

**Written submission to support oral evidence on
Planning etc. (Scotland) Bill
Stage 1
8 February 2006**

Introduction

Scottish Environment LINK is the forum for Scotland's voluntary environment organisations comprised of 36 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Engagement with the planning system

The planning system plays a key role in protecting and enhancing urban and rural environments. However, experience of working with the existing planning system leads us to believe that unless specific changes are made, it will increasingly fail to deliver for the Scottish people and their environment. We are looking for Scotland to have an efficient, fair and just planning system that enables sustainable development in line with the needs of Scotland's people. The system should be fair in how it treats different applicants and in how it balances the interests of those benefiting from development and those impacted adversely. The system should promote quality development through open, fair, participatory and accountable decision-making processes.

The Executive has undertaken a lengthy consultation process on many aspects of the planning system and we have been pleased to engage with these. In April of 2005 Scottish Environment LINK published a 'Planning Manifesto' detailing five key areas that we felt needed to be addressed if the proposed planning reforms were to restore public confidence and create a planning system that reflects the needs of the 21st Century. We welcome the fact that some of these suggestions were incorporated into the proposals, for example, our recommendations relating to Good Neighbour Agreements.

However, despite our involvement in many Scottish Executive consultation exercises we were disappointed by the content, and omissions, from the Planning White Paper. As a result we lodged an e-petition jointly with the Association of Scottish Community Councils directly with the Scottish Parliament. This was recently presented to the Petitions Committee with over 5,000 signatures and we understand it has now been referred to the Communities Committee for consideration.

The outcome

The Policy Memorandum states that the primary objective of the Bill is to modernise the planning system to make it more efficient and give local people better opportunities to influence the decisions that affect them. This objective is welcome, but having considered the Planning White Paper and the Bill we are concerned that this difficult balance has not been achieved. It would appear that in seeking to '*speed up decisions*' and allow '*quicker investment decisions*' the commitment to '*strengthen the involvement of local communities*' and '*reflect local views better*' has not been

given equal weight (all quotes taken from the Scottish Executive's Partnership Agreement).

There are a number of welcome proposals within the Bill and we appreciate that the Executive wishes this legislation to be considered as a package. However, there are considerable concerns amongst LINK members and others (including the Association of Scottish Community Councils) that the proposals will not deliver the fundamental requirement of restoring public trust in the planning system.

A copy of our Planning Manifesto is enclosed and we would be happy to discuss any of the issues it covers. In relation to the evidence being sought by the Committee at this stage we would like to focus on the key areas below:

1. Sustainable Development

We welcome the explicit requirement for development plans to be prepared with due regard to the principles of sustainable development. As the White Paper noted, the need to ensure that development is sustainable is one of the four key principles upon which the modernisation programme is built. This represents a clear opportunity to address the challenges set in the Executive's Sustainable Development Strategy whereby we need to move from strategy to implementation.

However, the decision to apply this requirement to only one sector of the planning system, i.e. development plans, is apparently based on the difficulty of ensuring that individual developments are sustainable. **It is unclear how the overall purpose of development plans can be to contribute to sustainable development if individual decisions taken in accordance with it cannot be shown to be sustainable in some meaningful way.** The Bill makes reference to the publication of guidance which could be instructive for those considering applications.

It is also unclear why the National Planning Framework should be excluded from this obligation.

2. National Planning Framework

We appreciate the value of providing an enhanced role and status for the National Planning Framework but are concerned that unless an appropriate mechanism for scrutiny and examination can be secured the NPF will further undermine public confidence in the planning system. Details of public consultation are sparse for a document that will establish the need for national developments. Assuming appropriate consultation is undertaken the NPF is likely to attract the attention of communities and organisations with an interest in national developments and their potential locations. We hope that the Committee will consider whether it is possible to provide the same level of public opportunity for engagement with the National Planning Framework as the Bill proposed for Local Development Plans.

We believe that proper scrutiny is not only essential but also need not be cumbersome, as demonstrated by other strategic plans in the rest of the UK. Whilst parliament must have a role it maybe be very difficult to offer the appropriate level of scrutiny and public engagement in 40-days. It is also notable that Scottish Ministers have the benefit of a reporter's recommendations when scrutinising other development plans, whilst the Parliament is not being offered similar expert advice to aid its deliberations.

3. Public engagement

A failure to engage the public in any new planning system will inevitably result in the failure of this legislation. The Policy Memorandum emphasises the Executive's

intention that public participation should ensure that views are considered early on in the planning process. This commitment to early public engagement is welcome.

However, we query whether the measures provided will actually ensure that this commitment becomes a reality. Many of the public engagement measures are not defined or rely heavily on secondary legislation. Moreover, many of the proposals amount to providing a statutory underpinning for actions already undertaken by many local authorities and developers, which are clearly not tackling the core issue of public trust. Indeed some of the proposals, hearings for example, are unproven and in our experience are frequently unhelpful. We are not aware of any study demonstrating their effectiveness.

The decision to reject a limited third party right of appeal, despite repeated public support for the proposal, is disappointing. This should not be considered a 'bolt-on' or a panacea. We believe a limited TPRA has the ability to act as the necessary 'stick' to ensure that the front-end consultation processes actually work and to provide a safety net to catch the tiny percentage of developments that might fall through the net of the system currently being proposed. It is difficult to see how a system which is fundamentally inequitable can realistically hope to engender public confidence.

4. National Scenic Areas

We understand the Scottish Executive intends to introduce new legislation for National Scenic Areas (NSAs) at Stage 2 of the Planning Bill. We would therefore welcome the opportunity to discuss the principles underpinning these changes at Stage 1.

Scotland's heritage of natural and cultural landscapes is renowned throughout the world. They contain the record of people who went before us, and form a key part of our national, regional and local identity. They are a principal reason why people visit Scotland, so they form the essential basis of our tourism industry, and provide attractive settings which encourage inward investment. They are therefore of fundamental importance to our environment, society and economy.

Forty examples of our most outstanding landscapes are designated as NSAs to ensure our best scenery receives special attention when new development is proposed; NSAs are primarily regulated through the planning system. However, NSAs have been relatively ineffective in safeguarding our finest landscapes.

We would therefore like to see:

- **A new statutory mechanism for designating, amending or de-designating NSAs;**
- **Responsibilities on all public bodies and others to safeguard NSAs; and**
- **A requirement for local authorities and SNH to produce, implement and review management strategies for all NSAs.**

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