



## Independent Review of the Scottish Planning System - final report

**Committee** Strategy and Programmes

**Date of meeting** 24 June 2016

**Date of report** 31 May 2016

### Report by Assistant Chief Executive (Operations)

#### 1. Object of report

To inform members of the publication of “Empowering Planning to Deliver Great Places”, the report of the Independent Review of the Scottish Planning system<sup>1</sup> and the key recommendations of this report.

#### 2. Background

2.1 In September 2015 the Scottish Government appointed an independent panel<sup>2</sup> to review the Scottish Planning System.

2.2 The panel worked to the following remit:

- Consider the strengths and weaknesses of the current planning system;
- Explore game changing ideas to improve planning in six key areas: development planning; housing delivery; planning for infrastructure; streamlining development management; leadership, resources and skills; and public engagement; and
- Provide an independent report with recommendations which will be used to inform the development of a future Scottish Government programme of further planning reform.

2.3 Members will recall<sup>3</sup> that SPT responded to the panel’s call for written evidence. Officers subsequently elaborated on this response during an oral evidence session with the panel in April 2016. Through the call for written evidence the panel received over 400 responses and oral evidence sessions were held with over 100 individuals, representing around 70 organisations.

The Panel’s report, “Empowering Planning to Deliver Great Places”, was published on 31 May 2016 and sets out 48 recommendations. The Scottish Government is now

<sup>1</sup> The full report and further background can be found at <http://www.gov.scot/Topics/Built-Environment/planning/Review-of-Planning>

<sup>2</sup> The Panel comprised of Crawford Beveridge (Chair), Petra Biberbach and John Hamilton.

<sup>3</sup> [http://www.spt.co.uk/documents/rtp111215\\_agenda9.pdf](http://www.spt.co.uk/documents/rtp111215_agenda9.pdf)

considering the recommendations put forward by the panel and will publish its response in due course.

- 2.4 The Planning Delivery Advice on Housing and Infrastructure as reported to the previous committee<sup>4</sup> will sit alongside any response by the Scottish Government.

### 3. Outline of proposals

- 3.1 The recommendations put forward to the Scottish Government by the panel are attached at Appendix 1.
- 3.2 At the time of writing, officers are endeavouring to consider the totality of the potential implications of the panel's recommendations, however, after initial review, the key points with potential implications for SPT are numbers as follows:

**“2. To simplify the system, strategic development plans should be replaced by an enhanced National Planning Framework.**

*The NPF should be strengthened and prepared collaboratively, to address long term city-region development and infrastructure issues more fully and effectively. We propose that strategic development plans are no longer prepared. Instead, strategic development planning authorities should be repurposed to pioneer a different way of working where planners proactively co-ordinate development with infrastructure delivery at the city-region scale. By working with others to take forward commitments set out in a live action programme for the city region, they would also support housing delivery and co-ordinate cross-boundary thinking to inform local development plans. They should be given a statutory duty to co-operate with the Scottish Government in producing the NPF.”*

**“21. A review of transport governance should be undertaken to address the gap between this key aspect of infrastructure and development planning.**

*Our view is that transport agencies at the national and regional scales should be given a clearer mandate to directly support the delivery of development in accordance with the development plan.”*

- 3.3 Officers will continue to review the report and will engage with relevant parties to seek to ensure a positive outcome for the travelling public, SPT and our constituent councils.

### 4. Conclusions

The outcomes of the panel's review and recommendations could have far-reaching implications for the planning system in Scotland, if adopted by the Scottish Government. In the meantime, officers will, in preparing for the Scottish Government's response to the panel's recommendations, seek to further integrated transport and land-use planning and continue to highlight the need to more formally recognise the intrinsic benefits of early engagement on the provision of public transport for new developments.

### 5. Committee action

The Committee is requested to note the contents of this report.

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<sup>4</sup> LINK TO BE INSERTED WHEN PAPER IS AVAILABLE

## 6. Consequences

Policy consequences	<i>SPT's response to the panel was in line with the RTS.</i>
Legal consequences	<i>None at present.</i>
Financial consequences	<i>None at present.</i>
Personnel consequences	<i>None at present.</i>
Equalities consequences	<i>None at present.</i>
Risk consequences	<i>None at present.</i>

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## **Appendix 1**

### **Empowering Planning to Deliver Great Places Recommendations**

#### **Recommendations: strong and flexible development plans**

**1. The primacy of the development plan should be retained.**

Aligning with community planning, development plans should be recognised as a central and powerful driver of the place agenda. To achieve this there is a need to focus on outcomes, rather than policy and procedure.

**2. To simplify the system, strategic development plans should be replaced by an enhanced National Planning Framework (NPF).**

The NPF should be strengthened and prepared collaboratively, to address long term city-region development and infrastructure issues more fully and effectively. We propose that strategic development plans are no longer prepared. Instead, strategic development planning authorities should be repurposed to pioneer a different way of working where planners proactively co-ordinate development with infrastructure delivery at the city-region scale. By working with others to take forward commitments set out in a live action programme for the city region, they would also support housing delivery and co-ordinate cross-boundary thinking to inform local development plans. They should be given a statutory duty to co-operate with the Scottish Government in producing the NPF.

**3. The National Planning Framework should be more fully integrated with wider government policies and strategies.**

This includes the National Transport Strategy, Strategic Transport Projects Review, Land Use Strategy, National Marine Plan, Infrastructure Investment Plan, climate change programme and the national housing strategy and action plan.

**4. The role of the Scottish Planning Policy (SPP) should be expanded to avoid the need for policy to be repeated in development plans.**

Local development plans should only set out where these policies are being varied to reflect local circumstances. Further consideration should be given to integrating the SPP with the National Planning Framework, with both being afforded the same statutory weight as the development plan. Scope for updating it between 5 year review cycles should also be considered.

**5. The plan preparation process should be simplified.**

The main issues report should be removed and replaced with a single, full draft plan, providing that there is a renewed commitment to early engagement. The proportionality of supporting information, including environmental assessment, should be addressed. Complexity can also be reduced by removing or limiting the scope to produce supplementary guidance. Action programmes are essential for supporting delivery and should be retained.

**6. Local development plans should move to a 10 year cycle.**

Local development plans should set out a 20 year vision and focus on place, rather than policy. The preparation process should be streamlined to a 2 year period, leaving the remainder of the time to focus on implementation and work with local areas to build in community led plans.

**7. There should be scope for flexibility and updating local development plans (whole or in part) within the 10 year period.**

This will allow plans to be more responsive to opportunities and evolve over time to reflect much fuller collaboration with communities.

**8. Development plan examinations should be replaced with a frontloaded 'gatecheck' of the plan.**

Earlier independent involvement could take the form of mediation, a gateway or peer review. This could focus on key aspects of the plan, including the housing land requirement. Only after agreement is reached on key parameters for the plan, should a fuller, locally driven discussion on place and development sites move forward. It is important to ensure that all those with an interest are involved at an early stage. Where early agreement is achieved there should be no need for further scrutiny or intervention at this later stage.

**9. A statutory duty for the development plan to be aligned with community planning should be introduced.**

Whilst we heard evidence that there is a willingness to achieve this, we believe that real integration requires statutory weight, rather than just sharing of good practice. This will help to ensure the role and added value of planning is properly recognised within local authorities and should also create efficiencies through joined up working.

**10. An IT task force should be established to explore how information technology can make development plans more accessible and responsive to 'live' information.**

Digital innovation, such as the use of big data, specialist systems (such as for minerals and aggregates), Geographic Information Systems and 3D visualisations, should be actively rolled out across all authorities. We strongly recommend that we start a co-ordinated investment in technology now to ensure we are responsive to future advances.

**11. Given their special circumstances, the island authorities should be given more flexibility where this would better reflect the distinctive local context for planning in an island setting.**

An example of this could include encouraging broader and more creative use of schemes of delegation. Scope for the islands, and any other relevant authorities, to bring forward integrated terrestrial and marine plans should also be considered further.

**Recommendations: The delivery of more high quality homes**

**12. The National Planning Framework should define regional housing targets as the basis for setting housing land requirements in local development plans.**

Given the national significance of housing delivery, a stronger steer on requirements would allow for fuller Parliamentary debate on this important subject. The first steps towards this can make use of data available from HNDAs undertaken across the country. In time, this could be informed by real-time modelling, and we would expect it to replace the need for the fuller HNDA within the planning system. Projections of need and demand must be more closely linked with deliverability. Locally, housing land audits should evolve to become a transparent and 'live' register of housing sites which is kept up to date and linked with GIS systems. Local authority housing strategies should also have greater prominence and stronger linkage to the production of local development plans.

**13. There is an urgent need to establish a clearer definition of effective housing land so that local development plans can move on from this to take a positive and flexible approach to addressing the housing land requirement for their area.**

Much of the problem with defining whether or not land is suitable for housing development arises from ongoing confusion about what is needed to unlock development and specifically the definition of 'effectiveness'. Understanding development viability is essential to allocating effective land, requiring an open book approach by developers which is properly scrutinised. This will require planning authorities to have fuller access to expertise in development economics. Independent adjudication on effective housing land, much earlier in the plan preparation process, could significantly reduce conflict.

**14. The SPZ concept should be rebranded and evolved into a more flexible and widely applicable zoning mechanism which identifies and prepares areas to make them 'investment ready.'**

We were inspired by the flexibility provided by Simplified Planning Zones and propose that their principles could inform an adaptable approach to zoning areas of land for development including housing. These areas would be identified to incentivise development by creating greater certainty as well as flexibility and should be rolled out across Scotland. This approach could help to kick start high quality housing development at a large scale in the immediate future, but their impact would be much greater if pump priming of funding was made available to help establish them. We recommend that the new approach would relax current restrictions on SPZs in Scotland to allow for greater flexibility in their timescales, reduce procedure and enable them to come forward for schemes which fall under the EIA Regulations.

**15. Mechanisms for planning authorities to take action to assemble land and provide infrastructure upfront should be established as soon as possible.**

Land reform has a pivotal role to play in unlocking land for development. Planning must become more central to this debate and mechanisms for land value tax, majority land assembly, compulsory purchase orders and compulsory sale orders have particular potential to support the aspirations for planning set out here.

**16. A programme of innovative housing delivery should be progressed in a way which is fully aligned with local development plans.**

Planning needs to become more responsive to the diverse housing needs of Scotland's current and future population. This could drive a step-change in affordable housing provision and drive forward alternative models including self-build, private rented sector, off-site construction and energy efficient homes. Work with disabled people's organisations and building standards to innovate and embed accessible housing, and a proactive approach to expanding homes for the elderly are key priorities. It is, however, important to ensure that support for new sectors does not inadvertently provide opportunities to build mainstream homes which do not meet established needs. Where special measures are introduced to promote the private rented sector, an assurance of the retention of use in perpetuity would therefore, in our view, be essential.

**Recommendations: An infrastructure first approach to planning and development**

**17. A national infrastructure agency or working group with statutory powers should be established, involving all infrastructure providers as well as planning representatives.**

There is a disconnect between established investment programmes and the sub-regional infrastructure gaps that are emerging in development plans across the country. There is a need for a single body to have an overview of the strategic business case for front funding infrastructure as a specific element of the planning service at a city-region and local level. To guide this, a national infrastructure agency or working group should be established and

tasked with providing a clearer, cross cutting overview of planning and infrastructure provision. This group will bring together all relevant infrastructure agencies including the key agencies, electricity, heat and telecommunications providers. Scottish Enterprise, Highlands and Islands Enterprise and the re-purposed strategic development planning authorities will also have a crucial role to play at the city-region scale.

**18. Options for a national or regional infrastructure levy should be defined and consulted upon.**

This should draw on the lessons learned from the Community Infrastructure Levy in England and Wales and capture land value uplift. We recognise that there are both strengths and weaknesses in this model, but given the limitations of Section 75 agreements, there is much that could be gained from a well-designed mechanism which properly reflects market circumstances and takes into account development viability. Given variations in market confidence and its influence on the ability to charge for necessary infrastructure, scope to build a fund that has a redistributive role should be investigated further.

**19. A development delivery infrastructure fund should be established.**

Such a fund could be partly resourced by a mechanism to capture land value uplift. The Scottish Futures Trust could play a role in this and should also explore the use of government guarantees to support an infrastructure first approach. With regard to housing delivery, we welcome the additional funding that is being made available under the More Homes Scotland scheme and would suggest it should be prioritised to assist the delivery of stalled proposals that have been identified in development plans.

**20. A corporate structure requiring all key infrastructure providers to co-operate in delivering the local development plan should be introduced.**

This should include the existing key agencies, but extend to other bodies including those responsible for delivering electricity, heat, telecommunications and digital networks. Linking with external infrastructure providers, a corporate partnership should be established which commits to delivering plans at all scales from the National Planning Framework and its proposals for city-regions to local development plan action programmes.

**21. A review of transport governance should be undertaken to address the gap between this key aspect of infrastructure and development planning.**

Our view is that transport agencies at the national and regional scales should be given a clearer mandate to directly support the delivery of development in accordance with the development plan.

**22. Future school building programmes should address the need for new schools in housing growth areas.**

There would be significant benefit in the Scottish Futures Trust working with local authorities to set out a long term strategy for school building in strategic planned housing growth areas across the country. This should reflect future demand as defined in land allocations and development plans, and should be integrated with the SFT replacement schools programme.

**23. Local authorities and their partners need to become much bolder in their approach to infrastructure investment.**

A return to an 'infrastructure first' approach is recommended, particularly to support large scale housing initiatives. Planning can and should lead this, by defining the future of our places and identifying the infrastructure required to support development. In local development plans, certainty is key – for infrastructure providers, developers and communities. As part of this, development plans should provide a clear schedule of

infrastructure costs. Work to build models and methods for this should be undertaken as a priority.

**24. Section 75 planning obligations should be retained but their use should be minimised and the process streamlined.**

In housing developments the use of Section 75 contributions for ancillary infrastructure should be staged or calibrated with housing occupations to avoid disproportionate up-front costs which could stall development. A national standard template should be introduced and the Scottish Government should pursue further improvements with certain planning authorities. Scope for using conditions rather than planning obligations in some circumstances could create further efficiencies and should therefore be explored further. More diverse housing types, including the Build to Let sector and homes for older people could be incentivised where requirements are more finely differentiated to reflect their different impacts. Arrangements to share resources and expertise in this specialist area should also be established.

**25. New approaches to low carbon infrastructure planning and delivery should be taken forward through a programme of innovation.**

Decarbonising and future proofing of our infrastructure requires a much more ambitious and innovative approach by planning authorities. There are many emerging technologies which require a different perspective to inform future development patterns. We should proactively work together to achieve the aims and objectives set out in the 'Making Things Last – A Circular Economy Strategy for Scotland'.<sup>7</sup> Planning should innovate and lead the way into embedding new infrastructure into development to ensure that climate change targets are met.

**Recommendations: Efficient and transparent Development Management**

**26. Timescales for decision making remain critical in creating certainty and should remain part of the performance monitoring framework.**

Speed of decision making is an important part of performance monitoring. Whilst we recognise that a quality service relies on a wide range of factors, timely decision making is required to provide certainty for investors. To support this, processing agreements should be required for all major developments. Planning authorities should be given new powers to remove inactive legacy cases from the system.

**27. The certainty provided by the development plan in development management should be strengthened.**

To incentivise this, allocated sites should be afforded planning permission in principle, could be exempted from pre application consultation requirements and could benefit from fast-tracked appeals. Conversely, where non allocated sites are being proposed for development a charrette or similar fuller consultation or mediation exercise could be required.

**28. The quality and effectiveness of pre-application discussions with planning authorities and consultation by developers should be significantly improved.**

Training, sharing of good practice, more transparent reporting and criteria for assessing quality could contribute to this. It may also be useful to strengthen specific requirements – for example if the applicant is required to hold at least two community consultation events there would be opportunities for fuller dialogue, negotiation and feedback in every case. Aligned with development plan engagement, non-statutory pre-application involvement ahead of this formal stage could also be encouraged. In addition, to increase public confidence in consultation on major applications, repeat applications should be managed more effectively.



**29. National guidance on minimum requirements for validation is required.**

A more detailed standard approach to setting out minimum requirements for validation would improve certainty for all parties and minimise delays. This should build on existing minimum requirements to provide a more comprehensive and therefore consistent list that can be applied by all planning authorities.

**30. The Scottish Government should work with local authority enforcement officers to identify and/or remove any barriers to the use of enforcement powers.**

We acknowledge that there are concerns about planning authorities not taking enforcement action. Our understanding is that the legislation already allows for a wide range of action to be taken and that there are already options to respond quickly to a breach including fixed penalties and interim stop notices. We also propose that this work considers whether fixed penalties and fees for retrospective applications should be substantially increased to provide a more effective deterrent.

**31. Planning authorities should work together to identify the scope for significantly extending permitted development rights.**

We believe there is significant scope to remove uncontroversial minor developments from the system and use this to incentivise developments which support policy aspirations such as low carbon living and digital infrastructure. We would suggest that Heads of Planning Scotland establish a working group to define this in more detail and establish the options for the Scottish Government to take forward to consultation.

**32. A fuller study of the scope for combined consents, particularly planning, roads and drainage consents, should be carried out.**

This may also be beneficial for aquaculture, given difficulties in reconciling planning and marine licensing matters. Higher fees could be payable where combined consents are offered. Given the importance of timing for investment decisions, applicants should be able to choose between individual or combined consents. Scottish Government consenting and decisions involving its agencies should form part of this review.

**33. As with development planning, the use of information technology to improve accessibility and allow for more real-time data to inform decisions.**

This may seem like a technical change but could have a game changing impact overall if pursued with ambition. Over time, this could be used to replace current costly and resource intensive methods of advertising and neighbour notification, and significantly improve access to information.

**34. We recommend that the scope of powers of the Cairngorms National Park Authority is reviewed.**

We heard evidence that, in contrast with Loch Lomond and The Trossachs National Park Authority, the specific arrangements for planning that are in place for the Cairngorms National Park Authority are causing confusion.

**35. A stronger mechanism for a collective community perspective to be built into the matters explicitly addressed by Reporters in appeals, could go some way towards bridging the gap between local and central decision making.**

The involvement of Reporters in appeals appears to be a cause for concern for some, but is viewed as an essential check and balance in the system by others. This would help to achieve a shift in the role of the Reporter from a late scrutiniser to an early facilitator. In the

case of appeals, greater consistency in the operation of local review bodies is also required. This can be supported through training, as well as more consistent national standards.

### **Recommendations: Stronger leadership, smarter resourcing and sharing of skills**

#### **36. Planning services should aspire to become leaders and innovators within the context of public service reform and the Scottish Government and key agencies should lead by example.**

A planning service should be viewed as a central function of a local authority that is of direct relevance to a wide range of other services. To ensure this happens, we propose that Local Authority Chief Executives have a statutory responsibility for signing-off the local development plan before it is approved by full council. Planning and Architecture Division should be recognised as a leader and co-ordinator of the place agenda within the Scottish Government and adequately resourced to reflect this. The Improvement Service also has an important role to play in this.

#### **37. Planning fees on major applications should be increased substantially, so that the service moves towards full cost recovery.**

A revised cap should be considered to better reflect the level of resource they demand. An increase of fees for developments requiring an Environmental Impact Assessment would also be helpful. Whilst we accept that ring-fencing fees is not an optimal solution, local authorities must accept that all increases in fees must be directly linked with improved performance and that this will require investment in the resourcing of planning authorities. We also recommend a new means of measuring service quality which builds on performance frameworks, and a mechanism for penalties such as a refund in the planning fee to be incurred where this is not achieved.

#### **38. Scope for further discretionary charging, for example for pre-application processes, should be considered further.**

Innovative mechanisms to penalise negative behaviour and incentivise productive relationships, whilst also reflecting varying workloads should also be explored. Examples include higher fees for retrospective applications and combined consents, higher enforcement penalties and discounted fees for sites which are already allocated in the development plan. Charging by key agencies is also supported but must also be directly linked to improved service provision.

#### **39. Alternative mechanisms to support improvements should be found and the threat of the penalty clause removed.**

Given that the link between fees and performance continues to be critical, we recognise that positive intervention is required in cases of continuing poor performance. We therefore propose more solutions-based mechanisms are explored by the High Level Group on Performance. Building on the work by Heads of Planning Scotland for peer review, options could include a requirement to take forward independently defined solutions, or reinstatement of auditing by the Scottish Government or another party. Alternatively, Reporters, high performing authorities or an appointed expert could be tasked with redesigning processes where there are performance issues arising. To further deter poor performance, any such measures should be paid for by the planning authority concerned.

#### **40. Skills development is required in a number of priority areas.**

Project management, development finance, mediation and information technology are of critical importance. This applies to all those involved in planning, including the key agencies, developers and their agents as well as local authority planners. Training of elected members should be mandatory, monitored and enforced. A programme of training in community engagement for the development sector should also be rolled out.

**41. Local authorities should pursue the establishment of shared services.**

Radical solutions to resources need to be realised. Shared services would be particularly helpful in specialist areas such as minerals, aquaculture, GIS, environmental assessment and conservation where it is unrealistic to expect all local authorities to maintain a high level of expertise in-house. Arrangements for this should therefore be actively pursued and led by Heads of Planning Scotland in collaboration with the Scottish Government and potentially with other bodies such as COSLA, RTPI, RICS, the Improvement Service and the key agencies.

**42. A planning graduate intern programme should be established.**

To help invest in the long term future of the profession in Scotland, the Scottish Government, Heads of Planning Scotland and RTPI Scotland should establish an intern programme for planning graduates. Evidence suggests that there is a greater need for such a scheme to attract and retain staff in the public sector and to provide a broader resource of planning professionals with experience of both the public and private sectors.

**Recommendations: Collaboration rather than conflict – inclusion and empowerment**

**43. There should be a continuing commitment to early engagement in planning, but practice needs to improve significantly.**

Front loading engagement remains a valid and attainable goal and must be at the core of the planning system. Planning authorities and developers need to promote innovation which empowers communities to get actively involved in planning their own places. Much smarter use of information technology, including 3D visualisation and social media could support a step change in the transparency of planning decisions.

**44. Communities should be empowered to bring forward their own local place plans, and these should form part of the development plan.**

Communities are best placed to define the future of their place and this may emerge from community planning as locality plans, or could be driven by land reform or charrettes. These plans should be given statutory status by forming part of the local development plan where it can be demonstrated that they play a positive role in delivering development requirements. Communities should also go beyond plan preparation and be supported to actively enable their delivery. Community development trusts, community councils and other community groups will play an increasingly important role in this.

**45. Community councils should be given a statutory right to be consulted on the development plan.**

This right should bring with it a responsibility to demonstrate that the wider community, including young people, have been involved. Given their limited resources, their existing statutory role in development management could be limited to major developments. Improved resourcing of community councils is required. More creative approaches to fees and wider work to build community infrastructure funds through developer contributions could support this.

**46. We are not persuaded that third party rights of appeal should be introduced.**

Effective planning depends on building positive and productive relationships. The evidence shows that a third party right of appeal would add time, complexity and conflict to the process, and have the unintended consequence of centralising decisions, undermining confidence and deterring investment. We believe that using time and resources to focus on improved early engagement would provide much greater benefits.

**47. A working group should be established to identify barriers to greater involvement in planning, taking account of measures contained in the Community Empowerment Act and the Land Reform Act.**

More effective and continuous engagement in the planning system is required. At present, the majority of Scotland's public are unaware or uninterested in planning, even although it affects everyone's quality of life. Although we expect that there are examples of good practice, during this review we saw little evidence that disabled people, young people, minority ethnic groups, or disadvantaged communities are being effectively and routinely involved in the planning system. We recommend a short life working group is established to follow up on this and if necessary to identify how engagement can be broadened and diverse groups can be more fully included in planning.

**48. A new statutory right for young people to be consulted on the development plan should be introduced.**

This would engender much stronger participation in place planning to realise the terms of Article 12 of the UN Convention on the Rights of the Child. It is also important that active citizenship is underpinned by education – place planning should be built into the Curriculum for Excellence and the Place Standard<sup>14</sup> should guide much wider discussions on place in schools. Community council membership could be transformed where involvement of young people is a requirement rather than an exception. A mechanism for direct engagement between young people and elected members which focuses on place is also recommended. Training will be required in this area as well as a measure for monitoring inclusion.