

**PLANNING (SCOTLAND) BILL: MEETING WITH CBI SCOTLAND, HOMES FOR SCOTLAND, SCOTTISH RENEWABLES**

<b>Date and Time of Engagement</b>	Thursday 25 July 2019; 11:00-11:45
<b>Where</b>	Deputy First Minister's office 5 <sup>th</sup> Floor St Andrew's House
<b>Who</b>	Tracy Black, Director, CBI Scotland Nicola Barclay, Chief Executive, Homes for Scotland Claire Mack, Chief Executive, Scottish Renewables
<b>Key Purpose / Message</b>	You discussed the Planning Bill with Tracy Black at an event last month, in advance of Stage 3 of the Bill. This meeting follows up on that conversation. There is no set agenda.
<b>Top Facts / Figures</b>	<ul style="list-style-type: none"> <li>○ Pleased that the Planning Bill has passed successfully</li> <li>○ Substantial work now to be done by the SG and planning stakeholders to make planning reform a reality</li> <li>○ Maintain our commitment to strong collaboration with the development industry and others, to ensure the reformed and streamlined planning system focuses on the delivery of the good quality development our communities need.</li> </ul>
<b>Sensitivities</b>	It is not appropriate to discuss the circumstances and merits of any live or anticipated future planning case.
<b>Media Handling</b>	N/A
<b>Official Support</b>	John McNairney, Chief Planner Tel: 0131 244 7528 / 07795 618393

**Briefing Contents**

<b>Annex A</b>	<i>Biographies of meeting participants</i>
<b>Annex B</b>	<i>FMQ-style briefing:</i> <ul style="list-style-type: none"> <li>○ <i>Planning (Scotland) Bill and the Planning Reform Programme</i></li> </ul>

## **PLANNING (SCOTLAND) BILL: MEETING WITH CBI SCOTLAND, HOMES FOR SCOTLAND, SCOTTISH RENEWABLES**

### **BIOGRAPHIES**

#### **Tracy Black, Director, CBI Scotland**

Tracy Black was appointed CBI Scotland Director on 1 January 2018, having first joined the CBI as Deputy Regional Director for Scotland in April 2017.

Alongside a varied and distinguished career in the financial services sector, where she worked with top tier global financial institutions like Goldman Sachs International and UBS AG, Tracy has experience of working with a range of SMEs and entrepreneurial start-ups, particularly spin-outs from the higher education sector. Tracy has also provided advisory services to a range of start-ups and financial services companies.

#### **Nicola Barclay, Chief Executive, Homes for Scotland**

Nicola Barclay has been Homes for Scotland's Chief Executive since February 2016, with a career spanning over 20 years in the home building industry and stretching over sales, land acquisition and planning.

Previously Homes for Scotland's Principal Planning Advisor and Director of Planning before becoming Chief Executive, Nicola's experience also includes working with Scottish Futures Trust as well as with a number of member companies.

A graduate of Heriot-Watt University, Nicola became a Chartered Member of the Royal Town Planning Institute in 1998 and is an active member of Women in Property. She also currently sits on the Scottish Government's Joint Housing Policy & Delivery Group, the CITB Scotland Nation Council, NHBC Scottish committee and the Consumer Code for Home Builders' Board.

Passionate about encouraging younger people into the industry, Nicola has mentored a number of individuals over the years and thoroughly enjoys seeing their careers take off.

#### **Claire Mack, Chief Executive, Scottish Renewables**

Claire has been Chief Executive of Scottish Renewables, the representative voice of Scotland's renewable energy industry, since October 2017. She is responsible for leading the organisation's work to grow Scotland's renewables sector and sustain its position at the forefront of the global clean energy industry.

Before joining Scottish Renewables, Claire was Director of Policy and Place at the Scottish Council for Development and Industry and led on telecoms, spectrum and postal issues. She has previously worked in various roles at Ofcom in Scotland, focusing on economic regulation while also looking at developing digital participation of individuals and businesses.

Prior to this Claire worked in retail and the construction industry as well as on regulation of regional broadcasting in the Borders and North East of England.

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### PLANNING (SCOTLAND) BILL & THE PLANNING REFORM PROGRAMME

The **Planning Bill** was passed on 20 June, by 78 votes to 26.

- Stage 2 saw substantial changes, imposing greater burdens and complexity.
- Since then, constructive engagement with MSPs and stakeholders led to agreement on amendments that have returned the Bill to its original aims.
- Around 230 Stage 3 amendments lodged; 132 of those by the Government.
- The Government was successful on almost every vote on amendments; largely with the support of the Conservatives.
- The Conservatives voted with the Government to pass the Bill; Labour, Green and Lib Dems voted against.

The **Review of Planning** commenced in 2015 with the appointment of an independent panel of users of the planning system.

- Key drivers for the review were: deliver more housing; improve experience and influence of communities; effective development planning leading positive change; more proactive management of development; strong leadership coupled with management of skills, resources and performance.
- A wide programme of reforms to the planning system resulted from this review. The Planning Bill took forward those aspects which needed new primary legislation. With that now in place, we are currently programming the wider, detailed reforms.

#### Top Lines

- Scotland's economy needs a planning system that can create quality places with the housing, infrastructure and investment that people need.
- Our planning reforms will strengthen planning's contribution to inclusive economic growth, delivery of development and empowering communities.
- The Planning Bill as amended at Stage 3 will bring a much improved planning system, which will streamline the planning system and empower communities in the planning process.
- Those include improvements that will: strengthen development planning and delivery of the development our communities need.
- We are currently programming the next steps in our substantial reforms of planning, including:
  - A suite of secondary legislation and guidance
  - National Planning Framework 4, incorporating Scottish Planning Policy
  - A review and extension of permitted development rights
  - Promotion of place, including widening use of the Place Standard tool
  - All underpinned by better use of digital solutions across the planning system.

**The Bill as passed will both streamline the planning system and empower communities in the planning process. Key provisions include:**

- An agreed overarching statutory purpose for planning – that planning is about ‘development and use of land in the long-term public interest’;
- A stronger National Planning Framework which is approved by the Scottish Parliament after fuller scrutiny.
- A restructured system of development plans, addressing current weaknesses.
- This includes the National Planning Framework alongside councils’ local development plans, all to be informed by new regional spatial strategies;
- More opportunities for community engagement, including through community-led local place plans, to inform local development plans;
- Recognition of the role of planning in supporting health and equalities;
- Requirements for elected member training, so that those councillors taking planning decisions are well equipped to make decisions in a consistent manner. This is essential to maintaining trust in the planning system;
- Establishment of an Improvement Co-ordinator to be appointed by Ministers to monitor and advise councils, and indeed anyone involved in planning;
- New powers to protect live music venues, so that they do not come under threat of closure due to new housing being built close to them; and
- A proportionate response to handling short-term lets. Our approach will allow councils to designate areas where planning permission would always be required to change use of homes to letting.

**We are now programming next steps in our wide planning reforms.**

- Work on **NPF4** is now underway (see below).
- Royal Assent is anticipated in early August. Implementing the new Act’s provisions, we will take forward a wide **suite of regulations**, closely engaging and consulting with stakeholders, including:
  - Development planning procedures (incl. transitional arrangements)
  - Development management procedures
  - Planning fees
  - Elected member training
  - Performance improvement
  - Short-term let control areas
- Provisions will be commenced only when associated regulations and any supporting guidance are ready; also with appropriate lead-in periods to allow operators and users of the system time to prepare.
- It is a substantial programme, which could take a couple of years to implement.
- To a longer timescale, we are continuing with our work to develop an appropriate model for the **infrastructure levy**. Local authorities need to have the tools to ensure industry and communities have access to the facilities and infrastructure they need; without compromising development viability.
- We are taking forward a programme of **reviewing permitted development** rights, which we will expand where appropriate. This will look at PD rights

for things like micro-renewables, digital infrastructure that can support the 5G rollout, hill tracks, and developments which can support active travel. We will say more about this programme soon.

- We want digital solutions to be at the heart of reforms to how planning operates. Our **digital planning programme** is working towards responsive national mapping, stronger use of data and better access to planning information for all.
- We will continue with our approach to strong collaboration that has been a theme throughout the planning reform programme; involving planning stakeholders in the details of the new system. This is everyone's planning system, and we want to hear from all.

### **Following the completion of the Bill, we are now getting underway with the preparation of NPF4.**

- The Bill has clarified the future requirements for the NPF:
  - it will become part of the statutory development plan; and
  - it will be subject to an enhanced parliamentary process, including an approval by the Scottish Parliament before we can adopt it.
- As now to be within the development plan, NPF4 will look very different to its predecessors. It will incorporate a review of Scottish Planning Policy, giving clear direction of what development is to happen and the policy underpinning it.
- This national level of development plan will free up local development plans to be more focussed on places relevant to their communities rather than being filled with re-statements of national policy.
- We have been clear on our intentions for the NPF throughout our work on planning reform – co-production will be at the heart of the process, and it must link in with wider national policies and strategies.
- Through our Stage 3 amendments to the Bill, there are now a number of 'outcomes' for the NPF, which future development will contribute to. These outcomes include ensuring planning will meet future housing needs, including meeting the housing needs of older people and disabled people.
- As another outcome, expected to be a key feature of our work on NPF4, we need planning to do all it can to help us achieve our ambitious targets for climate change.

### **Planning authorities will need to ensure they allocate sufficient land for housing and other uses**

- Under provisions in the Bill, the National Planning Framework must include housing targets.
- Where there is any incompatibility between the NPF and local development plans, the more recent of those will take precedence.
- Homes for Scotland had wanted LDPs to have to comply with the targets set by the NPF; which would have brought some difficulties, particularly where an ageing NPF does not contain the more recent and relevant data on housing needs.

- Instead, Stage 3 amendments agreed have added powers for Scottish Government reporters to either:
  - (SG amendment) require authorities to address any shortcomings (not only regarding housing) in an LDP by bringing forward an amendment to the LDP as soon as it has been adopted; or
  - (Con amendment) return the LDP to the authority, without a report of their examination so that it can allocate further land to ensure that the housing needs of the area can be properly met through additional land allocations.
- Both of these options put the responsibility for LDPs and land allocations in the hands of planning authorities; rather than the current pressure placed on reporters themselves to fix failings in plans; which is often portrayed as an attack on local democracy.

### **Strategic planning will be strengthened by the new Regional Spatial Strategies.**

- There is an important continuing role for strategic planning, of which we have a rich tradition in Scotland.
- The status quo of bureaucratic strategic development plans in some parts of the country was not a viable option for an agile and influential planning system.
- Our Stage 3 amendments included a new way forward for strategic planning across Scotland, supported by the Royal Town Planning Institute, through a new duty for an authority, or authorities to work together, to prepare and adopt a regional spatial strategy.
- This should be a long term spatial strategy that addresses the need, outcomes and priorities for strategic development and the proposed locations of that development.
- Regional spatial strategies, do not form part of the statutory development plan, but will act as a strong but flexible bridge between national and local level planning. Both the NPF and LDPs are to have regard to these strategies.

### **The Bill needs to result in a well-functioning, high-performing planning system. Steps must be taken to improve wherever standards drop.**

- Elected members will need to undertake training before they carry out planning functions.
- The Bill has also included new provisions that will increase the focus on performance improvement across the whole system; involving mandatory performance reporting, along with enabling the appointment of a National Planning Improvement Coordinator to work with planning authorities and all users of the planning system.
- This must lead to a better planning system for all – in how people are engaged and processes are managed; in the standards of decision-making; and in quality of outcomes for our communities.
- We have committed to increase application fees towards full cost recovery by authorities. But it is clear that increased fee income must be linked to improved performance.

### **Third Party Right of Appeal would delay and discourage development that our communities need and want.**

- I recognise the long-running debate over appeal rights and the differing views.
- I am pleased the Parliament has chosen not to support changes to rights of appeal. That would not have been the right way to go.
- We remain absolutely committed to far more effective involvement and influence of local people at the earliest stages of planning. We need to listen to what people have to say.
- This will be more effective than adding more appeals at the end of the process.
- The Bill and further legislation to follow include:
  - Better, more meaningful, and earlier engagement with local people through the preparation of development plans;
  - Enhanced pre-application consultation with local communities on major planning applications.
  - This will be done by limiting time between engaging local people and lodging applications, and ensuring developers feed back to communities how their views were taken into account;
  - New opportunities for community bodies to prepare local place plans;
  - New Government guidance to now be produced which will promote use of mediation to resolve areas of conflict at early stages of planning processes.
  - This will be backed up with statutory guidance to support effective community engagement on planning matters.

### **New provisions for Local Place Plans give local people a great opportunity to have a positive influence in how their places will develop.**

- Too often the community focus in planning has been only about what developments some people want to stop.
- With local place plans, community bodies can express their aspirations for development they want and need. To be clear, this is not a charter for blocking much-needed development.
- In preparing local place plans, community bodies will need to have regard to the NPF and LDPs; and planning authorities will need to take account of local place plans when preparing their LDPs.
- The Scottish Government is required to conduct a review of local place plans after 7 years, which can consider their effectiveness.

## **We are very interested in the concept of capturing land value uplift, and using that to fund infrastructure**

- That is why we asked the Scottish Land Commission to investigate this issue and I welcome the report they published in May.
  - It was however right to remove the provision on this that was added at Stage 2 of the Planning Bill.
  - This issue deserves careful examination and consultation following the Scottish Land Commission report.
  - That includes consideration of how proposals would interact with other mechanisms, such as the infrastructure levy introduced by this Bill and the complex powers for Compulsory Purchase Orders.
  - We will work with the Scottish Land Commission, Scottish Futures Trust, local authorities and industry representatives, to properly explore all options – whether using existing or new mechanisms – and make sure we get this right.
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## **PLANNING (SCOTLAND) BILL: STAGE 3 AMENDMENTS SUMMARY**

### **Government amendments successful at Stage 3:**

- Removed strategic development plans, to be replaced with a more agile duty for regional planning;
- Rationalised the process and policy provisions for the National Planning Framework and local development plans;
- Removed damaging duties and restrictions on development which would limit planning authorities' discretion in decision-making – including mandatory designation of areas as culturally significant zones, damaging town centres;
- Returned vital provisions relating to performance, including mandatory elected member training;
- Substantially reduced the costs of the reforms

### **Opposition amendments agreed with Government support:**

- (Con) Removed a requirement for the Government to legislate for land value capture, which would have pre-empted choices to be made following Scottish Land Commission report;
- (Con) Requires guidance on the use of mediation to support earlier resolution of conflict, as a better alternative to adversarial appeals;
- (Lab) Requires a review of local place plans after 7 years

### **Opposition amendments were successfully resisted on:**

- Third party right of appeal and limiting applicants' appeal rights;
- Preventing permitted development rights for some hill tracks, to more appropriately handle in secondary legislation following consultation;
- Requiring planning applications for use of properties for short-term letting in all parts of the country (Government supported a Conservative amendment which will give local authorities the option to opt in to such a system in any or all parts of their areas)



## Note of Meeting

25/07/2019

### Planning and Business

#### Present

John Swinney	Deputy First Minister	Scottish Government
Antonia Farrell	Deputy P/S	Scottish Government
John McNairney	Chief Planner	Scottish Government
Tracey Black	Director	CBI Scotland
Nicola Barclay	Chief Executive	Homes for Scotland
Claire Mack	Chief Executive	Scottish Renewables

#### Purpose of Meeting

For the Business organisations to offer some reflections on Planning following passage of the Planning (Scotland) Bill. There was no set agenda.

In discussion the following points were made:

- Members (of the three organisations) felt that Scotland could be more visible in demonstrating that it is open for business. Process, outcomes and Member behaviour in planning can be unpredictable and discouraging for investors.
- There is awareness of resourcing and skills pressures in planning authorities which are likely to increase. Whilst planning fees have been increased member companies expect a better service in return for higher fees.
- The three bodies recognise that the Planning Bill will bring welcome changes but much will depend on the detail as regulation and guidance emerges.
- Policy changes that Business would welcome would include adoption of a national housing target and a policy presumption in favour of re-powering wind farms.
- Going forward, there will be opportunity for strong engagement in the development of regulation, guidance, the National Planning Framework and associated planning policy changes.
- Planning policy will continue to reflect wider Government policy including the economic strategy and the National Performance Framework.

John McNairney  
Planning and Architecture Division