

## Planning for a Better Environment

### The Proposed Planning Bill : Scottish Environment LINK Manifesto

The Town and Country Planning system plays a key role in protecting and enhancing our natural, cultural and built heritage. However, experience of working with the planning system leads us to believe that unless specific changes are made to the existing planning system it will increasingly fail to deliver for Scottish people and their environment.

The Scottish Executive has indicated its intention to publish a planning white paper in the spring of 2005 and to introduce a planning bill before the end of this parliamentary session. In order to restore public confidence and create a planning system that reflects the needs of the 21<sup>st</sup> century we recommend that the following five-point plan be incorporated into the Executive's proposals for change.

#### 1. Sustainable Planning

The objectives of the planning system are set out in Scottish Planning Policy 1 and include 'promoting sustainable economic development'. However, no purpose for the planning system is set out in planning *legislation* enabling successive governments to use the planning system to deliver their own policy ends. It is inconceivable that such a complex system with such extensive reach and long-term implications should have no statutory purpose. To address this the planning bill should:

- **Define a statutory purpose for planning based on sustainable development:** the planning system needs a clear, statutory expression of purpose in order to create stability and certainty at the core of an inherently flexible system. Without a statutory purpose, what does the planning system actually exist for?

#### 2. Planning for People

There is a pressing need to create a planning system that people trust, can participate in and understand. The means of achieving this via the planning bill must include:

- **Introducing a limited Third Party Right of Appeal:** Currently developers may appeal against a decision not to grant planning permission whereas third parties do not have equal rights to challenge a decision to grant consent. Introducing a third party right of appeal where local authorities have an interest, where the application is contrary to the development plan or accompanied by an Environmental Impact Assessment, or where local authorities grant consent contrary to the advice of their officers would go some way to redressing this inequality.
- **Clarifying the criteria for Ministerial Call-in:** Scottish Ministers currently have the power to call-in any planning application for their own consideration or for consideration by a public inquiry. The criteria, rationale and process behind call-ins remain unclear and must be made more transparent.
- **Requiring local authorities to provide reasons for approval of planning applications:** local authorities are currently only required to provide reasons for refusal which can leave the public uncertain as to why certain decisions have been taken.

- **Introducing provisions for planning approval to be conditional on successful negotiation of Good Neighbour Agreements:** GNAs help provide a mechanism for developers to agree codes of conduct with those affected by new developments. Limited reforms of the rules for planning conditions and planning obligations could establish a means by which such agreements could be promoted and enforced.

### 3. Planning with the right processes in the right places:

- **Make production of the National Planning Framework a statutory requirement based on a 4 year cycle and subject to public consultation:** the production of a National Planning Framework was a welcome addition to the planning system in 2004. However, there is currently no statutory duty to revisit the Framework nor is there a duty to consult the public regarding its contents. Without these obligations, it will quickly become out of date and lack legitimacy.
- **Retain strategic planning for rural areas outwith the four city regions:** the Executive has consulted on a proposal to withdraw Structure Plans and replace these with strategic planning only in the four city regions (Edinburgh, Glasgow, Aberdeen and Dundee) and the two National Parks. While Structure plans may not be the best mechanism for delivering strategic planning this means many areas of rural Scotland will be without strategic planning for key elements such as housing, infrastructure, energy and transport. This raises significant concerns regarding cumulative impacts on the environment.
- **Supplementary Planning Guidance should only be considered statutory if it is subject to the same consultation process as a local plan:** the Executive has consulted on the proposal that supplementary planning guidance should be considered statutory. This is a logical suggestion, if it is subject to the same consultation measures as the local plans it seeks to supplement.
- **Any rationalisation of planning gain should incorporate measures to enhance the environment:** planning gain is currently negotiated on a case-by-case basis and frequently relates to infrastructure requirements; if the Executive were minded to address the use and scope of planning gain, we would recommend that a percentage of all planning gain negotiations be allocated to environmental enhancement. Any reform must also be based on the principle that no amount of planning gain can justify a fundamentally unacceptable proposal.
- **A duty of care for the historic environment should be placed on all public bodies:** this would be akin to the duty on all public bodies to further the conservation of biodiversity which was included in the Nature Conservation (Scotland) Act 2004 and would ensure the long term protection and care of the historic environment.
- **A duty to designate and maintain a list of locally designated wildlife sites and an up to date sites and monuments record:** some local authorities already do this making information easy to access and understand. This best practice should be rolled out to all local authorities in order to provide a level playing field for both developers and the public.
- **Enforcement:** Scottish Ministers should be empowered to require a local authority to take enforcement action, to ensure fair and consistent enforcement. The criteria for use of this power should be clearly defined.
- **Statutory provision for protection of National Scenic Areas,** similar to that for AONBs in England & Wales, including the ability to create new NSAs and allow review of boundaries.

Scotland's most precious landscapes need robust formal protection, provided for in an Act of Parliament if our world class tourist resource is to be maintained.

#### **4. Planning Together**

Planning is not a stand-alone function but relies heavily upon other agencies to ensure the delivery or facilitation of development. Those who engage with the planning system have become increasingly frustrated by the inability or unwillingness of different government agencies to contribute to the planning process at the appropriate juncture. A coherent, reliable planning system relies upon all public bodies contributing to the planning process at an appropriate level. The planning bill should therefore:

- **Place a duty on all public bodies to contribute to the development planning process and to engage with planning authorities over specific planning applications.**

#### **5. Revitalising Planning**

Delivery of the planning system relies upon adequate staff with the right resources. A planning bill cannot address this but delivery of an effective process cannot happen by legislation alone. In England and Wales the Planning and Compulsory Purchase Act 2004 was accompanied by £350 million in support. In Scotland we need:

- **Adequate funding to ensure that the system is supported by appropriate numbers of skilled professionals**
- **The right skills in the right places:** local authorities frequently have very limited access internally to advisors on natural or cultural heritage issues (Ecologists, Archaeologists, Urban Designers, Landscape Architects and Building Conservation Officers)
- **Enhanced support for planning aid and other programmes designed to facilitate and resource informed community participation in planning processes.**

**Marine Spatial Planning:** LINK member bodies strongly support the introduction of Marine Spatial Planning and believe that it will be most appropriately delivered as part of a package of other legislative reforms within a Marine (Scotland) Act.

This statement was produced by the Scottish Environment LINK Planning Task Force – active members include Friends of the Earth Scotland, The National Trust for Scotland, RSPB Scotland, ruralScotland and Scottish Wildlife Trust

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