



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

PEOPLE, PLACES AND PLANNING: A CONSULTATION ON THE FUTURE OF THE SCOTTISH PLANNING SYSTEM RECOMMENDATIONS TO THE SCOTTISH GOVERNMENT

Introduction

1. The Scottish Land Commission came into being on 1st April 2017 in accordance with provisions in the Land Reform (Scotland) Act 2016, and with the purpose of providing the support services necessary to enable the Land Commissioners and Tenant Farming Commissioner to perform their respective functions.
2. The planning system, and especially its operation through planning legislation and policy, has a significant impact on the use and management of land in Scotland. The Scottish Government's consultation on the future of the planning system offers an important opportunity to link land reform priorities with those of planning reform.
3. We have reviewed the likely impact and effectiveness of proposals contained in the consultation in relation to what we understand to be their intended outcomes, and we offer the following recommendations to Ministers in relation to three specific aspects.

Land Ownership and Planning

4. Control over land ownership is an important stage in the development process and can be just as crucial as securing planning permission. In 2014, the Land Reform Review Group drew attention to the detrimental impact on housing production that can often arise when a small number of large companies controlled the ownership of most of the potential housing sites in any locality. It called for stronger public intervention in the land market, saying that "Making land available through the active management of the land supply would actually encourage new private sector players to come forward, achieving the diversity of producers essential to increasing production".
5. The wider importance of control over land ownership to the success of planning reform was also recognised by the Independent Review into the Scottish Planning System, which recommended that "Mechanisms for planning authorities to take action to assemble land and provide infrastructure upfront should be

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

6. These themes are taken up in the current consultation, which states in paras 3.16 and 3.17 that “Using existing land assembly powers, local authorities can enable development themselves, remove the allocation from the plan or bring forward alternative sites instead. We want to see more planning authorities and their partners intervening to unblock developments using these and other tools. It is currently unusual for a planning authority to take such steps. A change in direction is needed so that we can unlock housing sites for development, make sites available at a range of scales, and ensure that rates of house building increase. Rather than simply allocating land and waiting for development to commence, planning authorities should actively seek out new ways of delivering development where progress is slow”.
7. This proposal is welcome, but is not as ambitious as the direction proposed both by the LRRG and the Independent Review and may have limited impact. The phrase “where progress is slow” suggests that planning authorities will continue to be largely reactive to slow rates of housebuilding, rather than proactive as envisaged by the LRRG and the Independent Review. It is not clear exactly how the desire to “see more planning authorities and their partners intervening to unblock developments using these and other tools” will be implemented. Addressing these issues is likely to be crucial to the success of planning reform, at least in relation to the delivery of new housing and other major forms of development.

Recommendation 1 – It might be helpful if, prior to the publication of a white paper, there were clarity as to whether the policy intention to “unlock housing sites for development, make sites available at a range of scales, and ensure that rates of house building increase” will require new primary legislation, some amendments to Scottish Planning Policy or relevant circulars, and/or whether some further preliminary research is intended.

Other Land Reform Measures

8. The current consultation also makes positive reference to other land reform measures in paras 3.19 to 3.22, especially in relation to giving “local authorities more confidence and tools to acquire land which is not being used as allocated within the development plan”. For this to happen it will be necessary to bring forward legislation to modernise compulsory purchase orders and introduce compulsory sale orders. The success of planning reform in speeding up urban development is likely to depend on bringing forward these important urban land reform measures at an early stage, along with others recommended by the LRRG and the Independent Review.

Recommendation 2 – It might be helpful if there were greater clarity as to when legislation to modernise compulsory purchase orders and introduce compulsory sale orders will be brought forward, either as part of the Planning Bill or through subsequent legislation.

Local Place Plans

9. The consultation contains proposals to allow communities to prepare local place plans and for these to be adopted as part of the statutory development plan (paras 2.4 to 2.10). Figure 1 suggests that “Community bodies should be able to register their interest with a local authority if they want to prepare a local place plan. Community bodies could include existing groups (for example community councils) or any group of a certain size/location. Definitions of a range of community bodies can be found in land reform and community empowerment legislation and we would consider this further.”
10. The definitions of community bodies found in land reform and community empowerment legislation are quite demanding and need to be so because that legislation potentially involves the transfer of property rights to a community body against the wishes of the owner. While it would certainly be appropriate that community bodies meeting the tests of land reform and community empowerment legislation should also qualify to prepare local place plans, it may well be too restrictive if all community bodies wishing to prepare local place plans had to meet those tests.
11. While the consultation paper sets out some proposals to build local community capacity in paragraphs 2.11 to 2.15, it is important not to underestimate the extent of local commitment, enthusiasm and sheer hard work that will be required if communities are to take advantage of the opportunity to prepare their own local place plans. In one recent case in the south of England, where similar opportunities have existed for some time, one local community’s confidence in the planning system was severely undermined because a national housebuilder was able to use the planning appeals system to by-pass the approved community plan against the wishes of both the community and the local planning authority.

Recommendation 3 – It might be helpful if some further thought could be given to the status of local place plans in the planning system, recognising that local communities may be reluctant to volunteer time, effort and energy to a plan unless they believe that it will have appropriate weight at a planning appeal.

**Scottish Land Commission
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