

Consultation Title: Places, people and planning: A consultation on the future of the Scottish planning system

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To: planningreview@gov.scot

From: Scottish Land & Estates
Stuart House
Eskmills
Musselburgh
EH21 7PB

Telephone: 0131 653 5400

E Mail: gavin.mowat@scottishlandandestates.co.uk

Scottish Land & Estates is a member organisation that uniquely represents the interests of both land managers and land-based businesses in rural Scotland. Scottish Land & Estates has members with interests in a great variety of land uses and welcomes the opportunity to respond to this consultation.

We recognise the critical role that planning can and should play in developing Scotland's rural communities, both in terms of housing provision and opportunities for business growth and infrastructure development. Scottish Land & Estates has long held the view that the public should be encouraged to get involved in planning policy and the plan led system at an early stage and we therefore hope that this planning review can deliver enhanced community engagement at the beginning of the planning process. We, like others, would also like to see a greater level of consistency and efficiency on decision making within the planning system which will enable delivery and therefore support sustainable development within Scotland's rural communities.

Scottish Land & Estates continues to call for greater links between policy areas such as the Land Use Strategy, the Draft Climate Change Plan and this planning review. We believe that planning should not be a barrier to development rather an enabler and that this can be better achieved by thinking collectively across various government departments.

The 2009 planning reforms coincided with economic crash. Consequently, small housebuilders are still struggling and yet it is smaller sites that will be the key to making significant progress on the Scottish Government's ambitious housing targets. We want to see a planning system that does not further burden small and medium developers with more costs but instead incentivises them. Equally we want to see the role that landowners

play in the planning system better recognised. In particular, the role of landowners in taking forward visionary developments including new settlements and driving up standards in design and place making should be more widely recognised and encouraged.

General Comments

While we cannot argue with the sentiment of the aims of the consultation (namely; making plans for the future; people make the system work; building more homes and delivering infrastructure; and stronger leadership and smarter resourcing), we do have concerns over a general lack of detail as to how these aims will be achieved and we believe this only results in raising more questions than it does provide solutions. For example, we agree with the fundamental principle of community engagement in planning, but how will we ensure that the proposals encourage more people to participate than just those who have always tended to get involved?

We fully agree that housing is an integral part of rural development and recognise that it is a fundamental aim of the Scottish Government to deliver 50,000 more affordable homes within the life time of this parliament. However, the Rural economy is also dependent upon non-residential development and we are concerned that there is a lack of emphasis within the consultation on other developments such as energy and waste plant.

It is also interesting that the consultation proposes removal of Strategic Development Plans (SDP) when not all of the second SDPs have been adopted. We would have expected more time to be given for the SDPs to reach their potential, especially given the Scottish Government's [Strategic Development Plan Review](#) in 2014 states that "planners, politicians, agencies and communities are still learning how to operate the new SDP system as it beds in." Similarly, we have only recently achieved full coverage of adopted LDPs in Scotland. There is a general concern that the current round of planning reform is happening before the existing system has had a chance to perform at its optimum.

We are concerned that the proposal for fast tracked applications could create a two-tiered planning system which puts small developers and landowners at a significant disadvantage to large developers – this goes against the aim of delivering diverse development.

Developments on allocated sites can sometimes face council opposition from elected members where objecting communities have been particularly vociferous. This causes significant upheaval and prevents delivery in the planning system. It must be ensured that elected members are well trained and briefed on the necessity of standing by their Development Plans. Decisions taken that are inconsistent with the Development Plan create uncertainty and unnecessary planning delays. There was an expectation that there would be a culture change in the system, particularly in the context of local authorities. Scottish Land & Estates, along with other stakeholders, has not identified anything that would suggest that the previously envisaged, or currently proposed, culture change will be achieved.

A) Do you agree that our proposed package of reforms will improve development planning? Please explain your answer.

Whilst we agree that spatial planning and community planning should be more aligned, we would argue that a clear hierarchy is needed in order to allow professional planners to lead and innovate within a plan-led system. We agree that there should be a statutory link between the development plan and community planning. This link could be achieved by

Community Planning Partnerships taking the development plans into account rather than the other way around – this would very much depend on the timing and process involved. It is essential that the Community Planning Partners are fully engaged in the development of the Development Plans and have their plans aligned. As stated above, Scottish Land & Estates does not feel that the SDPs have been given sufficient time to make the desired impact. If regional priorities are to be set at the national level through the National Planning Framework (NPF) we feel that could raise the possibility of local push-back.

Improved regional partnership working is a desirable goal and it is one which Scottish Land & Estates supports. We agree with the idea of a gatecheck process, but we would suggest that it is done after the draft plan consultation stage. Ideally it would be limited to consideration of the representations on certain fundamental points (e.g. housing land requirement, distribution of development strategy) and that the outcome must be binding for local authorities.

Overall there is a concern that the aim of these reforms, to speed up the delivery of essential housing, will not be best addressed by the measures put forward.

1) Do you agree that local development plans should be required to take account of community planning?

Scottish Land & Estates agrees with the premise that there is a need for a stronger link between spatial and community planning. It is essential that the Community Planning Partners are fully engaged in the development of the Development Plans and have their plans aligned.

2) Do you agree that strategic development plans should be replaced by improved regional partnership working?

Improved regional partnership working is a desirable goal. However, as already stated, Scottish Land & Estates does not feel that the SDPs have been given sufficient time to make the desired impact. In addition, their removal raises questions of where critical parts of the SDP will go within the process or if they will be retained at all. We would therefore like to know in more detail how functions provided by the SDP are to be retained through the NPF. For regional partnership working to be effective Scottish Land & Estates would like to see formal arrangements such as an obligation to work with neighbouring planning authorities and a legal obligation on infrastructure providers to engage with this process.

a) How can planning add greatest value at a regional scale?

Regional scale value can be gained by early and joined up working between council departments and other infrastructure providers. We believe that cross-boundary working, particularly for infrastructure and housing, will add greatest value.

b) Which activities should be carried out at the national and regional levels?

Scottish Land & Estates is generally supportive of centralisation of housing supply targets and delivery plans. However, we do have concerns that whatever activity is designated at national level there is always the possibility for local push-back if communities feel their views have not been properly considered. We are also concerned that a centralised

approach might favour large scale urban housing developments to the detriment of rural development. It is essential that the rural perspective is strongly represented in the NPF and especially in the SPP. The current SPP does not appropriately address the needs of rural communities and should be reviewed to take on board policies which actively promote appropriate development to energise rural communities. This is particularly important for the self-build and small developer-led projects which struggle in current market circumstances and with current rural planning policies but which could be supporting the government's self-build agenda and smaller local developers.

c) Should regional activities take the form of duties or discretionary powers?

We believe they should take the form of duties.

d) What is your view on the scale and geography of regional partnerships?

Scottish Land & Estates is supportive of the development of a Scottish Rural Infrastructure Plan within this context, perhaps in conjunction with the existing City Region Deal areas in order to redress the current imbalance of activity and funding.

e) What role and responsibilities should Scottish Government, agencies, partners and stakeholders have within regional partnership working?

Leadership should be provided by strong national policies focused on delivery which require infrastructure providers to understand their network capacities and to plan ahead strategically and in line with the Development plan system.

3) Should the National Planning Framework (NPF), Scottish Planning Policy (SPP) or both be given more weight in decision making?

Scottish Land & Estates has always advocated a more statutory footing for Scottish Planning Policy. Both the NPF and SPP should be on an equal statutory footing with more weight in decision making. If Local Plans are to be less policy focused, then the SPP will need to fill that gap and likewise if the NPF is to take on the role of the SDP then it should have a level of importance to reflect. There is a danger that this approach could become very 'broad brush'. We would also reiterate what we have said in our answer to 2(b) above. The rural perspective must be strongly represented in both the NPF and SPP.

a) Do you agree with our proposals to update the way in which the National Planning Framework (NPF) is prepared?

As above, we broadly agree. Local aspirations must be given careful consideration when creating regional planning priorities within the NPF. We have concerns about the 10-year cycle being applied to both the NPF and the local development plans. This could provide a very unwieldy and unresponsive system.

4) Do you agree with our proposals to simplify the preparation of development plans?

Simplification of the preparation of development plans is a good idea. The replacement of the Main Issues Report (MIR) with a new Draft Plan presents an opportunity to improve upon the vague nature of its current format and could assist in streamlining and simplifying the system. It is our view that removing supplementary guidance and extending the review cycle to 10 years would not be in the best interests of improving the preparation of development plans. Regular reviews of the current LDPs have provided a more responsive system where lessons learned can be implemented quickly. Expertise and guidance will always be required no matter the improvements in training and capacity provided for those involved in the system. Therefore, the question remains, where will this guidance be located if not in the supplementary guidance?

a) Should the plan review cycle be lengthened to 10 years?

Scottish Land & Estates does not take the view that lengthening the review cycle to 10 years would be a good idea. We repeat our comments in question 4 above. The regular reviews of current LDPs have provided a more responsive system where lessons learned can be implemented very soon. We believe that there are usually too many changes taking place within a ten-year timeframe. We agree that developing a plan can be quite onerous and time consuming, but we believe it to be worthwhile if plans are to reflect the changing nature of Scotland's local communities. If it is reviewed too often, there is no certainty, if it is only reviewed every decade there is little room for flexibility. We suggest keeping the current timescale but adding to it the potential to have 'long sites' within that plan. This approach has been best used in Moray Council with their award winning "Long" policy where sites are allocated "Long" in the current plan and certain triggers are set out within policy which means that that land can be released under specific circumstances. These circumstances include an under-supply in the housing land supply audit which is considered annually. This gives the public long term indications of where growth is planned for, gives communities time to get used to fact that the land will be coming forward for development in due course and gives landowners, developers and local authorities comfort in being able to masterplan and invest in promoting the land concerned with a good degree of certainty. In this way certainty and managed flexibility can be built into the plan.

b) Should there be scope to review the plan between review cycles?

There should be scope to review the plan between review cycles and the triggers for this should be clearly set out. This should be combined with the inclusion of "Long" sites as described above. If there is a move to a 10-year cycle the need for regular review will be absolutely essential.

c) Should we remove supplementary guidance?

We have concerns that Supplementary Guidance has not worked as well as it should. In some instances it has been used inappropriately by Local Planning Authorities to bring through detailed policies which have a significant impact on development but is not subject to a rigorous process of consultation and review unlike the Development plan. We do, however, believe that it would be difficult to build in any form of flexibility into the 10-year plan system without supplementary guidance. There are a myriad of complex issues covering numerous subjects that need specific knowledge or experience to enable the process to work smoothly. Supplementary guidance contains important content, particularly at local level and removing it could be counter-productive to the aim of streamlining the process. Although there is a greater emphasis on training of non-professionals within the

proposals, there will still be a significant need for guidance to be incorporated into plans. Removal of supplementary guidance could result in plans being less understandable and accessible. We feel that it would be better to retain supplementary guidance but make it subject to greater scrutiny.

5) Do you agree that local development plan examinations should be retained?

Yes, but the need to use them should be significantly reduced by the gatecheck process.

a) Should an early gatecheck be added to this process?

A gatecheck is a good idea. We would like to see the gatecheck come after the draft plan consultation and we believe that its outcomes should be binding. It is our view that a gatecheck would serve to limit unresolved objections and increase community confidence in plans by dealing with the fundamental aspects at an early stage.

b) Who should be involved?

We agree that the gatecheck should be carried out by an independent reporter. Scottish Land & Estates believes developers and other stakeholders should have the opportunity to engage in the gatecheck process particularly if the outcome of the gatecheck will be to remove certain issues from further discussion at the public examination stage.

c) What matters should the gatecheck look at?

We believe that the gatecheck should consider the representations on certain fundamental points (e.g. housing land requirement, distribution of development strategy etc.)

d) What matters should be the final examination look at?

Agree with proposals, but generally all outstanding issues.

e) Could professional mediation support the process of allocating land?

We believe there is some potential for this.

6) Do you agree that an allocated site in a local development plan should not be afforded planning permission in principle?

While we recognise that planning permission in principle for allocated sites does have some merit, we think there would be too much risk involved. This approach would place a significant onus on the provision of extensive amounts of information up front in the Development Plan process when a site is not yet allocated and therefore the site promoter is incurring significant costs at risk. There would be a huge outlay prior to the call for sites, it would bring greater disputes to the LDP stage and the limited benefits would not outweigh the extra time and complexity this proposal would add. We feel Simplified Planning Zones (SPZ) are a better approach.

7) Do you agree that plans could be strengthened by the following measures:

a) Setting out the information required to accompany proposed allocations

Yes, a standardised approach would be welcome but this must also be realistic and proportionate given the level of risk at this point for anyone promoting a site through the development plan process.

b) Requiring information on the feasibility of the site to be provided

We agree in principle with this, but any information should not be too onerous that it discourages applicants. As stated above, this must be realistic and proportionate given the level of risk at this point for anyone promoting a site through the development plan process.

c) Increased requirements for consultation for applications relating to non-allocated sites

Rather than have hurdles for unallocated sites, Scottish Land & Estates would prefer to see hurdles removed for allocated sites. It is worth mentioning again that sites allocated for development can face opposition where communities have been particularly vociferous in objecting. This can lead to a lack of delivery in the planning system.

d) Working with the key agencies so that where they agree to a site being included in the plan, they do not object to the principle of an application.

There is merit in this proposal in that it requires the agencies to engage at an early stage in the planning process. However, there must be some finesse applied to this as it neglects to take into account the possibility of a fundamental change in circumstance.

8) Do you agree the stronger delivery programmes could be used to drive delivery of development?

We believe the proposals are unlikely to improve infrastructure delivery. Stronger delivery programmes should be positive and not punitive. 'Taxing' or threatening CPOs is not likely to deliver development. Instead focus should be on getting infrastructure providers to be more strategic and careful in their approach to planning for infrastructure and working with planning departments to coordinate development and infrastructure delivery.

a) What should they include?

As above. Also, there should be monitoring by independent auditors and sanctions for planning authorities that do not deliver. (more in Q30).

B) Do you agree that our proposed package of reforms will increase community involvement in planning? Please explain your answer.

Scottish Land & Estates believes that the proposals will certainly increase *opportunities* for community engagement – but that they will not necessarily result in increased involvement. The proposals raise the question of how to ensure that, where appropriate, communities work with the development plan to deliver development rather than oppose it. If we take the English example of Neighbourhood Plans (NP) as a comparison to the proposals for Local Place Plans, it is clear that there is a wide disparity in terms of awareness about the NPs in

England. At least 50% of the community need to support the NP before it can become adopted, but turnout in the referendums tends to be around 30%. Additionally, some parish councils have started the NP process only to find that it badly divides the community and they have decided not to take it any further. We believe that communities should be able to choose their priorities of need – then they can see what development can potentially offer them. We are also concerned that this will likely add pressure on local authorities that will find themselves having to allocate more resources to facilitate extra community engagement.

9) Should communities be given an opportunity to prepare their own local place plans?

Yes, but with clearly laid out parameters to ensure they do not unreasonably obstruct development. Local Place Plans (LPP) have to be about more development and not less development. We welcome the first bullet point under “Plan preparation” (fig. 1) and suggest that in order to ensure that the LPP complies with the LDP and NPF/SPP it might be worth doing a similar gatecheck perhaps before the LPP goes to a referendum. The LPP should not divert focus from the community involvement in the LDP and lessons from the English Neighbourhood Plans, as outlined previously, should be carefully considered.

a) Should these plans inform, or be informed by, the development requirements specified in the statutory development plan?

As above, Scottish Land & Estates believes that Local Place Plans should be informed by the development requirements of the statutory development plan (i.e. after the gatecheck on the Draft Plan representations when parameters are known). This will help avoid community plans becoming single issues for those who are anti-development.

b) Does Figure 1 cover all of the relevant considerations?

As above, we would like to see an equivalent gatecheck for compliance with the following bullet point: “...They must make sure that the plan is: generally in line with local and national planning policies and other legislation; that they consult their community and get their approval; and that the plan plays a positive role in delivering development.”

10) Should local authorities be given a new duty to consult community councils on preparing the statutory development plan?

Yes, although most already do this and have done for a considerable time.

a) Should local authorities be required to involve communities in the preparation of the Development Plan Scheme?

This could be discretionary. The Development Plan Scheme is largely an information document. Many local authorities are doing a significant amount of consultation through their development plan process already. We do not consider that this is a useful step to add as it will absorb more resources that could be best applied elsewhere.

11) How can we ensure more people are involved?

Scottish Land & Estates does not believe there is an easy answer to this question. We agree with a focus on young people. More involvement at school level such as incorporating planning into education, perhaps through Curriculum for Excellence, giving children the opportunity to experience creating plans. This may give them an enthusiasm that they take into adult life. While focusing on young people there is an opportunity to make planning a more interactive and engaging experience through social media. Additionally, if we give planning a more prominent role in council hierarchy, like has happened in Dundee, then there is more of a focus from the local authority to create inspiring places (Dundee waterfront project) – which in turn might inspire people to get involved in the process. This would very much depend on getting the right high-quality leadership to meet the particular circumstances of an area.

a) Should planning authorities be required to use methods to support children and young people in planning?

Yes

12) Should requirements for pre-application consultation with communities be enhanced? Please explain your answer(s).

The current process and opportunities are robust and understood. It is not clear what benefits are to be gained from increasing these. Priority should be given to improvement of neighbour notification practice.

a) What would be the most effective means of improving this part of the process?

As there is now the ability to target advertisements to Google users based on previous searches perhaps it would be possible to create a 'local notice board' of applications based on the same technology.

b) Are there procedural aspects relating to pre-application consultation (PAC) that should be clarified?

c) Are the circumstances in which PAC is required still appropriate?

Where an application is just for the infrastructure elements of a development, for example, the detailed drainage and road design AMC, it should not require pre-application consultation.

d) Should the period from the serving of the Proposal of Application Notice for PAC to the submission of the applications have a maximum time-limit?

No, as long as the PAC has been done.

13) Do you agree that the provision for a second planning application to be made at no cost following a refusal should be removed?

On the basis that the substantial information will already have been reviewed with the initial application and the second application is likely to only involve tweaking of the elements which caused the refusal, it seems unnecessary to charge a full planning fee for this. A significantly reduced fee would reflect the lesser level of work required by the planning authority in reconsidering the application.

14) Should enforcement powers be strengthened by increasing penalties for non-compliance with enforcement action?

We would argue that proper and proportionate use of powers currently held by local planning authorities are not being fully utilised. Any additional fines should be ring-fenced to improve the service.

15) Should current appeal and review arrangements be revised:

The categories of developments considered by Local Review Bodies (LRB) and Division for Planning and Environmental Appeals (DPEA) should remain the same. It is essential that major applications receive proper review by an independent body which is not involved with local politics. The opportunity to have the application considered purely on the planning merits of the case is essential. In relation to applications going to LRB, the emphasis must be on independent review by thoroughly trained councillors.

a) For more decisions to be made by local review bodies?

We do not agree with this proposal. While local decision making is important, it is essential that national planning priorities are also considered and therefore it is essential that major applications are considered by an independent party focused on the planning merits of the case and not local political considerations. Capacity at a local level also remains an issue as is the lack of the promised 'culture change' at local authority level to justify support for this proposal.

b) To introduce fees for appeals and reviews?

At present the appeals process can be expensive. Any additional fees should be reasonable and not disproportionate. There are still a large number of appeals being thrown out of the DPEA because people are making appeals through the wrong route. There is a lack of clarity between local and major developments, circular or regulations, and site area or development land. The introduction of modest fees could be a way of creating a gate check to make sure that an application is being directed to the correct body.

c) For training of elected members involved in a planning committee or local review body to be mandatory?

We welcome additional training and agree that it should be mandatory. If funds for this are to come from additional fees then delivery and impact must be effectively monitored. Scottish Land & Estates would also like to see an Improvement Service which could include

a course for planning authority members and officials that covers understanding of rural industries such as agriculture and forestry as well as understanding of market/development economics.

d) Do you agree that Ministers, rather than reporters, should make decisions more often?

We are of the view that reporters should carry out the majority of decisions.

16) What changes to the planning system are required to reflect the particular challenges and opportunities of island communities?

We would consider this question more appropriate if it was framed in the context of rural communities rather than just island communities. It would be worth considering a 'rural first' approach particularly in relation to infrastructure development. Fundamentally the NPF and the SPP must respect the scale and significance of rural areas as we have outlined in our answers to questions 2 and 2(b)

C) Will these proposals help to deliver more homes and the infrastructure we need?

Scottish Land & Estates is of the opinion that it ultimately comes down to how the Local Development Plans are prepared. Sites are held up because of lack of education provision, water infrastructure, transport infrastructure etc. We would suggest that as a bare minimum education provision should always be considered when developing a Local Development Plan – something which already happens at Perth & Kinross Council. We believe that the NPF should already be ensuring that local authorities adhere to their plans.

17) Do you agree with the proposed improvements to defining how much housing land should be allocated in the development plan?

We believe these proposals lack detail. There should be a clear definition of what effective housing land is that local authorities can buy into. There needs to be a clarity on whether there will be a distinction between short and long term sites.

18) Should there be a requirement to provide evidence on the viability of major housing developments as part of information required to validate a planning application?

We are concerned that this could result in a planning technician registering an application to assess whether viability had been addressed. It is not clear what the benefit would be of this approach.

19) Do you agree that planning can help to diversify the ways we deliver homes?

Yes, planning should be key to this. The Planning process can support rural housing and self-build homes by creating more flexible rural housing policies. For instance, allocating

building plots for Private Rented Sector build to rent; more flexible approaches to roads and lighting requirements can be taken for smaller rural housing developments and rural developments can utilise innovative building methods. However, this needs a supportive planning framework.

a) What practical tools can be used to achieve this?

As above.

20) What are your views on greater use of zoning to support housing delivery?

SPZs could have potential if allocated in a careful and well-planned way. Scottish Land & Estates does not feel that developers should bare sole responsibility for costs. It is also important that the making great places agenda is not forgotten. We would like to be able to refer to the pilots being carried out in order to make a proper assessment of how zoning can help support housing delivery. We would also make the point that zoning should not just be restricted to housing.

a) How can the procedures for Simplified Planning Zones be improved to allow for their wider use in Scotland?

Broadly agree with suggestions in Fig. 2.

b) What needs to be done to help resource them?

Instead of relying solely on developer contributions we believe that an element of central government funding would be appropriate.

21) Do you agree that rather than introducing a new infrastructure agency, improved national co-ordination of development and infrastructure delivery in the shorter term would be more effective?

We are concerned that improved co-ordination may not have the 'teeth' and accountability required to develop and deliver infrastructure. The current system is not working especially as councils seek to use Section 75 funding to solve existing problems rather than solely address the effects of development. With an upgraded NPF that clearly identifies the major infrastructure projects, perhaps a genuine arms length public/private partnership agency could take on the delivery of those major infrastructure projects.

22) Would the proposed arrangements for regional partnership working support better infrastructure planning and delivery?

As it stands we feel that the proposals would not have the desired effect. There needs to be more structure and focus.

a) What actions or duties at this scale would help?

23) Should the ability to modify or discharge Section 75 planning obligations (Section 75A) be restricted?

No. It would be a significant retrograde step to return to a situation where Section 75 agreements could not be appealed or modified or discharged. It is not clear that there is a significant problem arising from the current situation which requires this rather drastic step. There has not been a flood of applications of this nature, and only a small proportion of those are concerned with developer obligation payments. So we do not believe there is a requirement for this change. If planning authorities ensure that planning obligations meet the necessary policy tests in the first place, then they should not have any concern about the current system. The ability to modify or discharge Section 75 obligations has been very helpful in delivering development, a key aim of this review. If the ability to apply to modify or discharge a Section 75 agreement is removed, this will significantly slow down the processing of planning applications as applicants take much longer to agree developer obligations knowing that there is no route to review these should circumstances change.

24) Do you agree that future legislation should include new powers for an infrastructure levy? If so,

Not enough information is available to comment on the pros and cons of an infrastructure levy at present. This should form its own specific consultation.

a) At what scale should it be applied?

See above.

b) To what type of development should it apply?

See above.

c) Who should be responsible for administering it?

See above.

d) What type of infrastructure should it be used for?

See above

e) If not, please explain why.

25) Do you agree that Section 3F of the Town and Country Planning (Scotland) Act 1997, as introduced by Section 72 of the Climate Change (Scotland) Act 2009, should be removed?

There have been issues with implementing this requirement in Development Plans and an over-focus on the use of renewable technologies in developments. However, this could be replaced by national guidance in SPP for development plans to require developments of a certain size (e.g. major housing, employment and larger public sector developments) to

provide an Energy Strategy document that addresses a zero-carbon goal through improved building standards such as Passiv Haus design, and or renewable energy and or low carbon technologies. This would enable the subtleties of specific developments and sites to be taken on board. The assessment of these documents would require an increase in skills by planning officers or their counterparts or by an independent consultant. The proposed increase in fee levels could pay for this.

D) Do you agree the measures set out here will improve the way that the planning service is resourced? Please explain your answer.

We appreciate the need for the planning service to recover costs and this is reflected in our response to the recent 'consultation on raising planning fees'. It is not clear how higher fees for retrospective planning applications will be determined and it remains equally unclear whether this will be in policy or for allocated sites. With regards to charging for appeals and reviews of decisions these charges could be refunded if they are successful. Higher fees for retrospective applications and applications relating to sites not supported by the LDP must be proportionate and there must be clarity on when it kicks in. In conjunction with our response to the consultation on higher fees we would expect that any further increase in fees is ring-fenced to provide improvements to the planning service. On statutory consultees, we are concerned that local authorities are not getting the expertise and service required.

Scottish Land & Estates is very concerned about the proposal for an enhanced or fast track service at extra cost. We believe this will lead to a two-tier service, queue jumping and it will bring the systems integrity into question. Moreover, it will only serve to benefit the large developers who can afford to pay at the expense of the smaller and medium developers.

26) What measures can we take to improve leadership of the Scottish planning profession?

27) What are the priorities for developing skills in the planning profession?

Early introduction to the planning profession through education. This could have knock on effects for both improving leadership within the profession and to encourage better multidisciplinary working between built environment professionals. Increased understanding amongst professionals of modern business practices, especially in relation to land based businesses. There is a need for planning officers and members to be trained in assessing viability of developments, development economics, and particularly how modern agriculture functions.

28) Are there ways in which we can support stronger multidisciplinary working between built environment professions?

29) How can we better support planning authorities to improve their performance as well as the performance of others involved in the process?

There must be statutory requirements for other public agencies to engage meaningfully with the plan-making process at an early stage so that places and infrastructure is planned well in advance and everyone know the requirements. If planning fees are to be raised significantly, then it is essential that these fees are ring fenced to provide a vastly improved planning process. Raising awareness is key.

30) Do you agree that we should focus more on monitoring outcomes from planning (e.g. how places have changed)?

Yes

a) Do you have any ideas on how this could be achieved?

We would expect genuine performance monitoring with effective sanctions in order to justify the increase in fees. There could be a system of SMART performance measures that are regularly published and audited. If performance does not meet required standards, there should be sanctions – that could be anything from a fine for the planning authority, a fine for the relevant Head of Planning, putting Development Management functions of underperforming councils out to tender, or requiring a transfer of staff to the statutory functions.

31) Do you have any comments on our early proposals for restructuring of planning fees?

As previously suggested, ring-fence funding so that all fees go back into making improvements to the system. Scottish Land & Estates is also of the opinion that any fee increases should be subject to a staged introduction and staged fee payments. We feel there should also be pay-backs if decisions are delayed.

32) What types of development would be suitable for extended permitted development rights?

Scottish Land & Estates is interested to see the detailed proposals for how extended permitted development rights could be implemented. In order to re-ignite the change of use of farm buildings into housing planning authorities could exempt steading conversions from developer contributions, particularly for affordable housing.

Scottish Land & Estates proposes:

- Increasing PD rights to cover conversion of vernacular buildings such as farm steadings for both housing and business units;
- Increasing PD right size for agricultural sheds from 465sq m to 1,000sq m. (this size is required given the changes in modern agriculture practices which involve much larger vehicles and machinery that in previous years);
- We do not believe that extending PD rights for polytunnels would be the correct course of action at this point. We believe it would be more appropriate for the Scottish Government to issue guidance for local authorities and to address the inconsistency of application fees charged.

The prior notification approach could still apply and therefore Planning authorities could have an opportunity to request an application.

33) What targeted improvements should be made to further simplify and clarify development management procedures?

a) Should we make provisions on the duration of planning permission in principle more flexible by introducing powers to amend the duration after permission has been granted? How can existing provisions be simplified?

Scottish Land & Estates would like to see the ability to apply to extend timescales on applications without the need for a formal renewal in cases where it is clear that there are substantive reasons for the timescales to be extended. A submission could be made to the planning authority making the case for an extension of timescale rather than a renewal and the planning authority could take a view on this in line with a set of agreed criteria set out in the development plan or in regulations. This would provide a more transparent mechanism to replace the current use of Section 42 applications for modification of conditions to extend the lifetime of consents.

b) Currently developers can apply for a new planning permission with different conditions to those attached to an existing permission for the same development. Can these procedures be improved?

These procedures need to be clarified as the current use to make a consent more possible to implement is entirely valid. The other use, to extend the life of the consent, by creating a new consent is a useful device but could be improved by allowing a straightforward application to change the timescale on a consent. See answer to 33 a) above.

c) What changes, if any, would you like to see to arrangements for public consultation of applications for approvals for detail required by a condition on a planning permission in principle?

There should not be a requirement for consultation on detailed infrastructure applications for developments where it relates purely to land profiling, drainage and internal roads.

There could be a procedure for agreeing with planning authorities when consultation is not required.

d) Do you have any views on the requirements for pre-determination hearings and determination of applications by full council?

34) What scope is there for digitally enabling the transformation of the planning service around the user need?

Consultation Response

The usual restricted access to digital networks remains a significant barrier for remote rural areas and therefore their ability to contribute to the planning of their own places in this context would be restricted.