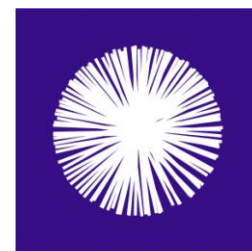


Response to the Scottish Government consultation on the future of the planning system

by the Scottish Environment LINK Planning Group

Date: 11th August 2017



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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.

The LINK Planning Group has engaged throughout the proposed reforms to the planning system and, most recently, responded to the Scottish Government's consultation in April 2017. We welcome the opportunity to provide further comment on this position statement and accompanying SEA. However, we are disappointed that our previous recommendations do not appear to have been taken forward so far by the Scottish Government.

Because so many of our recommendations have not been taken forward we attach a further copy of our response from 4th April 2017 and would request again that these recommendations be considered. In summary, we would make the following comments:

- The lack of consideration given to sustainable development is a major concern.
- The position statement is worryingly light on climate change given the critical role the planning system will need to play in tackling climate change.
- Proposals to better align the planning system with community planning and transport planning are welcome but more needs to be done to integrate planning with land use and marine planning and, particularly, with the development of economic strategy and policy.
- An enhanced role for the NPF requires enhanced scrutiny. For such a crucial document, this must include debate and approval by Parliament following an extended period of scrutiny.
- The rejection of a fair and equal right of appeal is extremely disappointing and this will continue to undermine the planning system until addressed.
- Continued commitment to improve resourcing for planning is welcome, although it is disappointing that more detailed proposals are not available at this stage.
- Continued commitment to green networks is welcome but it is disappointing that there is no commitment to a national ecological network.
- We continue to support full planning powers being transferred to the Cairngorms National Park Authority. The current arrangements are a complex anachronism and transferring full powers to the Park Authority would simplify procedures to everyone's benefit. This seems a rare missed opportunity to simplify planning red tape, and which has almost universal support.

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- We continue to have concerns about increasing permitted development rights and extending the use of any SPZs. Any proposals should undergo full environmental assessment and consultation.
- We do not think the SEA adequately considers reasonable alternatives. In particular, there could be significant environmental benefits from an equal right of appeal and this has been unreasonably discounted.

This response was compiled on behalf of LINK Planning Group and is supported by:

Planning Democracy

Ramblers Scotland

RSPB Scotland

Scottish Badgers

Scottish Campaign for National Parks

Scottish Wild Land Group

Scottish Wildlife Trust

The Association for the Protection of Rural Scotland

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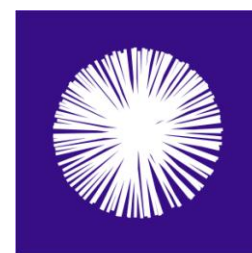
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Response to the Scottish Government consultation on the future of the planning system

by the Scottish Environment LINK Planning Group

Date: 4th April 2017



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Summary

- The reviewed planning system must have an overarching purpose of achieving sustainable development and making Scotland's places sustainable should be a central purpose of reforming the planning system
- Tackling climate change should be a central purpose of reforming the planning system
- Action is required to ensure other sectors are aligned with the enhanced leadership role of the planning system
- Increased parliamentary scrutiny of the National Planning Framework is welcome but this key document for Scotland's future should require parliamentary approval before being adopted
- There must be a fair and equal right of appeal in planning decisions
- Moves to improve resourcing are welcome and need to prioritise improving environmental advice and monitoring EIA projects
- Ministers should progress a National Ecological Network for Scotland
- Planning bureaucracy should be streamlined by transferring full planning powers to Cairnrgorms National Park Authority
- Permitted development right should not be extended without full environmental assessment

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.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organizations, enabling

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informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment.

Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits.

LINK members welcome the opportunity to comment on this consultation.

Embedding sustainable development

We welcome the tone of much of the consultation document, which recognises the leadership role that planning can play in making our places a better environment for everyone. In effect, this will require making places more sustainable. Making Scotland's places sustainable should be a central purpose of reforming the planning system. However, frustratingly, the consultation stops short of providing the necessary detail on how future reforms might deliver improved performance in delivering sustainable development. The consultation is also rather process focused as opposed to focusing on how a reformed system could deliver the well designed, high quality, sustainable outcomes needed. In this regard, we would repeat the call from our submission to the independent panel in our evidence of December 2015¹: The duties set out in the Planning Act for development plans and the National Planning Framework to contribute to sustainable development must be extended and strengthened so that achieving sustainability is an overarching purpose of the planning system, which also specifically applies to development management and to enforcement.

Climate change and energy efficiency

The consultation paper is disappointingly light on how planning can help tackle climate change. This is particularly apparent given the parallel Scottish Government consultations on climate, energy, onshore wind, energy efficiency and heat networks; all of which have clear and significant links to land use and planning. Similarly, the consideration that these climate and energy focused consultations give to planning is also very light, unfortunately highlighting that the coordinating and leadership role of planning envisaged in the paper has some significant ground to make up. The reformed planning system needs to be able to create a vision for a sustainable, low carbon Scotland, and regulate progress towards that vision. We would therefore urge Scottish Ministers to address this as soon as possible.

The lack of consideration of climate change issues is highlighted by the proposals to remove the requirement, introduced by Section 72 of the Climate Act, for new developments to install and operate low and zero carbon technologies. We disagree that Section 72 of the Climate Change Act has not added value. In our experience, application of this section varies significantly across planning

¹ <http://www.scotlink.org/wp/files/documents/LINK-response-to-Independent-Planning-Review.pdf>

authorities and any perceived lack of added value is likely to do with under-implementation. The priority should be to ensure that all planning authorities are implementing the legislation as intended. Removing or reducing the burden from this section should certainly not be considered without ensuring that at least equivalent savings can be made through other means.

Improving leadership and join-up across sectors

We welcome the general statements of intent on enhancing the leadership role of planning, to integrate land use planning with planning for transport, and to ensure that the National Planning Framework serves to bring together wider government policies. However, it is not clear from the consultation to what extent other sectors and Ministerial portfolios have given the required commitment to enable this to happen. It seems likely that significant further culture change may be required in these areas as much as in the planning sector itself but the consultation document does not set out how this will happen. If sustainable development, and the ambition of the consultation, is to be realised we think this is an area which needs to be urgently addressed. One simple area where cross-government join up could be improved is through ensuring consistency and join up between the National Marine Plan, the Land Use Strategy and the National Planning Framework. The relationship between planning and Scotland's Economic Strategy also needs to be reconsidered. The consultation currently describes how planning at the NPF scale will have the role of being the expression of Scotland's Economic Strategy. While the link between planning and economics is welcome, this needs to be a clear two way process, with planning able to direct economic policy if spatial constraints or sustainable development opportunities require it.

A National Planning Framework for all of Scotland

We broadly support the proposals for a repurposed National Planning Framework (NPF) and continue to strongly support the principle of a national planning framework for Scotland. However, we do not believe that the proposed changes go far enough to allow the NPF to set the direction for Scotland to become a truly sustainable place.

We welcome the proposed increase in the NPF scrutiny period from 60 to 90 days but this does not address the ability of the Parliament to access expert technical advice. Scottish Environment LINK has previously recommended that the NPF be subject to an Examination in Public where an independent professional can hear evidence and make recommendations. Our experience of engaging with the previous 3 National Planning Frameworks suggests that some form of independent, professionally advised, examination process is required, at the very least for the National Developments. The national developments have the greatest scope to impact directly on the environment and on local communities and yet classification as a national development removes scope to test and challenge the need for the development. It is essential that this process is made more open and accountable.

There is also a need for the NPF to become a document that is for all of Scotland, and not one that is 'owned' by the Scottish Government. In order to make the NPF more akin to a document that represents a vision for all of Scotland, developed by all of Scotland, the NPF should be prepared by the Scottish Government but require the approval of the Scottish Parliament before it is adopted. This would require cross party cooperation to produce a document that is supported by a majority of

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Parliament and ensure there is proper meaningful debate in Parliament as to how to ensure Scotland becomes a more sustainable place in future.

We are broadly neutral on the proposal to incorporate regional planning into the NPF but we do strongly believe that some form of regional planning is necessary in order to help manage environmental issues at the regional scale. The failure of some of the Strategic Development Plans (SDPs) to tackle these issues is partly why their value has been questioned by some.

A fair and equal right to challenge planning decisions

We are very disappointed that Ministers still refuse to tackle the issue of fairness in decision making and dismiss even considering how the clear inequality of the current appeal system for planning applications could be addressed. The justifications for this refusal are not strong. It will not be possible to improve trust in the system when an applicant for planning permission has the ability to challenge a decision but no other individual or party with an interest in the outcome has any opportunity to do so. Scottish Environment LINK will continue to push for a fair and equal right of appeal to challenge decision making on planning applications.

We are broadly supportive of moves to ensure that more planning decisions are made by elected representatives at all levels. However, it is vital that decisions are made not only in accordance with planning policy but also based on evidence and expert advice. In this regard, it is vital that decision makers are able to access advice from environmental specialists. Ministers must ensure that the infrastructure is in place to deliver this advice before any changes to where decisions are made are implemented.

Improved resourcing and monitoring of environmental impacts and effects

Scottish Environment LINK has long supported an increase in planning fees to ensure full cost recovery in accordance with the polluter pays principle. Increased fee income should directly contribute to improved resourcing, particularly in the assessment of environmental effects. We therefore welcome proposals to increase fees for new applications and to improve the ability for planning authorities to recover costs for retrospective applications, monitoring and enforcement. However, many cases require specialist environmental advice either from specialist planning authority staff or from relevant statutory consultees such as SNH or SEPA. Despite the importance of this specialist advice, councils have cut back and SNH and SEPA are both suffering from major budget cuts and struggling to resource planning work. More consideration therefore needs to be given to how to ensure adequate specialist advice can be obtained. We have particular concerns that significant environmental effects in EIA cases are not being monitored adequately and resourcing the monitoring of these cases should be prioritised.

Green infrastructure and a national ecological network

We welcome recognition of the benefits of green infrastructure and the clear commitment to continued investment in its development. We would urge Ministers to ensure even greater benefits are obtained by progressing this further through a national ecological network for Scotland. This would

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prioritise developing a network that enhances and compliments the ecological value of our existing protected areas across Scotland, improving their resilience and connectivity and enhancing the urban and rural corridors between them.

Planning in the Cairngorms National Park

We are disappointed that the paper indicates that Ministers do not intend to review planning arrangements in the Cairngorms National Park even though this was a clear recommendation from the independent panel. This is disappointing and it is surprising that no justification for retaining the current arrangements is given. The current arrangements are bureaucratic and would be an easy way of simplifying and improving the system. Given the objectives of the review, it is odd that this opportunity to streamline the planning process has not been taken and we would urge Ministers to reconsider.

Permitted development

In principle, Scottish Environment LINK welcomes the proposal to consider extending permitted development status to small-scale low-carbon improvements such as microrenewables, electric vehicle charging points and cycling infrastructure in some circumstances. There may also be additional development types of benefit to the natural environment which could usefully be considered permitted development, such as works on nature reserves to benefit biodiversity. However, Scottish Environment LINK has carried out a significant amount of work investigating the major problems caused by hill tracks built under permitted development rights. While there may be some scope to adjust permitted development rights in some circumstances, our experience with hill tracks highlights that permitted development can lead to serious environmental consequences and any increase in permitted development rights should only be considered following assessment of the environmental implications of the change. Scottish Environment LINK continues to believe that tracks should require planning permission, a view also held by many planning authorities in Scotland, who find that the current process requiring prior notification poses difficulties for both themselves and for applicants.

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