

Planning Reform - A Summary

A briefing from Friends of the Earth Scotland

March 2005



**Friends of
the Earth
Scotland**

Introduction

Friends of the Earth Scotland wants Scotland to have an efficient, fair and just planning system that enables high quality, sustainable development in line with the needs of Scotland's people. The system should be fair both in how it treats different applicants, and in how it balances the interests of those benefiting from development and those impacted adversely by development.

1. Statutory purpose of planning: to enable sustainable development

The Planning Bill should include a statutory purpose for planning – based on '*guiding the use of land in the public interest so as to enable sustainable development* – to help establish the framework and boundaries for national and regional planning policies'. Research should be undertaken into the scope for formal 'multi-criteria analysis' of planning proposals to ensure that they consistently enable sustainable development.

2. Strategic planning

Regular updates of the National Planning Framework should be made a statutory requirement, and should be subjected to both SEA and wide public consultation. Strategic planning should be retained in some form outside the city-region areas, so as to ensure effective coordination on strategic issues. If simplification of local plans is to be constructive, the nature and scope of remaining local plan consultation must be enhanced to enable wide participation.

3. Third party right of appeal

Friends of the Earth advocates the introduction of TPRA in limited circumstances and in the context of other planning reforms, including PLI reform and others noted below. TPRA offers a major opportunity to enhance justice and fairness, while the careful design of TPRA, for example setting short appeal periods for both third parties and developers, reduces any risk of creating inefficiencies in the system.

4. Public local inquiry (PLI) reform

A more participatory, inclusive approach to PLIs must be enshrined so they become less adversarial and intimidatory to members of the local community.

5. Call-in provisions

The criteria, rationale and process by which Ministers employ powers to 'call-in' any planning application for their own consideration or for consideration by a public inquiry must be made more transparent, so as to ensure consistency and accountability.

6. Duty on Public Authorities to co-operate in planning issues

The planning bill should place a duty on all public bodies to contribute to the development planning process and to cooperate promptly with planning authorities over specific planning applications. Those who engage with the planning system have become increasingly frustrated by the inability and unwillingness of different public bodies to contribute at the appropriate juncture.

7. Mediation

Mediation services should be piloted to assess their benefits in planning, especially in pre-application consultations for controversial cases. Mediation should help deliver improvements in the quality of proposals, fewer sustained objections, fewer PLIs, and thereby cost savings for local authorities.

8. Accountability and transparency of planning authorities

Enhanced accountability of local authorities for the decisions they make would benefit local democracy.

Authorities should be required to give reasons for both approval and rejection of applications – only the latter is currently routine.

9. Planning gain

Planning gain is often abused and commitments may remain unimplemented and un-enforced. Developers need clear guidance on what is expected of them with regards to planning gain. Planning gain agreements should be public documents and negotiated with involvement of affected stakeholders. Local Authorities need effective means and incentives to enforce planning gain agreements. No amount of planning gain can justify an inherently bad development proposal. The planning system must ensure that all development contributes positively to sustainability.

10. Corporate responsibility and planning agreements

Good Neighbour Agreements are a legally-binding agreement between industries and the local community to ensure best practice. The Planning Bill offers an opportunity to make provision for the negotiation of a GNA to be a legitimate condition or obligation associated with a planning permission.

11. Enforcement

Enforcement of planning breaches is variable: this is neither just for communities nor fair for commercial competition. The system is very bureaucratic and developers are not always penalised for breaking the rules. Executive ministers and the courts must be empowered to intervene to require enforcement.

12. Pre-application consultations and neighbour notification

Friends of the Earth supports plans to transfer responsibility for neighbour notification to the local authority in order to increase consistency. However notification does not guarantee adequate consultation or participation. Pre-application consultation by developers should be made mandatory, or a report of such consultation required alongside applications. Such consultation is not an alternative to wider appeal rights, but a complement to them.

13. Removal of Crown immunity

The Crown estates include marine developments, such as fish farms, forestry operations and MoD operations, and are currently exempt from the need to apply for planning permission. We support the removal of immunity currently being undertaken via a Sewel motion.

14. Deemed refusal or consent

Local authorities have two months to determine minor developments, or four months for major developments. If this time limit is not met, currently the application is deemed to have been refused. This provision should be retained in order to guard against rushed or poor quality decisions.

15. Education and capacity building

Further and continued investment in education and capacity-building is needed to ensure that communities can engage in planning matters in an informed and responsible manner.

16. Speeding up the system

Neither developers nor communities have an interest in unnecessary delay. At worst delay leads to planning blight. Delays would be reduced without harming participation by empowering planning authorities to rule out repeat applications, and twin-tracking of applications. Delays can also be cut by setting short deadlines for appeals by developers (and third parties).

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