

Response to Draft Scottish Planning Policy Consultation

22 July 2013

Principal Policies

Sustainable Economic Growth

We are concerned that a stated key aim of this review is to “focus the policy on sustainable economic growth”. We reiterate our comments made as part of a broad coalition of civil society groups in response to the Government’s National Performance Framework that economic growth is one of many means to the goal of flourishing, and not an end in itself, therefore should not form part of the Government’s single purpose.

Our long term wellbeing and prosperity is underpinned by a broad range of factors including, very importantly, a healthy and safe environment. However, on a finite planet in a resource and carbon constrained world, it is both a strategic priority and moral duty to ensure that Scotland does not exceed its fair share of the earth’s ecological resources – with respect to both intra and inter generational environmental justice – particularly given the historical ecological debt we owe.

Planning policy has a key role to play in achieving this, and therefore SPP must recognise these constraints. While planning policy of course has to take account of economic policy, the pursuit of economic growth must not override environmental protection and improvement. Sustainable development is a more appropriate principle policy and should be retained instead of sustainable economic growth.

If however, sustainable economic growth is retained as a principle policy, we would strongly support the inclusion of the aim “to achieve the right development in the right place, rather than development at any cost” (para 16). This is clearly undermined by the policy principle that the planning system should “attach significant weight to economic benefit of proposed development as a material consideration...” because there is no counter weight in highlighting the need for planning to operate within environmental limits and the context of community needs (para 17). This must be addressed in the final SPP.

Development plans must also be required to be informed by key environmental and social issues as well as economic ones (para 19). Planning authorities and key agencies must also be clear when development is not acceptable, and the SPP should give them the confidence to say no where appropriate (para 21).

Speedy decision-making should not be at the cost of good decision making processes, and the prioritisation of growth enhancing or economically significant developments should be removed (para 22). A specialist environmental court or tribunal (which the present Government is committed to consulting on) could help to create a fairer and speedier system in deciding planning appeals.

Decision makers clearly need to have regard to economic considerations, but this must be in the context of social and environmental factors too. We agree that developer contributions should be proportionate but in some instances it may not be appropriate for a development to proceed without them. In these

circumstances, it would be appropriate for the viability of the development to be affected. This should be made clear to developers up-front so that non-viable projects are not progressed (para 23).

Sustainable Development

This section should be instead of the section on sustainable economic growth. If however that section is retained, sustainable development must be placed ahead of it to reflect the statutory status of sustainable development in the Planning etc. (Scotland) Act 2006.

The SPP also needs to define what sustainable development means for local development plans and frameworks. As a start it should spell out the 5 principles of sustainable development:

- **Living Within Environmental Limits:** Respecting the limits of the planet's environment, resources and biodiversity – to improve our environment and ensure that the natural resources needed for life are unimpaired and remain so for future generations.
- **Ensuring a Strong, Healthy and Just Society:** Meeting the diverse needs of all people in existing and future communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity for all.
- **Achieving a Sustainable Economy:** Building a strong, stable and sustainable economy which provides prosperity and opportunities for all, and in which environmental and social costs fall on those who impose them (polluter pays), and efficient resource use is incentivised.
- **Using Sound Science Responsibly:** Ensuring policy is developed and implemented on the basis of strong scientific evidence, whilst taking into account scientific uncertainty (through the precautionary principle) as well as public attitudes and values.
- **Promoting Good Governance:** Actively promoting effective, participative systems of governance in all levels of society – engaging people's creativity, energy, and diversity.

The final SPP should make reference to sustainable flood management (para 27).

Engagement

We strongly support this section, but consider it could be strengthened by further emphasizing the importance of in-depth engagement with communities, particularly in relation to local development plans. The Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters, and the Public Participation Directive (PPD), both of which the Scottish Government is obligated to implement, require effective participation in decision-making by individuals, communities and NGOs in order to increase accountability and transparency and support for the decisions taken. This should be reflected in the policy principles (para 28).

It should also be made clear that engagement applies to both communities of place and communities of interest.

Climate Change

We strongly support this section, but consider it should be strengthened at paras 31 and 34 by changing 'should' to 'must', in light of the duty on public bodies under the Climate Act, as outlined at para 33.

This section should also make it clear that the planning system should reduce the need to travel in the first place, promote energy efficient buildings, and refer to the need to protect and enhance the key habitats both in relation to mitigation and adaptation.

Location of New Developments

New Settlements

This section should be amended to ensure that new settlements will only be acceptable if it can be demonstrated that this is the most sustainable housing option, including in terms of impacts on the natural environment and greenhouse gas emissions reduction (para 53).

Town Centres

This policy principle should include a requirement for development plans, monitoring and decision making to ensure that town centres contribute to reducing greenhouse gas emissions (para 54). Under delivery this should include the requirement for town centre strategies to seek to reduce the town's environmental impact through reducing the need to travel and encouraging modal shift, particularly towards active modes (para 56). The health check should also include active travel in the city centre as an indicator (para 55).

We welcome the sequential approach to development management, but this section should include a requirement for planning authorities to consider how decisions will affect greenhouse gas emissions (para 63). It should make it clear that it is unlikely that significant out-of-town developments will be acceptable unless they can demonstrate how they will avoid increasing greenhouse gas emissions particularly through increased associated travel.

Rural Development

Development plans should make it clear that diversification and growth of the rural economy and provision of housing and other accommodation must be sustainable and within environmental limits (para 69).

We support the inclusion of provision for huts, which is a low impacts means of improving access to the outdoors for all, and can improve health and well being and contribute to rural jobs, skills development for all and the rural economy (para 69).

We welcome the inclusion of the need to address the resource implications of rural development, but suggest that this may be better expressed by requiring spatial strategies to ensure that such development is sustainable, protects the natural environment and minimises greenhouse gas emissions (para 69).

Spatial strategies should include consideration of carbon sinks and nature conservation as a 'service' of land, such as peatlands, as well as food production and flood management (para 69). The extraction of minerals such as fossil fuels should not be permitted on prime agricultural land.

We broadly welcome the recognition of the need to restrict unsustainable growth in suburbanization of the countryside, but this section could be strengthened, and planning authorities should be required to demonstrate how their policies will contribute to a reduction in greenhouse gas emissions, a reduction in the need to travel and a modal shift to more sustainable travel modes.

All new development in rural areas, or anywhere, must be sustainable, and should be encouraged where it provides social and environmental goods, not just employment (para 71).

We welcome the requirement for development plans to recognise rising sea levels and increased extreme weather events as a result of climate change will have a significant impact on coastal areas (para 75). The impacts of climate change will not however be limited to coastal areas and the SPP should be amended to reflect this.

Development plans should recognize that the coast includes areas of significant environmental sensitivity as well as being a major focus of economic activity (paras 76-78).

Other Principle Policies

The precautionary principle, to which the Scottish Government is bound under international treaties, should be included in the final SPP as a principle policy, and integrated into planning at all levels. The precautionary principle requires that lack of scientific certainty must not be used as a reason for not preventing potential harm to the environment: *"In order to protect the environment, the precautionary approach shall be widely applied by States ... Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."* (1992 Rio Declaration on Environment and Development).

Subject Policies

Buildings

Enabling Delivery of New Homes

The policy principles should include the Government's commitment that all new buildings in Scotland will be zero carbon by 2016/17 where practicable (para 80). It is disappointing that there is no reference in the policy principles for the planning system to address chronic housing shortages, including in rural areas, and particularly the need for affordable housing. This should be included as a policy principle in the final version with the stipulation that all housing needs must be met sustainably, and within environmental limits (para 80).

SPP should also set out how development plans should contribute to reducing greenhouse gas emissions from new housing (paras 82-90). For example, it should make it clear that housing site selection must reduce the need to travel and facilitate sustainable transport modes.

Supporting Business and Employment

The policy principles in this section should make it clear that taking "full account of the economic benefits of proposed development" means net economic benefits, and must include consideration of any negative economic implications on other businesses or ecosystem services (para 105). This section should also include reference for the need for the planning system to consider the climate and environmental impact of proposed developments.

Natural Resources

Valuing the Natural Environment

We support the inclusion of this section but it should include recognition of the importance of the natural environment in mitigating and adapting to climate change (para 125). We support the requirement for development plans and development management decisions to reflect the public duty under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity, and to apply the principles of sustainable land use (para 127).

Enhancing Green Infrastructure

We support the inclusion of this section, but it should also recognize the importance of planning in protecting our natural resources and mitigation of and adaptation to climate change (para 155).

Promoting Responsible Extraction of Resources

This section must acknowledge that significant environmental and social harm can also be caused by minerals extraction, including the climate impact of burning fossil fuels and the long-term impacts on local communities, in addition to important economic factors (para 166).

There must also be some recognition in this paragraph of the unacceptable greenhouse gas implications of continued fossil fuel exploitation, and a requirement on the planning system to facilitate the necessary shift to a low carbon economy and phase out coal, oil and gas (para 167). A new first bullet point should be included here to this effect, and referencing de-carbonisation targets. This draft SPP has taken a worrying, and hopefully unintentional, step backwards from the current SPP in this regard. While the current SPP states that “there is a clear need for a reduction in emissions associated with the use of fossil fuels, oil and gas are expected to have a role in achieving diverse and sustainable supplies of energy”, the new draft fails to make any connection between fossil fuel extraction and the need for emissions reductions and reduced reliance on fossil fuels. This must be remedied in the final version. There should also be recognition of the potential for a continued positive approach to fossil fuel extraction to undermine efforts to build a renewables industry in Scotland.

We note that there is a growing body of evidence that environmental and health risks associated with the emerging onshore unconventional gas industry, including coalbed methane and shale gas, are inherent and impossible to eliminate. While we welcome the more cautious language used in this draft around unconventional gas as an improvement on the current SPP, the Scottish Government should use this review of SPP to implement a ban on unconventional gas extraction, using the precautionary principle and the duty to reduce climate emissions as justification.

A key risk is in relation to our climate targets: unconventional gas extraction is energy intensive, and burning the gas contributes to emissions. Moreover, the impact of ‘fugitive emissions’ of potent greenhouse gas methane through leaks, flaring and venting has lead scientists to argue that the climate impact of unconventional gas is greater than that of coal. Using a very conservative estimate of emissions, the International Energy Agency’s ‘Golden Age of Gas’ scenario – exploiting unconventional gas to the full - puts global emissions on a trajectory for a disastrous 3.5°C warming.

In their guidance, SEPA point out the significant uncertainties over fugitive emissions:

“There is a lack of real field data in this area and more research is required, however it has been reported that fugitive releases of methane during shale gas operations is higher than those of conventional gas but less than from coal. However, others have questioned the validity of the data used to justify this position until this dispute is resolved by collection and analysis of actual data we will remain neutral but will require operators to make full use of technologies that capture the gas prior to escape in order to reduce methane emission to air. We are also considering the need for monitoring.”

However, we note that SEPA do not currently have powers to require operators to control and monitor methane emissions and other air pollutants from unconventional gas wells.¹

Scotland has tough targets to meet on reducing climate change emissions, requiring a reduction of around 1.5MtCO₂ a year. By comparison full production at the CBM development proposed at Airth would increase emissions by about 3MtCO_{2e} over the 8 years of operation even if it had only a similar carbon content to North Sea gas. Just the fugitive emissions from the site would be equivalent to adding 7,500 extra cars on the roads of Scotland.² If all Dart Energy’s CBM and shale gas assets in the PEDL133 licence area were burnt they would create at least 22MtCO_{2e} – more than half of Scotland’s total carbon allowance in 2020.

There is also alarming evidence about the potentially devastating public health impacts for communities living in and near gas fields. Communities living near gas fields in Australia complain of respiratory problems, rashes and irritated eyes.³ An investigation by a concerned GP in early 2013 of 38 households in close proximity to coal seam gas wells in Tara, Queensland, found that 58% of residents reported definite adverse health effects related to gas drilling and a further 19% were uncertain.⁴ Symptoms include breathing difficulties, rashes, joint and muscle pains, nausea and vomiting, and spontaneous nosebleeds. But the long-term human health impacts could be much more serious:

¹ SEPA, Regulatory Guidance: Coalbed methane and Shale Gas, 2012

² Assuming a mid-range leakage rate of 4.5%

³ <http://www.smh.com.au/national/health/doctors-raise-alarm-over-toxic-coal-seam-gas-leaks-20121116-29hbp.html>

⁴ Symptomatology of a gas field - An independent health survey in the Tara rural residential estates and environs, Gerylne McCarron, April 2013 http://d3n8a8pro7vhm.cloudfront.net/lockthegate/pages/49/attachments/original/1367333672/2013-04-symptomatology_of_a_gas_field_Gerylne_McCarron.pdf?1367333672

research from the USA found that gas operations were leaking highly toxic and carcinogenic benzene into the air.⁵ Preliminary research from Cornell University suggests that air and water pollution from unconventional gas activities can have a profoundly damaging effect on infant health. The study looked at birth weight outcomes in pregnant mothers living within 2.5 km of a gas well and found that the incidence of low birth weight increased by 25%.⁶

These concerns have led to over 20 bans and moratoria around the world, including a ban on all coalbed methane drilling within 2km of communities and sensitive industries in New South Wales, Australia. We feel strongly that the precautionary principle, to which the Scottish Government is bound under international treaties, applies to the unconventional gas industry which to date has failed to demonstrate that it is safe for the environment and human health (in the face of mounting evidence to the contrary) and call on the Scottish Government to lead the way within the UK by implementing a ban on all unconventional gas extraction.

While ultimately we think a ban is the only way to ensure our communities and environment do not suffer the adverse consequences of this industry, we consider that certain changes to the draft Scottish Planning Policy are a positive step forward. We welcome the more cautious language in relation to unconventional and the clearer guidelines for how Local Development Plans should deal with the industry. We strongly support the introduction of buffer zones between sites and communities, but this must be strengthened by specifying that buffers must provide a minimum safeguard of 2km between communities and sensitive industries and onshore gas drilling sites, including all above ground infrastructure and underground boreholes, as has been introduced in New South Wales (para 175).

Minimising the impacts of extraction on local communities should be moved to the second bullet point (para 167).

We welcome the emphasis on protecting local communities from significant cumulative impacts, but this section should also include the need to protect sensitive environmental areas, as many proposals for fossil fuel extraction are in close proximity to or within designated wildlife and protected sites (para 170).

We welcome the intention that local development plans should protect peatlands by only permitting extraction in degraded areas, but note that small-scale extraction for personal use where this can be accommodated without causing harm to the biodiversity and carbon store value of the peatland, may be acceptable (para 171). However, it should be clear that commercial extraction for horticulture is not permitted.

In light of the current opencast coal mine restoration bond debacle, this section must have a more robust approach to restoration bonds (paras 175-179). It must be made clear that planning authorities must not grant consent for any new development which requires ongoing mitigation or restoration until the finance for that mitigation and restoration is fully in place. Before granting consent, planning authorities must also have in place a system of monitoring and enforcing not only of activity on site but also the value of the bonds so that operations can be ceased immediately at any point if the value of any bonds falls below what would be required to deliver full restoration. The current situation, where many opencast coal mine sites, including some within internationally protected wildlife sites, now require significant external and possibly public funding, in order for restoration obligations to be fulfilled is disgraceful. This has been one of the biggest failings of the planning system and local planning authorities in recent years and the final SPP must help ensure a similar situation can not arise in future in this or other industries. This is particularly important in light of the potential for many thousands of unconventional gas wells to be drilled across the central belt of Scotland – unless SPP bans the industry – under DECC's current licensing plans. FoES strongly recommends that a wider review of the use of bonds is carried out in order to improve their effectiveness as there is now very little confidence in the planning system's or local authorities' ability to manage restoration bonds.

⁵ <http://frackfreescotland.files.wordpress.com/2012/10/nature-vol-482-feb-2012-air-sampling-reveals-high-emissions-from-gas-field.pdf>

⁶ <http://dyson.cornell.edu/research/researchpdf/wp/2012/Cornell-Dyson-wp1212.pdf>

Movement

Promoting Sustainable and Active Transport

The commitment to reduce the need to travel in the Policy Principles is welcome but this theme should also be included in the NPF context section in para 188. The Policy Principles should also include reference to the contribution that the transport sector needs to make in reducing carbon emissions and meeting air quality targets.

It is almost incredible that the SPP does not refer to air quality, despite the Strategic Environmental Assessment stressing the key role planning needs to play and given the need to meet EU, UK and Scottish air quality objectives and standards, currently widely breached in Scotland's large urban areas. Air Quality Management Areas are a significant constraint on road-based development and the planning system is the main tool by which local authorities can address the air pollution problems which cause their designation, yet they are not mentioned.

The Key Documents section should include the Air Quality Strategy for England, Scotland, Wales and Northern Ireland. The Delivery section should refer to air quality standards and objectives and to the Air Quality Management Area designations, and strongly encourage planners to use the planning system to address air pollution problems including preventing development which would make pollution problems worse.

Para 203 should just say "Planning permission should not be granted for significant travel generating uses at locations which would increase reliance on the car" since the caveat bullet points still allow for increasing reliance on the car.

Utilities

Delivering Heat and Electricity

We welcome the positive tenor of this chapter towards renewable energy generation of both heat and electricity. We strongly support the development of appropriately-sited renewables for both heat and electricity as key steps in reducing Scotland's carbon emissions.

The Policy Principles section mentions 2020 targets but should also mention the Scottish Government's longer-term target of a largely decarbonised power sector by 2030 (less than 50g/kWh) and also the related intention to decarbonise transport by 2050, with significant progress by 2030. Also very relevant but not mentioned is the Government's very welcome target of 500MW of renewable electricity to come from community and locally-owned sources by 2020 (referred to later in para 222).

It would also be valuable for the Government to make more clear its 2030 ambitions for those areas for which 2020 targets are listed – percentage of electricity from renewables, heat demand and overall energy demand – since this would more clearly indicate the direction and pace of travel required.

The energy hierarchy outlined in para 209 is welcome, although there are of course good and bad heat recovery techniques and the planning process has to date been very weak in enforcing the use of heat where an application is primarily for electricity generation (e.g. Cockerzie gas fired power station; Grangemouth biomass plant).

The list of factors to be considered in local development plans should also include consideration of the local economic benefits of renewable energy developments, particularly where community ownership is proposed.

Paragraph 213 is too vague concerning future promises of carbon capture infrastructure and should be more prescriptive on timescales. In addition, the planning system should be used to ensure that any such promises are delivered in full and on time under all circumstances.

The commitment to heat mapping and heat networks is welcome and the list of sources in para 214 is sensible, but recently approved proposals, such as the Grangemouth biomass plant, do not conform to this proposal nor to the policies on use of heat, scale or fuel-sourcing contained in the Energy Generation Policy Statement, indicating that the planning system needs to be strengthened to be effective in this area.

On the face of it the statement in para 216 that “Development plans should support the development of wind turbines at locations where impacts on the environment and communities can be satisfactorily addressed” is of course perfectly reasonable. In fact this statement is so general that the planning system would be failing if it did not apply it to everything from a housing development to a nuclear power station, so it is unjustified to use it here solely in relation to onshore wind. Similarly para 220 is very prescriptive of issues to be considered when examining a wind turbine application, but no similar list is given for, for example, a fossil-fuelled power station with CCS, of which there are at least two current proposals in active development in Scotland.

Wild land is a legitimate consideration in the consenting of wind farm developments but the definition and extent of wild land are still contentious and the SNH map referred to has not been subject to consultation in its revised form.

Overall the energy chapter spends many words building restrictions around wind developments but has nothing specific to say about any other type of energy development. This oversensitivity on wind is not justified anywhere in the SPP document.

We welcome the encouragement of community benefits in its several forms but would like to see stronger support for benefit models which (a) deliver actual community ownership of some significant fraction of renewable energy developments or (b) fund local energy efficiency and demand reduction work.

Managing Flood Risk and Drainage

While the commitments in this chapter are generally welcome the Policy Principles should encourage the ‘enhancement of’ as well as the ‘protection of’ flood storage capacity, since the risk of flooding is increasing significantly because of climate change, similarly para 241 should refer to ‘enhancing’ as well as ‘protecting’ natural flood management features. The Principles should also stress the presumption in favour of natural flood management techniques as specified by the Flood Risk Management (Scotland) Act 2009.

The flood risk framework as covered in para 242 is entirely inadequate because it does not allow for the changing climate. A development allowed today at a site with a flood risk just over 1 in 200 year could be at a risk of 1 in 100 or worse in the 2050s. The climate change consequences of coastal, fluvial and pluvial flooding should also be considered separately. The reference to a freeboard allowance in para 243 is inadequate to deal with the climate change issues.

Reducing and Managing Waste

We welcome the recognition of the need to go beyond talking about waste and to deliver resource efficiency and facilitate action further up the waste hierarchy.

It would be useful to spell out the zero waste targets in the Policy Principles section, as is done for the Heat and Electricity section.

While anaerobic digesters are a sensible part of any waste strategy, the development of other kinds of energy-from-waste plants are an admission of failure to take action further up the waste hierarchy. Advanced thermal treatment has a very poor record in Scotland, as exemplified by the failure of the Scotgen gasification plant in Dumfries to complete commissioning after 4 years.

Planning authorities need more guidance on what kind of thermal treatment might be needed, so that they can avoid giving permission to excessive or inappropriate capacity which then locks resource use in a particular area into low recycling, high recovery operations, as is the danger with current proposals

for the City of Edinburgh. This is particularly important given that any consented plant will operate for many decades, during which time Scotland's targets show that we should be recycling and composting much more, and reducing waste volumes significantly, in theory leaving rather little to burn.

As with opencast mining sites, it has been suggested that a significant gap exists between the resources available from bonds currently lodged and the clean up and restoration costs of current landfill sites. The planning system has failed to deliver for communities in this regard and the SPP needs to specify how it will do better in future in relation to restoration guarantees for any waste treatment and disposal facilities.

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We are responding as an organisation
We are happy for our response to be made public
We are happy for the Scottish Government to contact us again in relation to this consultation exercise