisis; their role is recognised as critical in the new Forestry Strategy for Scotland. Therefore, LINK supports **amendment 207** on Forestry and Woodland Strategies.
- d) Poorly constructed hilltracks can cause landscape and environmental damage and have been a concern to environmental and recreation groups for decades. Tracks can be built under permitted development rights (PDRs) if they are for agricultural or forestry purposes. However, LINK believes many landowners are building tracks under PDR which are primarily for sporting purposes and should require full planning permission. LINK believe that full planning control is needed for the construction of vehicle tracks in upland areas. We support **amendments 14 -18** that seek to introduce this requirement.

4) Enhancing Engagement in Local Development Plans

The Scottish Government's policy aim to 'strengthen processes, engagement and participation rights' has not been adequately covered in this Bill which contains very little to enhance existing community engagement opportunities in the Local Development Plan (LDP) process and indeed diminishes existing opportunities. We do not support **amendment 91** which removes the need to prepare an easily

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understood evidence report to enable representations to be made. We do not support **amendment 86** which removes the requirement to produce a statement saying how views have been taken into account in preparing the evidence report.

We welcome the opportunity to restore democratic deficits in development plan production through **amendment 194** which provides an opportunity for the public right to be heard in proposed plan examinations. In 2006 the form of examination was handed over to the discretion of the appointed person. This had the effect of reducing the number of Public Local Inquiries and leading to more examinations being considered entirely through written representations, giving the public less of a right to be heard.

5) Promoting a Plan-led System

We support **amendments 160 and 204** which require local authorities to determine whether applications are in accordance with the development plan or not. Removal of this requirement by **amendment 138** undermines commitment to a plan-led system.

6) Supporting Local Place Plans

LINK has supported the principle of Local Place Plans (LPPs) but highlighted that for these to be effective they need to be properly resourced, supported and given adequate status within the development plan. **Amendments 104 and 85** remove planning authority assistance for LPPs and opens up the question of who is responsible for supporting communities in preparing them. The potential lack of support increases the likelihood of inequalities for less well-resourced communities to bring forward their own plans.

We support **amendments 195 and 196** which require a review of LPPs in 7 years which will offer an opportunity to examine the success of LPPs.

7) Introducing a Limited Right of Appeal for Communities

Other legislation such as the Land Reform Act affords both landowners and communities a right to appeal decisions on community right to buy. The planning system remains out of kilter and unfair compared to other legislation.

Politicians are urged to consider how appeals will lead to a more plan-led system that encourages engagement at the earliest opportunity. Without provision of community rights to ask for a review of decisions on applications which are contrary to the development plan, claims made that the Bill seeks to strengthen a plan-led system cannot be taken seriously. Those who have developed their own LPPs that have been validated and incorporated into a development plan surely should have the right to appeal a decision made that runs contrary to those adopted plans. Otherwise there would be no incentive for communities to spend time and effort on developing an LPP.

Amendment 205 introduces a strictly limited right of appeal on approval of applications that are contrary to the LDP. By restricting appeals to decisions that are departures from a development plan, only a limited number of applications will be subject to appeal. It is right that such departures are subject to extra scrutiny. The impacts of development can affect people and places for fifty years or more, a few weeks of additional scrutiny is a small price to pay to enhance trust in the system.

Amendment 161 introduces a wider right of appeal to include developments where there is a conflict of interest and developments requiring an EIA. LINK maintains that a community right of appeal is important to introduce balance into the system, particularly on environmentally sensitive developments. We therefore welcome this amendment.

The Scottish Environment LINK Planning Group comprises the following member organisations;

Association for the Protection of Rural Scotland
Badenoch & Strathspey Conservation Group
Buglife
Friends of the Earth Scotland
Froglife
Planning Democracy
Ramblers Scotland
RSPB Scotland
Scottish Wild Land Group
Scottish Wildlife Trust
Woodland Trust Scotland

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