

A summary of the amendments to the Planning (Scotland) Bill

May 2019

The Planning Bill as amended at Stage 2 now contains:-

- Competing statutory purposes for planning. Whilst at first blush this may appear to be a good idea at practical level it is difficult to define the intended purpose of planning as such a definition will be either too wide and be meaningless or be too prescriptive such as would enable planning decisions to be challenged.
- Additional scrutiny for the National Planning Framework (which will now be part of the development plan and contain national planning policies) and a lengthy period of consultation (120 days) for consultation introduced by way of amendment. Additionally, amendments include the introduction of national housing targets.
- The retention of Strategic Development plans in the absence of a robust alternative for strategic planning.
- The abolition of supplementary guidance raising concerns as how important statements of local planning policy will be formulated.
- Local Place Plans that can be prepared by communities to influence development within their area. Amendments have sought to strengthen these by embedding them in the Local Development Plan process. Concern remains as to how they will be resourced.
- The introduction of ‘Culturally Significant Zones’ (CSZs) which seek to offer legal protection for buildings or lands used for cultural purposes similar to that given to conservation areas but which introduce a 100m consultation zone. There are concerns that CSZs may be an impediment to urban regeneration.
- Master Plan Consent Areas with an amendment to introduce ‘Land Value Capture’ which may allow a Local Authority to compulsory purchase land at less than its market value. This may contravene Protocol 1 of Article 1 of the European Convention on Human Rights (‘Every natural or legal person is entitled to the peaceful enjoyment of his possessions’).

- A removal of the planning performance requirements and mandatory training for Members taking planning decisions. Instead will be the appointment for each planning authority of a 'Chief Planning Officer' with a range of duties for discharging the planning function.
- The introduction of an infrastructure levy which is a new form of local tax to be placed on new development to raise funds for a large range of infrastructure including communications, transport, drainage, sewerage, flood defence, water and energy supply, educational and medical facilities and facilities and other places for leisure. A sunset clause has been added by way of an amendment that this provision will fly off if regulations are not enacted within 10 years of the passing of the Bill.
- The inclusion of young people in all aspects of development planning.
- Regulation of short term holiday lets particularly those which use popular platforms such as Airbnb. Such use will be a material change of use requiring a specific grant of planning permission.
- A definition of what is a 'material consideration' which seems unnecessary and unwise such a definition would either be too wide or too narrow in scope.
- Provisions for the protection of open space and also enshrining greenbelt protection in law.
- Amendments to Planning Obligations (Section 75 Agreements) to enable them to be varied through voluntary agreement in effect the somewhat cumbersome method of applying under Section 75A, but which will be retained for disputed cases. Decoupling the requirement for Section 75 Agreement to both regulate the use of land or buildings and payments in money or kind.