

Final Business and Regulatory Impact Assessment

Planning (Scotland) Bill

Purpose and intended effect

Background

1. The places where we live, work and play can have a major impact on our health, wellbeing, sense of identity and prosperity. Planning can nurture our places, our environment and our communities and guide future change so that it benefits everyone. Planning can co-ordinate and support investment, ensure that future growth reflects the needs of communities and is sustainable. Planning also has a key role to play in delivering Scotland's Economic Strategy. The efficiency and reputation of the planning system has an important role to play in making Scotland an attractive place to invest.

2. The last Planning Act came into effect over 10 years ago. It introduced structural changes to the (then) planning system and was supported by a programme of culture change. In September 2015 an Independent Panel was appointed to review the planning system¹. While we have seen great improvements over the last decade, it was also clear that there was scope for further improvement. In commissioning the independent review, Ministers asked the review panel to focus on aspirations to deliver strong and flexible development plans, more high quality homes, an infrastructure first approach, efficient and transparent development management, stronger leadership, smarter resourcing and sharing of skills, and collaboration rather than conflict – inclusion and empowerment. The panel published their report “Empowering Planning to Deliver Great Places” in May 2016. The Scottish Government published their response to the report in July 2016. Since then we have been working with stakeholders to develop proposals to take forward the recommendations made by the panel, as described under “Consultation” below.

3. This Business and Regulatory Impact Assessment relates principally to the measures to be taken forward in the Planning Bill. However, these are closely related to other changes that will be implemented through secondary legislation under existing powers and through non-statutory approaches such as policy, guidance and improved co-ordination. As a key example, the Scottish Government has made clear its commitment to move towards full cost recovery for planning authorities' development management services, through changes to the Fees Regulations. This in turn will provide additional resources for planning services, leading to performance improvement that will benefit applicants. Factors such as these are highlighted where possible, to show how the impacts of the provisions included in the Bill may be balanced by other proposals. However, secondary legislation and other key proposals will be subject to separate impact assessment when detailed proposals come forward.

Objective

4. The Bill is a vital element of the planning review, which is driving a wide programme of improvements to strengthen and simplify the planning system, and to ensure planning better serves Scotland's communities and economy. It brings a greater focus on delivering the developments Scotland needs, with the infrastructure to support it. The Bill provisions will improve the system of development planning, give people a greater say in the future of their places and support delivery of planned development. The Bill and wider review aim to change planning's operation and its reputation from that of a regulator to a positive and active enabler of good quality

¹ <https://beta.gov.scot/policies/planning-architecture/reforming-planning-system/>

development; a shift from reacting to development proposals to proactively supporting investment and quality placemaking.

5. The Bill contains a range of provisions which will strengthen processes, engagement and participation rights across the planning system and in delivery of the planning service. It will:
- Focus planning, and planners, on delivering the development that communities need, rather than focus on continuous writing of plans that lack a clear route to delivery
 - Empower people and communities to get more involved and to have a real influence over future development
 - Strengthen the strategic role of planning in co-ordinating and supporting the delivery of infrastructure needed to support development, including much-needed housing
 - Reduce complexity, whilst improving accountability and trust in planning processes and decision-making.

Rationale for Government intervention

6. The principle of town and country planning has been in place for many years; that national and local government should put measures in place to ensure that the right type of development is carried out in the right areas. The Bill does not aim to change that underlying principle, and its provisions mainly amend the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act") rather than replacing it. (The Planning etc (Scotland) Act 2006 also amended the 1997 Act; in some cases the provisions in the Bill further amend the changes made in 2006.)

7. The measures in the Bill are designed to help improve the efficiency of the planning system and so improve its role in supporting sustainable economic growth and creating great places. Planning has a cross cutting role in relation to the National Performance Framework and its strategic targets of Wealthier & Fairer, Smarter, Healthier, Safer & Stronger and Greener. A more efficient planning system can contribute in a number of ways with reference to national indicators such as: improving the responsiveness of public services; increasing renewable electricity production; increasing the number of businesses and increasing the number of new homes.

8. The overall resourcing of the planning service is the responsibility of local authorities. The planning service is financed through the local authority's budget and fees from planning applications.

Consultation

Within Government

9. Since the appointment of the independent panel there has been extensive engagement with other parts of government and key agencies. Internal colleagues were given the opportunity to give evidence to the independent panel during their evidence gathering. Since the panel published their report we have been in regular contact with internal stakeholders. We have held internal workshops and invited relevant stakeholders to sit on the Themed Working Groups reflecting the six outcomes of the independent review (see below). Internal stakeholders have been engaged throughout the production of the consultation paper and position statement and in preparation of the Bill.

Public Consultation

10. The Planning Bill has been developed through a highly inclusive approach, involving extensive engagement and consultation across a full range of stakeholders. Following its formation in September 2015, the independent review panel invited both written and oral evidence from a wide range of stakeholders. The call for written evidence generated over 400 responses and more than 100 people gave oral evidence to the panel. An online discussion forum also

generated many ideas and comments. In May 2016, the independent panel published its final report, *Empowering planning to deliver great places*. This contained 48 recommendations for reform over six main themes:

- Strong and flexible development plans
- The delivery of more high quality homes
- An infrastructure first approach to planning and development
- Efficient and transparent development management
- Stronger leadership, smarter resourcing and sharing of skills
- Collaboration rather than conflict – inclusion and empowerment

11. The Scottish Government's response to the panel's report, published in July 2016, noted the government's agreement in principle with many of the recommendations. Six working groups, comprising a range and mix of relevant stakeholders, were convened to support the development of proposals under each of the six themes; initially tasked with identifying possible actions and options for inclusion in the consultation paper. Those same working groups have subsequently met on further occasions, engaging to support the development of the emerging proposals for change throughout the consultation and pre-Bill process.

12. Drawing on the independent panel's report and stakeholder engagement, in January 2017 the Scottish Government published a consultation paper, *Places, People and Planning*, which set out a series of 20 proposals under four key areas of change:

- Making plans for the future: for Scotland's planning system to lead and inspire change by making clear plans for the future
- People make the system work: to empower people to decide the future of their places
- Building more homes and delivering infrastructure: to help deliver more high-quality homes and create better places where people can live healthy lives, and developers are inspired to invest
- Stronger leadership and smarter resourcing: to reduce bureaucracy and improve resources so Scotland's planning system can focus on creating great places.

13. During the January to April 2017 consultation period, the Scottish Government continued to engage with stakeholders to support discussion and debate on the proposals, in line with a published participation statement. This included discussions with professional organisations and interest groups as well as a number of public 'drop in' sessions and awareness raising events. Alongside the consultation paper, an easy-read guide was also published for community councils, and a survey was carried out with Young Scot on opportunities and methods for engaging with young people in the planning system.

14. A total of 474 responses were submitted to the *Places, People and Planning* consultation, from a broad range of organisations and individuals. An independent analysis of the responses was published in June 2017, alongside a Position Statement by the Scottish Government. The Position Statement provided an update on progress and set out an integrated package of proposed improvements to the planning system, following on from the consultation. The Position Statement was also accompanied by a Strategic Environmental Assessment (SEA) Environmental Report, which set out the findings of an environmental assessment of those aspects of the proposals which would require changes to primary legislation through the Planning Bill.

15. The Scottish Government invited further responses to the Position Statement and the SEA Environmental Report; noting it was not required for stakeholders to re-state points made in the earlier consultation. A total of 122 responses were made to that additional consultation from a wide range of stakeholders. Again, consultants carried out an analysis of responses, a report of which was published in October 2017.

16. During the consultation, a number of stakeholders expressed an interest in exploring in more detail how some of the proposals would operate in practice. The Scottish Government developed a further, more technical, paper that set out further thinking on how six key changes to the planning system might work in practice. The paper was discussed in a further event with the stakeholder working groups in early October 2017 and has now been published. It provides a helpful reference point to inform further discussions on the Bill and wider progress of the planning review programme.

17. All published documents relating to the review of planning and development of the Planning Bill are available on the Scottish Government's website².

Business

18. 30% of those giving written evidence to the independent panel, and 20% of responses to the "Places, People and Planning" consultation, were from the development sector or other business interests. A substantial number of businesses and industry representative bodies were also invited to participate in each of the Working Groups. Following the consultation, in which responses provided little detail about potential costs and savings, more detailed questionnaires were circulated to these members of the Working Groups. Thirteen responses were received from the sector, but the information provided was still limited.

19. Scottish Government planning officials are in regular contact with Homes for Scotland and the Scottish Property Federation, and frequently meet planners and consultants working in the private sector through a range of professional forums.

Options

20. The proposals in the Bill are set out under the following headings:

1. National and regional development planning (NPF, SPP and SDPs)
2. Local development plans
3. Local place plans
4. Simplified Development Zones
5. Improvements to Development Management
6. Pre-application consultation
7. Local review bodies
8. Fees and resources
9. Training for taking planning decisions
10. Assessment of planning authorities' performance
11. Infrastructure funding

² <https://beta.gov.scot/policies/planning-architecture/reforming-planning-system/>

21. The Bill, together with the wider review, presents a package of proposals for improving the planning system. Although some are more closely linked than others, they are all essentially independent and the choice in each case was simply whether to include the proposal in the Bill or not. Each proposal is therefore treated as an option within this assessment, with a single “do nothing” alternative.

22. This assessment provides only summary financial costs and savings for each option. Detailed calculations are provided in the Financial Memorandum³ to the Bill.

³ <http://www.parliament.scot/parliamentarybusiness/Bills/106768.aspx>

1. National and Regional Development Planning

The National Planning Framework (NPF) will be amended to incorporate Scottish Planning Policy, and the combined new document will have statutory status as part of the development plan. The NPF will be required to be reviewed on a 10-year cycle, instead of the current 5 years, but there will be scope for amendments to be made during that period. Strategic Development Plans will be removed from the system; the NPF will incorporate a more focused strategic planning element at the regional scale. The Scottish Ministers will have powers to direct planning authorities, individually or collaboratively, to provide information to contribute to the NPF, which will be produced through an open and collaborative process.

Sectors and groups affected:

Scottish Government
Local Authorities
Strategic Development Plan Authorities
Developers / Landowners / Communities / Individuals

Benefits:

Combining NPF and SPP and making the new document part of the development plan will give a clearer, simpler structure and, where appropriate, consistency to the development plan. By doing so it will improve confidence in where and how Scotland will develop, and reduce the need for repeated and frequent debate on implementation of well-established policy principles. It will streamline the planning system as a whole, by removing the need for local development plans (LDPs) to restate national policy, and so enabling them to be shorter and far more focused on places and development delivery. The provisions will, however, still leave appropriate and sufficient scope for variation so that local circumstances can be taken into account; for example to reflect aspects of local distinctiveness of Scotland's island communities. The longer cycle for plans will provide greater stability and certainty as to the future direction for growth, enabling investment choices by developers and infrastructure providers to be made with confidence, while scope for updating will ensure that the planning system is able to respond with an appropriate policy provision where urgent matters arise, without requiring a review of the whole document.

Removing the mandatory detailed processes for strategic development planning will ensure time and cost savings for those authorities involved in the production and delivery of SDPs and leave planning better placed to actively engage with its wider context. Robust strategic and regional planning is needed across the country, but wider contextual changes and the emergence of regional scale partnership working on other issues, such as economic development, are showing that a single approach is likely to be appropriate for all areas. The requirement to contribute regional information to the NPF will highlight the continued importance of strategic planning at this level, while providing greater freedom for authorities to work collaboratively, with greater autonomy as to how they take this forward through regionally distinctive approaches.

An alternative approach has been suggested that would require planning authorities in all parts of the country to take part in formal regional planning groups of some kind. We do not consider that this would achieve as much benefit as allowing authorities to work flexibly with different partners for different purposes, as they see fit.

Costs / Savings:

Over a 10-year period, the removal of SDPs is expected to save £2,239,000 for local authorities and £206,930 for the Scottish Government, for scrutiny and publication of final plans. The

resources currently spent on producing SDPs are expected to be redirected to regional partnership working and contribution to the NPF.

The change to a 10-year review cycle for NPF instead of five years will produce some savings. However, the expanded role of the NPF compared to NPF and SPP, including more detail on regional proposals, is likely to create an increase in the costs of preparation for each cycle. Over a 10-year cycle a saving of £255,979 is expected for the Scottish Government.

These changes are not expected to have any overall impact on costs for developers, landowners, communities and individuals. Costs depend on the level of involvement in planning at this level and the approach taken by each organisation. Developers expressed some concern that there would be increased costs for promoting major developments, but this was based on an assumption that there would be duplication between the NPF and new regional planning arrangements. This is not expected to be the case.

2. Local Development Plans

The process for preparing local development plans will be revised, and the cycle will be extended to 10 years instead of five, with the ability to amend the plan within that time. Instead of a Main Issues Report, planning authorities will be required to produce an evidence report as the first stage in preparing an LDP. This will be assessed by DPEA at the “gatecheck” stage to ensure evidence for the plan and the proposed approach to consultation is robust. Statutory supplementary guidance will be removed, with any necessary local policies included in the plan. Planning authorities will be required to take into account the local outcomes improvement plan for the area, and changes to existing secondary legislation and guidance are expected to require enhanced engagement with communities. Action programmes, which set out how the authority proposes to implement the LDP, will be renamed “delivery programmes” and must be signed off by the Chief Executive and full Council.

Sectors and groups affected:

Local authorities
Developers
Landowners
Communities
Individuals

Benefits:

Whilst the provisions relating to LDPs may appear to be largely procedural, they aim to achieve a much wider policy objective of significantly strengthening LDPs, reducing the time spent on producing plans and giving them a greater focus on place and delivery. Improvements to the national level of planning aim to reduce the need for repetition and detailed policy wording within LDPs, reflected also in the removal of supplementary guidance. This could significantly reduce the time it takes to prepare plans and improve their relevance to communities, by ensuring that there is a much stronger focus on spatial planning and place.

Extending the timescale for LDPs from five to 10 years will ensure they better reflect investment and development timescales, forming a more settled and reliable vision for how an area should develop in the future. This will also help to redirect available resources towards their implementation and delivery of development. New delivery programmes will also support this ambition, with greater corporate recognition within the authority.

Alignment with community planning will help to secure greater corporate and community recognition of the role and value of the development plan in delivering better services, and consistent prioritisation of council and partner policy objectives. This could also support more joined up and effective community engagement, covering all aspects of communities’ ambitions for their areas.

The new preparation process is intended to reduce reported confusion relating to the Main Issues Report, and provide greater scope for the planning authority to amend the Proposed Plan to reflect views put forward in consultation. The gatecheck stage will ensure that development plans are based on sound evidence, and help to resolve issues at an early stage while there is still scope for changes. Examples of the matters to be resolved at the gatecheck include agreement of the amount of housing land required from the plan, scoping of the strategic environmental assessment of the plan and information on the capacity of the infrastructure of the area to accommodate future development. It is also expected to consider the authority’s plans for consultation and

engagement on the proposed plan.

Costs / Savings:

Over 10 years, the removal of supplementary guidance and move to a 10-year cycle is expected to provide a saving of £2m to the Scottish Government, in terms of scrutiny of plans and supplementary guidance.

Savings to planning authorities, from the changes made by the Bill, could be between £21.42m to £31.5m over 10 years. However, it is expected that these savings will be redirected to other activities, which may be set out in regulations or guidance; in particular, for enhanced community engagement in the preparation of plans, and a greater focus on delivering the local development plan during its 10 year period.

These changes are not expected to have any overall impact on costs for developers, landowners, communities and individuals. Costs depend on the level of involvement in the local development plan and the approach taken by each organisation.

3. Local Place Plans

Community bodies will be able to create local place plans and submit them to the local planning authority. Local place plans must have regard to the NPF and local development plan. The authority must have regard to any local place plans that have been submitted in preparing or amending the local development plan. Regulations will prescribe the detail of what a local place plan must contain and how it is to be prepared.

Sectors and groups affected:

Communities
Individuals
Planning Authorities
Developers
Landowners

Benefits:

The ability to create local place plans that can become part of the local development plan is intended to significantly enhance engagement in development planning. It will effectively empower communities to play a proactive role in defining the future of their place so that planning reflects the views and aspirations of the communities it seeks to serve, allowing for better understanding by all sectors of the need for and preferred location of development. The process for preparing plans is intended to be flexible and defined largely by the community, minimising process and complexity and allowing for local variation. There is an opportunity to link local place plans with locality planning or other engagement activity, creating efficiencies and prioritising resources to areas where there could be the most significant benefits.

Where the LPP leads to the amendment of the LDP, it would be required to be subject to the same procedure as other elements, including independent examination where it is viewed by the Scottish Ministers as a significant change. The link with this provision is critical to ensure the reliability and certainty of the development plan, as well as improving transparency and providing an opportunity for conflict to be fairly and effectively resolved at an early stage in the planning process.

Costs / Savings:

The monetised cost to a community body of preparing a local place plan is estimated at £13,000. This is expected to be covered by a combination of grants from a range of sources, support in kind from public sector and third sector bodies (such as provision of a development officer or office / meeting space), and volunteer input. Demand estimated at 92 LPPs per year would give a total monetised cost of £12m over 10 years.

4. Simplified Development Zones

Simplified development zones (SDZs) will be introduced as an updated replacement for simplified planning zones (SPZs). These zones grant planning permission for the types of development specified in the scheme, subject to any conditions or limitations attached. Each planning authority will be required to consider from time to time whether it would be desirable to make an SDZ, and must publish a statement setting out their decision and reasons. Anyone may ask the planning authority to make an SDZ for part of their area; the Scottish Ministers may also at any time direct a planning authority to do so. Unless such a direction is made, there is no requirement on planning authorities to use the powers to make SDZs. It will no longer be possible to make new SPZs; all new schemes will be made under the new provisions for SDZs, which are similar but address a number of concerns that have been raised.

The Bill introduces powers to provide for discretionary charging by planning authorities, which could be used to charge fees for activities relating to SDZs. It also allows planning authorities to secure financial contributions from developers within an SDZ.

Sectors and groups affected:

Local authorities
Developers
Landowners
Communities
Individuals

Benefits:

SDZs will support more effective delivery of development through zoning of land, frontloading of scrutiny and aligning of consents. They will address a number of concerns relating to SPZs, including enabling them to be created in a wider range of circumstances and expanding the scope of consenting to include matters beyond planning permission, such as road construction consent, advertisement consent and conservation area consent. Greater use of this zoning approach will allow developers to come forward with the greater certainty of consent having been secured upfront, and so able to raise necessary finance and get on site earlier. It has the potential to unlock significant areas for housing development, including by alternative delivery models such as custom and self-build. Simplified development zones could also support wider objectives including business development and town centre renewal, with the removal of restrictions on use in conservation areas.

The detailed arrangements will ensure the process includes strong engagement with communities through publicity, consultation and pre-determination hearings. Strategic environmental assessment will also be carried out up front, and planning authorities will be able to set out appropriate standards and conditions for development within the zone to protect the natural environment or local heritage and amenity.

The proposed introduction of discretionary charging for SDZs will address the concerns that planning authorities are unable to recoup the cost of preparing SPZs, because development within those zones do not need to make planning applications. It will be for planning authorities to balance the costs and benefits of a scheme to their area and to developers, to determine what charges would be appropriate.

The requirement on planning authorities to periodically report on how they have considered

making schemes will ensure that the opportunities offered by SDZs to radically reposition planning as a leader and an enabler of development will not be lost.

Costs / Savings:

The cost of reporting on the consideration of SDZs is likely to cost £1,000 to £2,000 for each authority per year.

The cost of preparing a scheme depends on the size of the site involved and its particular features. Existing examples range from £15,000 to £200,000. It will be for each planning authority to decide whether establishing a scheme will provide benefits to the local economy and communities that justify the costs.

Developers or landowners may request that a SDZ is prepared, and may choose to support this, for example by funding preparatory work and assessments. Again, it will be for them to decide whether this is cost-effective in each case.

5. Improvements to Development Management

A range of small changes will be made to the system of development management:

- Discontinuing the requirement to charge applicants a separate fee for publication of notices in local newspapers, and for this to be paid before the application is decided
- Removing the requirement for certain planning application decisions to be made by full council, where a pre-determination hearing has been held
- Widening the scope of decision-making options in relation to applications for the modification or discharge of planning obligations
- Making clear that planning obligations may require a payment without restricting or regulating the use of land
- Simplifying and clarifying the duration of planning permission and streamlining the process for serving completion notices (to require a development to be completed).

Sectors and groups affected:

Planning Authorities
Developers
Landowners
Communities
Individuals

Benefits:

These changes will contribute to the wider objectives of supporting the delivery of good-quality development. They will help to provide for quicker and simpler processing of applications, and give both developers and communities clarity about what will be developed and by when.

Costs / Savings:

These provisions are not expected to result in any significant costs to any sector. The benefits in terms of clarity and improved decision making have the potential to avoid delays and unnecessary work, which could lead to some savings.

6. Pre-Application Consultation

The provisions on pre-application consultation (PAC) will be amended to:

- Require a planning application to be submitted within 18 months of a proposal of application notice for a national or major development, so that pre-application consultation remains relevant;
- Enable the content of the report on PAC to be specified in regulations, and
- Enable regulations to specify circumstances in which PAC is not required, in addition to classes of development.

Further changes are expected to regulations to require a minimum of two public events, including feedback to communities on how their views have been taken into account.

Sectors and groups affected:

Planning Authorities
Developers
Landowners
Communities
Individuals

Benefits:

PAC is an important measure to ensure communities have an early opportunity to give their views on national or major developments, and enable developers to adjust their proposals to respond to those views before making a formal planning application. These measures will strengthen the process by ensuring a planning application is made while the views expressed are still relevant, and giving those who have responded to the consultation more information about the outcome and how the proposals have been amended, through a more robust written report and a further public event. Where a minor material change to a proposal requires a fresh planning application, it will be possible for regulations to provide that a new PAC process is not required, avoiding delay and repeated consultation on very similar proposals.

Costs / Savings:

These changes are not expected to have any significant costs for any sector. Many developers already carry out more than the minimum PAC requirements. Fuller engagement at an early stage, and making adjustments in response to comments, could reduce resources required to handle controversial applications at a later stage.

7. Local Review Bodies

Decisions on planning applications relating to local development can be delegated by planning authorities to officers under a scheme of delegation; where this is the case, the applicant's right of appeal to the Scottish Ministers is replaced by a local review procedure. In future it will be possible for additional types of application to be delegated in this way (advertisements, certificates of lawful use or development, and prior approval under a development order). If an applicant has not received a timeous response on both their original application and subsequent local review, they will have the option of waiting longer rather than an automatic appeal to the Scottish Ministers. Planning authorities will be required to have regard to guidance on schemes of delegation, and the Scottish Ministers will be able to require an authority to modify its scheme before adopting it, if necessary.

Sectors and groups affected:

Scottish Government
Planning Authorities
Developers
Landowners
Communities
Individuals

Benefits:

The aim of schemes of delegation and local review bodies is that more decisions on applications which have only local significance should be made at local level, rather than by Ministers on appeal. The changes being made will further strengthen this principle, making planning decisions more responsive to local concerns and circumstances. The guidance and power of Scottish Ministers to require schemes to be modified will increase consistency in schemes of delegation and help to reduce the number of minor local developments being taken to committee for decision, with a subsequent right of appeal to Ministers.

An alternative option could be to introduce a nationally consistent approach to schemes of delegation. However, this was considered too rigid and would not allow appropriate flexibility for differing local circumstances; for example, a small-scale residential development could justifiably be handled differently between predominantly urban or remote rural authorities.

Costs / Savings:

These changes are expected to result in a transfer of between 38 and 58 cases per year, on average, from Scottish Ministers to planning authorities, with a saving / cost of between £27,550 and £42,050.

Those developers who have experience of both appeal and local review indicate that the costs of undergoing a local review are either similar to appeal or lower, and therefore there is likely to be some saving from this provision for applicants. However, no actual costs were given.

8. Fees and Resources

The powers to make regulations on fees will be amended to enable greater flexibility to be given to planning authorities, to set the levels of fees and to waive or reduce them where appropriate. There will also be powers for the Scottish Ministers to charge fees for their activities within the planning system.

Sectors and groups affected:

Scottish Government
Local Authorities
Developers
Landowners

Benefits:

In consultation there was agreement across sectors that planning is currently under-resourced, and this has an impact on performance of planning services. The Scottish Government has indicated its intention to review planning fees with a view to moving the decision-making aspects of the planning process towards full cost recovery. However, in some areas local authorities may wish to use different measures to incentivise needed development. The changes being made to the powers for fees regulations will enable greater flexibility in the activities for which fees are charged and the rates at which they are set. This in turn will allow the charging system to support better performing planning services which are more effective at delivering high quality development.

Costs:

Detailed proposals for charging will be considered and fully consulted on following the completion of the Bill, taking into account the final shape of the reformed planning system.

9. Training for taking planning decisions

Members of planning authorities will not be allowed to be involved in taking planning decisions unless they have completed specified training. The requirements will be set out in regulations and may require attendance and / or completion of an examination. Provision will be made for planning functions to be transferred to another authority or to the Scottish Ministers, if an authority does not have enough trained members to undertake decision-making responsibilities.

Sectors and groups affected:

Scottish Government
Local authorities
Developers
Landowners
Communities
Individuals

Benefits:

This training will ensure members of planning authorities who will sit on planning committees or on local review bodies will have been sufficiently trained in planning matters to confidently make sound decisions that are rooted firmly in clear planning principles and policies. This will support public trust in the planning system, which benefits both applicants for planning permission and those affected by development.

Costs:

There will be set-up costs of £10,000 to £15,000 to the Scottish Government for establishing the training requirements at first. Planning authorities already provide training for elected members in various ways, and the statutory requirement is not expected to result in any increase in costs.

10. Assessment of Planning Authorities' performance

Planning authorities will be required to produce annual reports of performance, with their form and content and the process for producing reports to be set in regulations. This will build on the existing voluntary reporting systems which have been developed with Heads of Planning Scotland and the High Level Group on Planning Performance.

Scottish Ministers will be able to appoint a person to monitor planning authorities' performance and advise them on how to improve. They will also be able to appoint a person to conduct an assessment of any planning authority's performance, and can direct authorities to take steps to improve their performance if the assessment finds this is necessary.

Sectors and groups affected:

Scottish Government
Local Authorities
Developers
Landowners
Communities
Individuals

Benefits:

Ensuring a high-performance planning service is key to achieving the benefits offered by the programme of planning reform, to effectively deliver high-quality development which meets the needs of Scotland's economy and communities. These measures will increase scrutiny of the full extent of planning authority performance; in how authorities carry out their functions and deliver their services, on the quality of their decision-making and on the outcomes for their areas. The Scottish Government will work with planning authorities and other stakeholders to agree how performance will be measured.

Statutory annual performance reporting will enable effective monitoring of performance, and the Planning Performance Co-ordinator will support authorities to assess their own performance and implement improvements. The powers to conduct an assessment of a planning authority's performance are not expected to be used frequently, but will allow Ministers to intervene if this proves necessary.

Costs:

Monitoring and advice from the Planning Performance Co-ordinator is intended to result in a statutory reporting requirement that is more proportionate than current voluntary arrangements, therefore there is not expected to be any significant change to costs for planning authorities. The annual cost of the Co-ordinator is expected to be around £84,625 to the Scottish Government.

Infrastructure funding

The Bill will give Scottish Ministers powers to introduce a levy to raise funds to support the delivery of infrastructure. Further work is still required to define a model which is both practical and meets the objectives of capturing a proportion of land value uplift while taking account of market circumstances and development viability.

Sectors and groups affected:

Local authorities
Developers
Landowners
Communities
Individuals

Benefits:

The provision of necessary infrastructure in the right places and at the right time is vital to the delivery of development. The intention behind the infrastructure levy is to help raise funds for infrastructure provision so that necessary services and amenities can enable land to be developed, or to deliver infrastructure that is needed to serve the additional growth within an area. It is proposed that the levy be designed to capture a proportion of land value uplift, so that there can be public benefit from the value created by planning decisions and public sector investment.

Current use of section 75 planning obligations to support infrastructure provision is limited only to infrastructure required as a direct consequence of the proposed development. An infrastructure levy can support the provision of infrastructure and services which will benefit and incentivise the delivery of development across a wider area, and help to unlock sites planned for development.

The aim is for the levy to be transparent so that it is clear who is liable to pay and that the charge liability is known up front. The aim is also to provide greater certainty for local authorities in securing these contributions. There are also other potential benefits, in terms of spreading the cost of infrastructure more widely across geographic areas, and ensuring that the majority of development which utilises existing infrastructure capacity makes a contribution to the cost of its installation or its future replacement, thereby creating a fairer system.

Costs:

There are expected to be start-up costs to the Scottish Government of around £450,000, over two years at the point when the power is first used. Ongoing management of the system is expected to be met from existing resources. The levy would be cost-neutral to local authorities; administration will be covered from the levy income, and the remaining income must all be spent on infrastructure projects.

Although the detail of the levy is still to be determined, modelling of various options shows that the income generated from the levy, ie, the charge to be paid by developers, could range from around £39 million to £75 million per year. Modelling and research to date has factored in development viability in defining the level of income that could be generated, recognising the need to avoid any adverse market impacts.

12. Do nothing

The proposals set out in the Bill are largely independent, and for the most part any of them individually could be omitted. However, the overall package is designed, with wider reforms, to strengthen the planning system as a whole.

Sectors and groups affected:

Scottish Government
Local Authorities
Developers
Landowners
Communities
Individuals

Benefits:

The independent review made clear that the planning system in Scotland has important strengths, and there are examples of good practice around the country. However, it also identified the need to make improvements to enable the planning system to better serve all of Scotland's communities and to support sustainable and inclusive economic development. Failure to make these improvements would leave the system as it is, caught up in continuous preparation of layers of plans and unnecessary process, with insufficient resources to focus on delivery and community engagement.

If any of the individual proposals set out in the Bill were to be omitted, the expected benefits attributable to those proposals would not be realised. However, it would also be likely to impact on the delivery of the package as a whole, as it would leave weaknesses that would detract from achieving a more streamlined and certain system overall.

Costs:

Doing nothing would fail to achieve the savings anticipated, and so would not free up the expected resources to focus on more productive activities such as supporting delivery of development.

Scottish Firms Impact Test

23. A substantial number of businesses and industry representative bodies have participated in the Working Group discussions. Following the “Places, People and Planning” consultation, questionnaires were circulated to these members of the Working Groups seeking more detailed information on the current costs of various activities and views on the potential impacts of the reform proposals.

Competition Assessment

24. We do not believe that our proposals will have an impact on competition. They will impact equally on all developers. Where relevant the impact will be in proportion to the size or complexity of any given development or proposed development.

- The proposals will not directly or indirectly limit the number or range of suppliers in the development sector
- The proposals will not limit the ability of suppliers in the development sector to compete
- The proposals will not limit suppliers’ incentives to compete vigorously
- The proposals will not limit the choices and information available to consumers

Test run of business forms

25. No new business forms are introduced by the Bill itself. Where new forms are required under secondary legislation these will be subject to separate impact assessment.

Legal Aid Impact Test

26. We do not believe that the proposals in the Bill will have an impact on the legal aid fund.

Enforcement, sanctions and monitoring

27. The Bill introduces only minor amendments to the system of planning controls, which local authorities are responsible for enforcing. Where new duties are placed on planning authorities these will be monitored by the Scottish Government, supported by the National Planning Performance Co-ordinator created through the Bill. The Scottish Government will continue to work with the High Level Group on Planning and other stakeholders to consider how the new arrangements are being implemented and their effectiveness.

Implementation and delivery plan

28. A full timetable for implementation will be set out after the Bill completes its passage through the Scottish Parliament, taking account of any changes made during that process.

Post-implementation review

29. The current review of the planning system was initiated prior to the 10 year anniversary of the Planning etc (Scotland) Act 2006. We will continue to monitor the implementation of any proposed changes to ensure that the intended outcomes and benefits are realised. It is currently expected that a review will be undertaken 10 years from the date of the Bill coming into force unless compelling reasons dictate either one being conducted before or outwith that timescale.

Summary and recommendation

30. We recommend that all options are brought forward to so that the planning system can reach its full potential to deliver the inclusive growth which we all want to see in Scotland.

Summary table of costs and benefits

Option	Total benefit per annum: - economic, environmental, social	Total cost/ saving over 10 years: - economic, environmental, social - policy and administrative
1	<p>Simpler structure and consistency to plans. Removes need for local plans to repeat national policy.</p> <p>Greater stability and certainty as to future direction, with scope for updating without full review.</p> <p>Flexibility for authorities to work collaboratively as suits their needs.</p>	<p>£2,239,000 saving for local authorities</p> <p>£462,909 saving for Scottish Government.</p>
2	<p>Reduced time spent on producing plans, greater focus on place.</p> <p>Resources redirected to implementation and delivery</p> <p>More settled vision for how an area will develop.</p> <p>Consistent prioritisation of council and partner policy objectives.</p> <p>More joined up and effective community engagement, better feedback on changes to plan.</p> <p>Issues resolved at an early stage before plan is prepared.</p>	<p>£2m saving for Scottish Government</p> <p>£21.42 - £31.5m saving to local authorities – expected to be redirected to activities required by regulations.</p>
3	<p>Enhanced community engagement in defining the future of their places; opportunity to link with other activity.</p> <p>Flexible approach allowing local variation.</p> <p>Process for inclusion in LDP supports reliability and certainty of development plan.</p>	<p>Cost of £12m to communities, monetised cost including volunteer time and practical support.</p>
4	<p>More effective delivery of development: greater certainty for developers, could support alternative housing models.</p> <p>Updated approach allows use in more circumstances and inclusion of other consents.</p> <p>Strong community engagement and assessment of environmental / heritage impacts.</p> <p>Discretionary charging could address issues over costs to planning authority, where appropriate.</p>	<p>Cost of £330,000 to £660,000 to local authorities for annual reporting.</p> <p>Cost of preparing a scheme: £15,000 to £200,000 – for authorities to consider balance of costs and benefits.</p>
5	<p>Support delivery of good-quality development. Quicker and simpler processing and clarity for developers and communities.</p>	<p>None.</p>
6	<p>Ensures PAC is still relevant when planning application is submitted.</p> <p>Provides feedback to community on engagement.</p> <p>Avoids unnecessary repetition of PAC.</p>	<p>None</p>

7	More decisions made at local level.	Saving of £348,000 to Scottish Government. Cost of £275,000 to £420,500 to local authorities. Some small savings to applicants.
8	Provides scope for better resourcing of planning services, leading to improved performance.	Detailed proposals to be set out in regulations.
9	Better quality of decision making, supporting public trust in the planning system.	Set up costs of £10,000 - £15,000 to Scottish Government. No change in costs to authorities.
10	Better monitoring and support to improve performance, supporting more effective planning system.	Cost of £846,250 to Scottish Government for Planning Performance Co-ordinator. Cost of £50,000 to Scottish Government for assessments, assuming one every 2 years.
11	Better funding for infrastructure to support delivery of development. Transparency and certainty for developers and local authorities. Fairer system to secure contributions to infrastructure costs across wider area.	Start-up costs of £450,000 to Scottish Government. Ongoing costs of administration covered by income / existing resources. Illustrative cost to developers £350m to £750m.
12	No benefits secured. System continues to focus on process rather than delivery and effective engagement. Continued shortage of funding for planning system and for infrastructure.	Failure to achieve savings (while avoiding new costs) results in cost to Scottish Government of £1,025,231, cost to local authorities of £22,578,500 - £33,133,500. Saving to developers from no infrastructure levy £350m to £750m. Saving to communities if no local place plans of £12m.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date:

6/2/2018

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