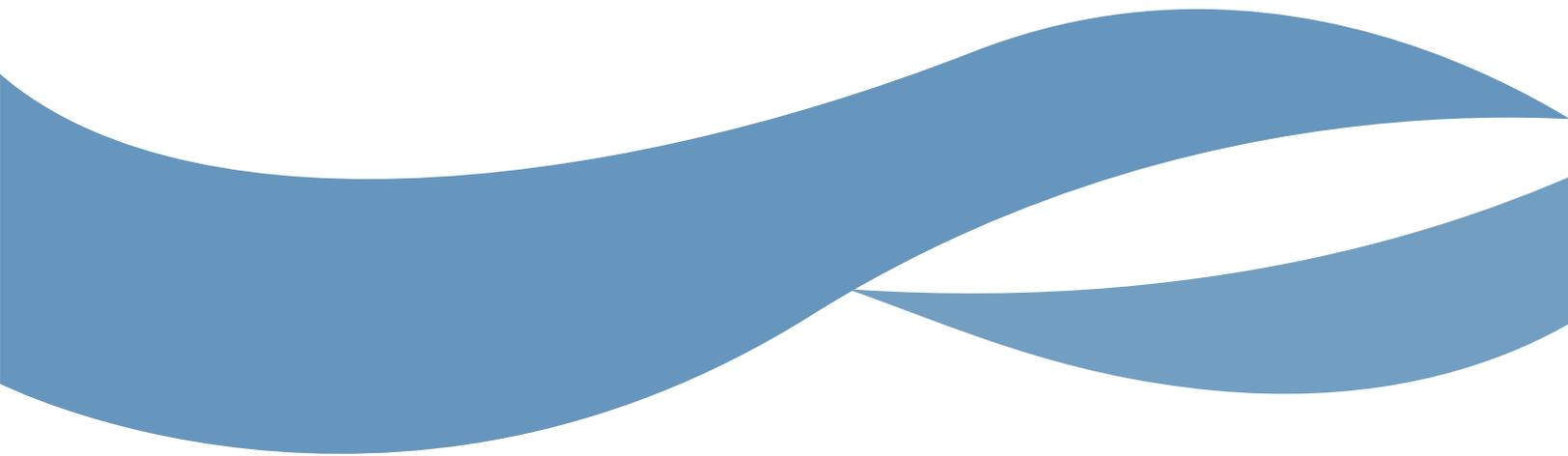


Scottish Planning Policy Housing & Housing – Technical Consultation

09/10/2020

About Scottish Land & Estates

At Scottish Land & Estates (SLE) our work helps to ensure that rural Scotland thrives. We are a membership organisation for landowners, rural businesses, and rural professionals. We promote the wide range of benefits land-based businesses provide: tourist attractions, leisure facilities and landscapes enjoyed by the public, as well as housing, employment, tourism & enterprise and farming opportunities. We represent the interests of our members and wider rural Scotland to the UK and Scottish Governments to help ensure that policy and legislation reflects the unique requirements of rural Scotland and its communities.



Introduction

It is stated that the intention of this consultation is to ‘clarify specific parts’ of the SPP, yet the proposed removal of the presumption in favour of sustainable development (‘the presumption’) is not a clarification but a wholesale deletion of a significant cornerstone of the planning system in Scotland. We do not consider this is a reasonable or proportionate approach to addressing perceived transparency issues, which are likely borne out of a lack of understanding of the discretionary nature of the planning system in Scotland.

Since lockdown began, developers are reporting increased demand for homes with gardens and space to work from home. We are not confident that existing (and fast becoming outdated) development plans will have identified suitable unconstrained land where such homes could be built in time to meet development plan targets and we therefore do not see why developers should not be given planning permission by applying the presumption to fulfill the policy objective of delivering enough homes. In addition, this will also impact the ability to grant permission for other types of development which have not been anticipated by the local development plan, for example, a space port in the Highlands and new renewables installations and infrastructure – this could undermine the green recovery.

We hope that Scottish Government will reconsider this proposal as we do not consider now is an appropriate time to be considering such a fundamental change in the way development is considered, even in the short term.

Question 1: What is your view on our proposal to remove ‘the presumption’ from the SPP, through the changes set out?

We do not agree that the proposed removal of ‘the presumption’ is required. It is our view that applying such a change would reduce much needed flexibility in the system, undermine the principle of a discretionary system, and importantly in such unprecedented times this proposal will unnecessarily bind developers and planning authorities to outdated local development plans which no longer reflect needs and aspirations on the ground.

This proposal also sends mixed messages. On the one hand Scottish Government has included sustainable development as a specific principle in the Purpose of Planning, included in the new Planning (Scotland) Act 2019, yet on the other hand it is proposing to remove a provision which helps underpin the delivery of sustainable development through the discretionary system. This will send confusing signals to everyone involved with the planning system.

Scottish Government research on [Adoption of Scottish Planning Policy in Local Development Plans](#) published only last year noted that, “**the presumption of sustainable development should remain at the forefront of the plan making process.** Policy wording should ensure sufficient weight is given in the Development Management process.”. This proposal goes against the clear findings of this research.

It does not make sense to stick rigidly to a plan-led system when the unprecedented circumstances of COVID mean that more development plans are likely to become out of date and no longer accurately reflect housing demand in an area. The presumption has been highly effective in stimulating sustainable economic growth. This need not lead to development anywhere, at any cost, but it does demonstrate that the planning system aims to facilitate sustainable economic development.

It is noted in the consultation that this aspect of the SPP has caused considerable confusion that undermines the transparency of the system. It is our view that any confusion is generally borne from a lack of understanding of the discretionary planning system in Scotland. Allowing housing development to fulfill demand where effective housing land supply has failed to deliver is a reasonable and legitimate way to achieve sustainable growth in our communities. Any application which relies on this material consideration will still require to obtain planning consent through a considered process. To argue that it undermines transparency is misguided.

The primacy of the statutory development plan in decision-making is not undermined by the inclusion of the presumption. In most cases involving residential development, the presumption only becomes a material consideration if the 5-year effective housing land supply allocated in the development plan fails to be delivered. Where development plans are not being kept up to date it is essential to allow flexibility in the system to allow sustainable development to continue, keeping people in jobs and families in homes during these difficult times. With the 'life' of local development plans being extended to 10 years, the removal of the presumption would leave us with no policy basis for Scottish Ministers to require local authorities to address under-delivery of housing or out-of-date plans. If SPP fails to encourage sustainable economic growth and recovery, then Scotland will potentially be at a competitive disadvantage for inward investment, particularly in the light of the Covid 19 crisis and the Westminster Government's proposed planning relaxations for England.

Given the significant nature of the proposals we are also concerned that, as far as we are aware, no Strategic Environmental Assessment has been carried out to assess impact.

Question 2: What is your view on the proposed changes set out and our aim of clarifying the definition of the 5-year effective housing land supply to reflect the currently exceptional market circumstances?

While attempts to clarify what the effective housing land supply are welcomed, the proposed definition for established housing land supply is a far more useful step to help provide clarity on this than redefining effective housing land supply in a way that is likely to artificially inflate the expected quantum of housing land that will come forward in any Development Plan period.

This proposal would actually increase the effective housing land supply figures by including land that in all likelihood won't deliver any housing due to a number of factors. All this proposal will do is artificially inflate the amount of effective housing land supply, making the hurdle even higher for alternative sites.

There is concern that by failing to take into account programming and marketability, the collaborative nature and purpose of the Housing Land Audit will be lost. In effect, in tandem with the proposed removal of the presumption, the net result will be that rather than clarifying where housing land may come from, the proposed change in definition will wrongly raise expectations of local housing delivery, and act as a further block to favourable, alternative sites being considered under Planners' current discretionary powers.

Question 3: What is your view on the proposed changes to paragraph 125, including (a) the proposed calculation to establish the scale of the 5 year effective land supply in relation to alternatives and (b) the proposed approach to assessing proposals where a shortfall emerges?

We do not support the proposed changes to paragraph 125.

(a): The proposed calculation would overlook the shortfalls that commonly occur as a plan period progresses. If a methodology is formalised it should be clear that such shortfalls require to be addressed (irrespective of whether the Scottish Government favours the Housing Supply Target or the Housing Land Requirement as the base against which the land supply should be measured).

(b): The proposed changes to wording for remedying shortfalls reduce certainty and downgrade the importance SPP places on the plan-led system being responsive to, and acting to resolve, shortfalls in the supply of new homes.

Question 4: Do you agree that the proposed amendments will not directly impact on other (non-housing) types of development? If not, please provide evidence to support your view.

We do not agree that the proposed amendments will not directly impact other developments. While the consultation focuses on housing, the proposal to remove the presumption has implications for all types of development including renewable energy and economic development, whether proceeding under the Town and Country Planning (Scotland) Act 1997 or other legislation.

We consider that the development of new technologies for renewable energy may not be anticipated in many LDPS currently and therefore there must be scope for planning officer discretion to take a wider view as to the contribution of the proposal to "sustainable development". For example, previously solar development was not expected to be relevant in Scotland but with improved technology and reducing costs of panel production, the lower sunlight levels in Scotland no longer constituted a barrier to solar farms. Planning authorities did not have specific solar policies in place in the earlier days and had to take reasoned professional decisions on proposals in a policy vacuum. This highlights the need for an overall planning policy principle / presumption to fall back on where it has not been possible for Development Plans to anticipate new situations.

In addition to the comments set out above, SLE believes that:

- If implemented, this policy will seriously undermine the Scottish Government’s efforts to deliver a green recovery to the COVID-19 pandemic and could negatively impact on economic growth and job creation.
- It is unclear if the Scottish Government’s Local Government and Communities Directorate have considered the wider implications of the policy change on Scotland’s environment and the ability to meet our net-zero target.
- The proposed changes represent a significant risk to the renewables sector as they cause immediate damage to the prospects for renewables projects now in the planning system under the 1997 Act and the Electricity Act.
- The emphasis in the Consultation is on maintaining the plan-led system and development plan primacy under section 25 of the 1997 Act. However, that section does not apply to projects proceeding under the Electricity Act, such as onshore wind farms greater than 50MW. Therefore, there is no conflict to resolve between the presumption and a plan-led system for such projects.

Question 5: Do you agree that fuller impact assessments are not required? if not, please provide evidence to support your view.

No, SLE does not agree that fuller impact assessments are not required.

The presumption and SPP policy on maintaining an effective housing land supply has helped maintain housing delivery in instances where LDPs are out of date and/or where a decision-maker has identified a housing supply shortfall. This has positive impacts across a range of policy outcomes, including those relevant to impact assessments. Deleting or diluting those policies would lead to negative impacts.

For more detailed information

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