

planning power

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Executive Summary

Objective

The objective of this report is to examine the planning and housing systems in Scotland to see if they are meeting the needs of people in Scotland. In particular, the aim is to see whether the planning system is striking the right balance between development and conservation as well as whether current housing policies are responding effectively to the needs and wishes of people in Scotland. The paper also looks at how planning and housing systems operate in other countries and explores ideas to make the systems work better in Scotland.

Findings

- The main planning law in Scotland is The Town and Country Planning Act (Scotland) 1997 Chapter 8, although The Planning etc. (Scotland) Act 2006 amended the 1997 Act. Planning is largely the responsibility of the 34 planning authorities – 32 of which are controlled by councils and the two National Parks (Cairngorm and Loch Lomond and the Trossachs) and there is input from community councils with the Scottish Government overseeing the system, particularly in relation to major infrastructure projects.
- Strategic Development Plans (produced by groups of councils forming the four 'city regions') and Local Development Plans (drawn up by planning authorities) guide development and The 2006 Planning Act introduced a hierarchy of developments which are assessed differently depending on their size and impact. National developments, such as the new Forth crossing, are considered of strategic importance with only the details of implementation left to the local planning authority. Major developments, such as large housing developments, power plants or roads, require a 'pre-application consultation' between the developer and the council/community affected. Almost everything else is deemed local and determined by local planning authorities with councils having the power to attach conditions to developments – developer contributions – such as the provision of infrastructure or supply of social housing. The 2006 Act also introduced measures to make the planning

process more efficient by speeding it up and ensuring that local plans are updated regularly. Some of these measures will prove beneficial; however they do not address some of the fundamental problems of the planning system in Scotland which are largely cultural in nature.

- The Scottish Government and Scottish Government's Council of Economic Advisers, amongst others, have pointed out that the planning system is not performing as effectively as it should. It is seen as an inhibitor of economic growth due to the length of time it takes for planning permission and its inability to respond adequately to demand, particularly in relation to the supply of housing.
- The economic recession has led to a downturn in the housing market. However, the general trend over previous decades was one of rapidly rising house prices, particularly in Scotland. According to the Scottish Government's own statistics, between 1999 and 2009 the average house price in Scotland rose from £69,312 to £174,433. This has made housing in Scotland far less affordable, particularly to those on low incomes and first-time buyers, has had a destabilising effect on the economy and has diverted resources away from other parts of the economy. Although a number of factors have contributed to the rise in house prices, one of those factors is the limitation in the supply of land for housing which is an indication that the planning system is not responding adequately to demand signals in the economy.
- The problems of the planning system in Scotland stem from the lack of the appropriate incentives to ensure that a balance is struck between the need for economic development and the public's desire to preserve and enhance the quality of the environment. Under the current system of financing local government, councils find they do not gain sufficient financial benefit from allowing new development to make it worth their while to do so. Further, there is often a disincentive because new developments usually mean they have to finance additional services associated with these developments such as new roads or schools. Local communities have even less incentive to support development as they invariably lose out from new development due to loss of environmental amenity

and gain nothing in return. In turn, developers are answerable not to local people but to the wider local authority. All of this makes the so-called 'Nimby' (Not in my back yard) attitude logical and is a source of conflict between developers and local communities.

- In countries such as Switzerland and Germany, the financing of local government provides an incentive to ensure a better balance is struck between development and conservation which has led to much more stable house prices over recent decades. In addition, countries such as Sweden and Norway have given control over planning to much more local entities so that planning powers are controlled by the level of government that most accurately represents the community affected by development.
- Various government quangos and agencies, such as SEPA and Historic Scotland, as well as infrastructure providers such as Scottish Water play a central role in the planning process and can delay or effectively veto planning applications.
- The Scottish Government has made housing a central plank of its policy programme and is a key part of its overarching purpose of support for sustainable economic growth. In October 2007, its publication 'Firm Foundations – The Future for Housing in Scotland' set the ambitious target of delivering 35,000 houses a year by 2015, a huge increase on the rate of 25,000 a year at that time, although due to the economic recession new build completions in 2009 fell to 17,667. However, the number of new build completions in the social sector increased from 4,090 in 1999 to 6,220 in 2009 and a total of 7,122 social sector new build homes started in Scotland last year – more than at any time since the 1970s.
- The Scottish Government provides central support for housing through the Affordable Housing Investment Programme (AHIP) which mainly goes to Registered Social Landlords (RSLs) to build new homes for rent and low-cost home ownership, but also includes grants and assistance to councils, individuals and private companies. £471 million was allocated to the AHIP in 2010/11 bringing the total for the period 2008/09-2010/11 to £1.7 billion. This is a reduction compared to the previous year because £120 million of funding from 2010/11 was accelerated

as part of the Scottish Government's Economic Recovery Plan. Additional allocations were also made to local authorities taking the total to £502 million. Over the period 2008/09 to 2010/11, the Scottish Government plans to approve its target of 21,500 new or improved affordable homes.

- The Right to Buy (RTB) policy was introduced by a Conservative Government in 1980 and enabled council tenants to purchase their homes at a discounted rate. Since its introduction, it is estimated that around 400,000 properties have been sold to sitting tenants in Scotland and this represents about 40 per cent of local authority housing stock. The policy helped to raise the proportion of people owning their own homes in Scotland from 36 per cent in 1981 to around 63 per cent in 2001. RTB was modified in 2001 when discounts for new tenants were reduced and the Scottish Government believes that the policy is now out of date and has resulted in a shortage of social housing because the stock has been depleted faster than it has been replaced. As a result, it legislated to reform the policy further by ending RTB for new tenants as of 1 March 2011, although most tenants with existing RTB entitlements will not be affected. The Act bringing this into force was given Royal Assent in December 2010.
- Housing policy in Scotland has been characterised by central control and funding with support going towards the building of new social housing and affordable homes. The danger with such centralised systems is that they are not sufficiently responsive to the needs and wishes of people and so misallocate resources. Countries such as Australia and New Zealand have moved away from such systems and provide more housing support directly to people.

Policy Recommendations

Greater tax raising powers to local authorities: We recommend that local government becomes responsible for raising most of the money it spends, as outlined in Reform Scotland's publication 'Local Power'. This is essential if councils are to have greater autonomy and be more accountable to their local communities for the decisions they take and services they provide. At present, councils have little local control over tax raising and should, over time, be given the freedom to set the rates of a range of different taxes with business rates returned to local control as a first step. Until such financial powers are extended, it would be worth looking at ways of altering the local government grant settlement to ensure that this took increases in households and businesses into account.

This greater financial autonomy would be particularly beneficial to the planning system. Instead of costing money, it would mean that new development – whether residential or commercial – would bring extra revenue to local authorities outweighing the cost to councils of providing additional public services. This should reduce the need for developer contributions and, as in Switzerland and Germany, the link between new development and additional revenue would provide a genuine incentive to permit appropriate development. Further, this would create a much more positive culture within the planning system with planners becoming key figures within local authorities responsible for delivering growth and extra revenue.

Different local authorities would, no doubt, adopt different approaches to planning, as they can do at present. However, they would bear the financial consequences of their own decisions as well as being answerable to the local electorate for the balance they struck between allowing new development and conserving the environment.

Devolution of planning power: We recommend that, where communities wished to take on this responsibility, local planning decisions should be taken at the level of the local community to ensure that decisions are taken as close to the affected community as possible. This builds on the greater local engagement and involvement in the planning system encouraged by the 2006 Planning Act and, combined with an appropriate system of finance,

this would help to achieve the right balance between local economic development and the preservation of the local environment.

As set out in Reform Scotland's report 'Local Power', this could be done by giving local communities the right to acquire powers over areas such as planning from existing local authorities. This would only happen where communities wished to go down this route and expressed this desire in a local referendum. Such an evolutionary approach recognises that the current network of community councils in Scotland is patchy with some working better than others. Until areas have a properly-constituted community council in place, decisions would be taken by representative committees of local councillors.

Initially, local communities would receive funding associated with the powers devolved to them. However, this should take into account increases in households and businesses resulting from any permitted development. They should also be able to attach conditions and negotiate compensation agreements with developers. This greater local control should result in necessary development taking place where the relative value of the development to the local community outweighs its costs in terms of loss of environmental amenity. This will encourage development that is sensitive to the local environment, e.g. more small scale developments in keeping with the existing nature of the local area, since developers would have a financial interest in minimising the detrimental effects of any development. It is certainly preferable to a system whereby a higher authority can impose a development on a local community in return for what they view as adequate compensation, but which may not be viewed as such by the community affected. For developments defined as national or major this is, however, unavoidable as these would still be decided by the Scottish Government and the wider local authority. Even in these cases though, developers would have to negotiate with affected local communities to promote sensitive development.

The financial incentive should limit the 'Nimby' mentality and force local communities to look at the costs and benefits of any development to their community. With well over a thousand community councils in Scotland, competition would also mean that if any developer felt they were being held to ransom they could just go elsewhere. Instead, a process of negotiation would be encouraged.

As part of this bottom-up approach to planning, in future councils should not be forced to work together to produce Strategic Development Plans which cover the four main city regions. While it might make sense for councils to work together, this should be a matter for them to decide.

Reform the role of 'quangos' and infrastructure providers in the planning process: We recommend that, in line with our recommendations in 'Democratic Power', quangos which have a role within the planning system should either become part of government, be made fully independent or scrapped.

Bodies such as Scottish Natural Heritage (SNH), the Scottish Environmental Protection Agency (SEPA) and Historic Scotland would still have a statutory right to be consulted on applications and, in particular, to advise on compliance with EU law. However, they should become independent organisations working on a contractual basis with planning authorities and charging them fees for the advice and services they provide. This would enable planning authorities to ensure that any work was done within the required timescale and avoid any unnecessary delays.

It is also important that there is a level playing field when it comes to the provision of essential infrastructure such as water and sewerage services. Planning authorities should be able to set their own regulations in relation to the provision of water and sewerage services free from central guidance, although they would need to meet EU standards in these areas. It is reasonable for Scottish Water, as well as other agencies such as SEPA, to point out their concerns about the lack of appropriate water and sewerage services in any development project, however there is no need for any presumptions in favour of connections to public water supplies or waste-water treatment works.

This would enable developers to investigate alternative ways of supplying water and sewerage services since new technologies have been used successfully in other countries. The Scottish Government could facilitate this process by setting up a Scottish approval testing and certification system to verify that any new technologies meet the required standards. It would then be up to the developer to convince the planning authority that suitable arrangements for providing water and sewerage services are in place.

This has the potential to speed up development and make more land viable for development particularly in rural parts of Scotland.

Housing support should go to people rather than on buildings: We recommend that, at the Scottish Government level, there is a shift in policy away from providing support for building new social housing to support for households, empowering them to make choices about housing for themselves. Initially, this could be done by redirecting the Scottish Government's housing budget towards support for tenants. However, to make this policy work effectively it would require the transfer of responsibility for Housing Benefit from Westminster to Holyrood along with associated funding, although this might change if Scotland gained greater fiscal powers in the future. This would enable a new and simpler Scotland-wide system of housing support to be developed which took into account specific Scottish needs, local rent levels and whether those receiving support were single, part of a couple or a family with children. Combining the money currently going towards housing benefit in Scotland with that going towards social housing providers would enable more generous support to be given directly to households. This would give landlords a genuine incentive to let their properties to them and help to ensure that support goes to those most in need.

This would not only enhance tenants' choice, but also make the whole housing system more responsive to their needs and wishes. Such a system places greater trust in housing providers, whether Registered Social Landlords, local authorities or those in the private sector to make their own decisions and respond to the needs of their tenants. Further, it would place them on a more level playing field, although this would require a review of the legal structures for rented housing to ensure that tenants all have the same rights. There are a number of options, but extending assured tenancies of unrestricted length to all tenants would be a sensible starting point. While this would not be popular amongst private landlords, it could be balanced by enhanced rights to repossession for rent arrears and abuse of the property. It would certainly help to enhance competition and drive up standards.

This policy assumes that people are able to make decisions for themselves. But we should recognise that giving tenants this enhanced choice and responsibility may mean that some need additional advice and support, particularly in the early stages because they are unused to paying rent. Ensuring that this support was provided would be the responsibility of local authorities, although they may well want to involve voluntary organisations in the provision of such advice.

Local control over housing policy: We recommend that, as far as possible, housing policy should be determined at the local level with the Scottish Government concentrating on providing the necessary support to households. This will ensure that policies are more responsive to local needs and so help to provide a better balance between supply and demand. Combined with local government gaining greater autonomy and financial responsibility, it will also help to encourage diversity and innovation in housing provision and particularly in relation to the funding of new infrastructure through methods such as Tax Increment Financing and municipal bonds. Such models, together with new forms of private finance, could be developed in conjunction with the Scottish Futures Trust.

As with planning, areas such as building guidelines should be part of a local framework and local authorities should be free to decide on their own policies in relation to other aspects of housing such as support for home ownership. While the right to buy scheme was undoubtedly successful in boosting home ownership in Scotland, it was a policy which saw national priorities override local autonomy. Reform Scotland has consistently argued that greater powers need to be passed down to local authorities because they are best placed to make decisions for their local areas. In keeping with this, it is right that it is local councils, not Holyrood, which decide whether the right to buy scheme should apply to new tenants in their areas.

Local authorities would also be free to introduce any other policies to boost home ownership or to transfer their housing stock.

Conclusion

The planning and housing systems in Scotland could be made more responsive to the needs and wishes of people living here. The 2006 Planning Act was a step in the right direction since it increased the opportunity for people to become involved in the planning process from an early stage. However, too many decisions in relation to both housing and planning are still taken by central bodies which do not have the necessary knowledge to make decisions for diverse communities across Scotland. The reforms set out in this report are intended to remedy this situation by giving local communities and people much greater control over how their own parts of Scotland develop.

This is the best way to ensure that we meet our future housing needs, allow the economy to develop in a sustainable way and preserve the environment of Scotland.

1. Planning

The planning system in Scotland is used to make decisions about future development projects as well as the use of land in urban areas. The system is supposed to balance competing demands to ensure that land is used and developed in a way which meets the public's long term interest.

Key statistics:

- In 2008-09 there were 47,220 planning applications decided upon, of which 60.5 per cent were decided within two months. This compares with 56,720 and 62.9 per cent in 2004-05.¹
- In 2008-09 there were 467 decisions about major business and industry development, of which 46 per cent were decided within four months.²
- Since 2002, there has been an increase of 217 hectares in the total amount of derelict and urban vacant land recorded in the Scottish Government's survey, from 10,646 hectares in 2002 to 10,863 hectares in 2009. Vacant land is land which is unused for the purposes for which it is held and is viewed as an appropriate site for development, while derelict land (and buildings) is land which has been so damaged by development, that it is incapable of development for beneficial use without rehabilitation. Six councils (North Lanarkshire, Glasgow City, North Ayrshire, Highland, Renfrewshire and Fife) together contain 63 per cent of all recorded derelict and urban vacant land.³

1.1 The planning system in Scotland

The Town and Country Planning (Scotland) Act 1997 designates local authorities as 'planning authorities' with a responsibility for producing structure plans, local plans and handling most aspects of development control and enforcement. To varying extents, National Park Authorities carry out these functions in their areas.⁴

Planning applications are decided by local authorities, although they can be called in by the Scottish Government. Councils decide whether an application is in keeping with the development plans which guide the system. However, they do have the discretion to ignore all or part of the plans based on important environmental, economic or social considerations. Normally though, they will stick to plans and can grant planning permission with or without conditions or can reject an application altogether.

¹ Scottish Government, "Planning performance statistics 2004-07", 2008 and Scottish Government, "Planning performance statistics 2007-09", 2010

² Scottish Government, "Planning performance statistics 2007-09", 2010. Figures from 2004-07 are not directly comparable

³ Scottish Government, "Scottish Vacant & Derelict Land Survey 2009", January 2010

⁴ Rehfish, A, "Town and country planning: subject profile", SPICe briefing, April 2007

A number of more rural and geographically larger councils have adopted a council structure which incorporates local area committees. The area committees can either be made up of the local councillors from the relevant area, or reflect the political make-up of the overall council. Area committees often take decisions on issues of particular relevance to their local community, including planning matters. However, if a decision has a wider impact across the whole council area, or depending on the relationship between area committees and central committees, decisions may be referred to a central committee for the final vote. Although The Town and Country Planning (Scotland) Act 1997 remains the principal piece of Scottish planning legislation, it was heavily amended by the Planning etc (Scotland) Act 2006. This Act introduced a number of useful measures to modernise and improve the working of the planning system in Scotland.

The aim was that this should be a plan-led system with those plans kept up to date. Further, there should be greater involvement of communities with more publicly-available information on planning cases and increased engagement between developers and local communities. This should help to speed up decisions and reflect local views better.

Some of the key elements introduced by the new Act included:

- **National Planning Framework:** In June 2009, the Scottish Government published the National Planning Framework 2. Planning authorities are required to take this framework into account when preparing development plans and it is a material consideration in determining planning applications. The first National Planning Framework, published in 2004, set out a strategy for Scotland's development to 2025. The second National Planning Framework guides Scotland's development to 2030, setting out strategic development priorities to support the Scottish Government's central purpose - sustainable economic growth. The Planning etc. (Scotland) Act 2006 puts this and future iterations of the National Planning Framework on a statutory footing. This Framework will play a key role in co-ordinating policies with a spatial dimension and aligning strategic investment priorities.⁵

⁵ Scottish Government, "National Planning Framework 2", June 2009

- **Strategic development plans**

The Act removed the requirement on local authorities to produce structure plans, replacing them with Strategic Development Plans which are to be produced by new Strategic Development Authorities and updated at least once every five years. The plans only cover the four main city regions – Glasgow, Edinburgh, Dundee and Aberdeen.

- **Local development plans**

The Act replaced the requirement on councils to produce local plans with a requirement to produce new local development plans, with the plans having to be updated every five years.

- **Development Management**

The Act renamed 'development control', 'development management' and introduced a three tier hierarchy of development covering national, major and local development.

The 2006 Act creates different types of development with different procedures. National developments are considered by the Scottish Government to be of strategic importance and are agreed in principle. Only the details of implementation are left to the local authority. Major developments, such as large housing developments, power plants or roads, require a 'pre-application consultation' between the developer and the council/community affected. Almost everything else is deemed local and determined by local planning authorities with councils having the power to attach conditions to developments – developer contributions – such as the provision of infrastructure or supply of social housing.

When a planning application is rejected, it can be appealed to a local review board made up of councillors and further appeals can be made to the Scottish Government.

Quangos and Infrastructure Providers

There are a number of quangos and infrastructure providers involved in the planning process, some of which are outlined below:

Scottish Natural Heritage: Scottish Natural Heritage (SNH) is a Non-Departmental Public Body which looks after all aspects of nature across Scotland and leads three of the National Performance Indicators on protected sites, biodiversity and visits to the outdoors.

It is mainly concerned with promoting the safe upkeep of Scotland's natural heritage whilst also ensuring that the environment is understood and respected by the public. These concerns are managed through its designation of conservation areas e.g. National Parks and Sites of Special Scientific Interest (and these protected areas account for 20 per cent of the total area of Scotland), through its involvement in major planning proposals and work with local authorities, Government bodies, community groups, farmers and land managers. The Scottish Government also relies on SNH to ensure that European Environmental Laws relating to natural heritage are fully observed. SNH works within the planning process to ensure natural heritage interests are properly taken into account in planning proposals. It does this by giving advice to: planning authorities, the Scottish Government, to Transport Scotland, to Reporters at Public Local Inquiries and to the Forestry Commission. It also has a major role in Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA). The planning cases it deals with are mainly ones of national interest, which could do the greatest harm to the environment, and most of its work is concerned with pre-application consultations which aim to avoid and mitigate serious threats to natural heritage. If there are planning applications that are likely to be granted against SNH's wishes then it would take action by informing Scottish Ministers of the situation.⁶

Scottish Environment Protection Agency: The Scottish Environment Protection Agency (SEPA) is a Non-Departmental Public Body with its headquarters in Stirling. SEPA's main role is to protect, maintain and restore Scotland's environment; which includes protection of air, land and water quality. It fulfils this role by being an environmental regulator, advising Scottish ministers, helping businesses understand their environmental responsibilities, and by helping customers comply with legislation and realise the economic benefits of good environmental practice. It also delivers many public services on a range of issues including flood warnings, planning for emergencies that effect the environment, and dealing with pollution problems. It is involved in planning through providing formal environmental advice on development plans and proposals throughout Scotland, and it tries to do this in a supportive way that will help the environment, businesses and communities. Its main aims in planning are to reduce pollution, prevent flood risks and allow for adequate drainage. SEPA works closely with other bodies in this

⁶ http://www.snh.org.uk/data/boards_and_committees/main_board_papers/2010-Feb23/UpdateonQ3Report2009-10.pdf

activity, in particular SNH, and they aim to give a consistent response in regard to planning proposals. It also has a similar role to SNH in Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) for the topics for which it is responsible.⁷

Historic Scotland: Historic Scotland is a Scottish Government agency and is directly responsible to Scottish Ministers for safeguarding the nation's historic environment and promoting its understanding and enjoyment. Its role is to deliver policy and advice on all aspects of the historic environment on behalf of Scottish Ministers. It also carries out statutory functions relating to two acts of Parliament - the Ancient Monuments and Archaeological Areas Act 1979, which allows it to schedule sites of national importance and take them into state care, and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that grants it the authority to list structures for their architectural or historical significance.⁸

Architecture and Design Scotland: Architecture and Design Scotland focuses on the creation of better places that benefit Scotland's people, economy and culture, advocating the need for buildings and places of significant and lasting quality. To this end, they work with planners and government, advising them on new developments and how development would maintain and complement the architectural environment already present in Scotland. In addition, ADS has a wider educational role to convey this message to a wide range of groups in society.⁹

Scottish Water: Scottish Water is a public corporation accountable to the public through the Scottish Government and is the single authority responsible for the provision of water and sewerage services. As such, it has an important role in planning and development as it supplies the connections to mains water and sewerage. This has sometimes delayed projects where Scottish Water has a backlog of work and there is evidence that some planning authorities have introduced regulations which make it difficult for alternative providers of water and sewerage services to become involved in developments. For example, that planning authorities require new developments to connect to public water supplies and waste water treatment works or that systems must be designed so that in future they may easily be connected to the public sewer.

⁷ Source: SEPA Corporate Plan 2008-2011

⁸ <http://www.historic-scotland.gov.uk/index/about/who-we-are/what-we-do.htm>

⁹ <http://www.ads.org.uk/documents/645/645.pdf>

1.2 The performance of the current system

The Scottish Government has recognised that the planning system is not operating as well as it might. In its Consultation Document, 'Firm Foundations' published in October 2007, it said:

*'The planning system has struggled to respond to demand, failing to enable an acceleration in housing supply.'*¹⁰

The Scottish Government's Council of Economic Advisers looked at planning early on and at its first meeting the Scottish Government's Chief Planner gave his view of the planning system in Scotland.

*'The Chief Planner began by acknowledging that, during the last twenty years, the Scottish planning system has not been performing well....many see the planning system as an inhibitor to growth rather than a major driver of economic development.'*¹¹

Notwithstanding the improvements made to the planning system in Scotland by the 2006 Act, there are still concerns about the way in which it operates particularly amongst the business community. This is usually related to the length of time it takes for planning decisions to be taken with the percentage decided within two months being lower in 2008-09 than in 2004-05 according to Scottish Government figures.

In his paper, 'Faster Growth, Greener Scotland'¹², Tom Miers highlights the planning system's effect on the housing market. Although there has been a recent downturn, the trend over recent decades has been upwards with, latterly, greater house price inflation in Scotland than in the UK as a whole.

There are a number of different reasons for this rise in demand, but normally it would lead to the release of new land for developments as there is a correlation between new land and house prices. This suggests that the system is not flexible enough to respond adequately to demand.

The problems of the planning system in Scotland stem from the lack of the appropriate incentives to ensure that a balance is struck between the need for economic development and the public's desire to preserve and enhance the quality of the environment. Under the current system of financing local government, councils find they do not gain sufficient financial benefit from allowing new development to make it worth their while to do so. Further, there

¹⁰ Firm Foundations: The Future of Housing in Scotland: A Discussion Document – Scottish Government October 2007

¹¹ Minutes of the Council of Economic Advisers, Scottish Government

¹² Tom Miers. 'Faster Growth, Greener Scotland' www.reformscotland.org/policyforum

is often a disincentive because new developments usually mean they have to finance additional services associated with these developments such as new roads or schools. Local communities have even less incentive to support development as they invariably lose out from new development due to loss of environmental amenity and gain nothing in return. In turn, developers are answerable not to local people but to the wider local authority. All of this makes the so-called 'Nimby' (Not in my back yard) attitude logical and is a source of conflict between developers and local communities.

1.3 Planning in other countries

Other countries, in particular Germany and Switzerland, have planning systems which seem to respond far more effectively to demand. The 2005 study 'Bigger, Better, Faster, More'¹³ demonstrated that house prices had remained stable in both Germany and Switzerland over the past 30 years although they had experienced similar pressures in relation to demand as a result of economic growth and changes in household size to those here.

The key difference is the way in which local government in these countries is structured. In Germany funding for councils from central or state governments comes in the form of grants which are based on population and tax revenues. This creates a very different set of incentives because new inhabitants and development bring extra revenue. Different councils, therefore, compete to attract them as when people leave their grant will be reduced.

In Switzerland, this link is even clearer because the local cantons raise two thirds of their revenues from local taxes. This provides a positive financial incentive for councils to attract businesses and people to their area as they bring with them additional tax revenue for the cantons. Importantly though, this means both ensuring that enough land is made available for development and maintaining an attractive environment within which people will want to live.

The Policy Exchange report makes clear that other countries, such as Ireland and Australia, with systems similar to our own have experienced similar problems with rising house prices.

This has very serious consequences for the affordability of housing, particularly for the less well off in society. As experience elsewhere shows, we need to introduce the right incentives into the planning system in Scotland in order to achieve the better balance between development and conservation seen in Switzerland and Germany.

¹³ Bigger, Better, Faster, More – Why some countries plan better than others by Professor Alan Evans and Dr Marc Hartwich, Policy Exchange, September 2005

2. Housing

In October 2007 the Scottish Government published “Firm Foundations – The Future for Housing in Scotland” which set out the target of delivering 35,000 houses a year by 2015, a huge increase on the current rate of 25,000 a year.

Key statistics:

- In 2009 there were 2,469,000 dwellings in Scotland, of which 4 per cent were unoccupied. 62.2 per cent of all dwellings were owner-occupied whilst 24.1 per cent were socially rented.¹⁴
- Between 1999 and 2009 the average house price in Scotland has risen from £69,312 to £174,433.¹⁵
- First-time buyers accounted for 50 per cent of residential property transactions and mortgage completions in 1999, falling to 34 per cent in 2009.¹⁶
- New build completions across all sectors have fallen from 23,483 in 1999 to 17,667 in 2009. It should be noted that this fall will be connected to the recession and the figure for 2008 was 22,016. However, completions for new builds within the social sector have risen from 4,090 in 1999 to 6,220 in 2009¹⁷
- In 2008-09 6,767 affordable housing units were granted planning permission. 64 per cent of those were to be publicly funded.¹⁸

¹⁴ Scottish Government, “Housing Statistics for Scotland - Key Information and Summary Tables” - <http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HStS/KeyInfoTables>

¹⁵ Scottish Government, “Housing Statistics for Scotland - Key Information and Summary Tables” - <http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HStS/KeyInfoTables>

¹⁶ Scottish Government, “Housing Statistics for Scotland - Key Information and Summary Tables” - <http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HStS/KeyInfoTables>

¹⁷ Scottish Government, “Housing Statistics for Scotland - All sector new build” - <http://www.scotland.gov.uk/Topics/Statistics/Browse/Housing-Regeneration/HStS/NewBuildAllSector>

¹⁸ Scottish Government, “Affordable Housing Securing Planning Consent 2008-09”, September 2009

Changes in size of households¹⁹

Total number of households	1981	2001	2008
	1,786,000	2,195,000	2,331,000
- % 1 person	22%	33%	34%
- % 2 adults	28%	30%	31%
- % 1 adult, 1 child	1%	3%	3%
- % 1 adult, 2+ children	1%	3%	2%
- % 2+ adults, 1+children	33%	22%	20%
- % 3+ adults	14%	9%	10%

Changes in types of dwelling

Dwelling Type	1981	2001	2008
Total Number of dwellings			2,478,167
Flat		35.6%	38%
Terraced		20.2%	21%

2.1 Social housing

Social housing in Scotland includes housing managed by public authorities (predominantly councils) and housing associations (Registered Social Landlords or RSLs).

The key bodies involved in housing policy and provision in Scotland are the Scottish Government, local authorities, Registered Social Landlords (RSLs) and the Scottish Housing Regulator. Five local authorities have transferred all their housing stock to RSLs. There are 246 RSLs (mainly housing associations) operating in Scotland.²²

The Scottish Government provides central support for housing through the Affordable Housing Investment Programme (AHIP) which mainly goes to Registered Social Landlords (RSLs) in the form of Housing Association Grant to build new homes for rent and low-cost home ownership, but also includes grants and assistance to councils, individuals and private companies. £471 million was allocated to the AHIP in 2010/11 bringing the total for the period 2008/09-2010/11

¹⁹ GROS, "Estimates of households and dwellings in Scotland, 2009", May 2010

²⁰ Scotland's census 2001 - <http://www.scrol.gov.uk/scrol/common/home.jsp>

²¹ GROS, "Estimates of households and dwellings in Scotland, 2009", May 2010

²² Berry, K. "Housing – Subject Profile", SPICe Briefing, June 2009

to £1.7 billion. This is a reduction compared to the previous year because £120 million of funding from 2010/11 was accelerated as part of the Scottish Government's Economic Recovery Plan. Additional allocations were also made to local authorities taking the total to £502 million. Over the period 2008/09 to 2010/11, the Scottish Government plans to approve its target of 21,500 new or improved affordable homes.

People on low incomes can also get help with rent through Housing Benefit and it is not necessary to be on another social security benefit to be entitled to it, although this can often mean someone is entitled to Housing Benefit automatically. Housing Benefit is administered by local authorities on behalf of the UK Government Department of Work and Pensions (DWP) which retains responsibility for policy, stewardship and funding.

In 2006-07, the total number of households in Scotland receiving Housing Benefit was just over 400,000 and spending was £1.259 billion. Around two thirds of social housing tenants receive Housing Benefit which is an important tool of housing policy as well as an important element of the benefit system.

2.2 Right to buy

The Right to Buy was introduced by the then Conservative Government in 1980. It enables tenants to purchase their own homes at a discounted rate with those who had occupied their properties longest gaining the most. The Right to Buy replaced local discretion and applied to the majority of secure tenants.

RTB was modified in 2001 when discounts for new tenants were reduced to a maximum of 35 per cent of the property's value and was ended for new tenants as of March 2011 by the Scottish Government's Housing Act which was given Royal Assent in December 2010. The main impetus behind the Scottish Government's decision to end the RTB has been on the grounds that after 30 years the policy is out dated and no longer suitable or sustainable. It believes that the RTB has led to a shortage of social housing available for rent, particularly in areas of pressure where the housing demand exceeds supply, because the stock has been depleted faster than it has been replaced.

According to the Scottish Government, having ended the RTB this should mean up to 20,000 fewer homes being sold off over a 10-year-period, thereby increasing the availability of property available to rent.²³

²³ SPICe Briefing, *Scottish Government, Housing (Scotland) Bill: as Amended at Stage 2*, 27 October, 2010

The effects of the RTB have been far-reaching with 400,000 properties having been sold to sitting tenants in Scotland, representing some 40 per cent of local authority housing stock.²⁴ This has transformed the tenure structure of Scotland with owner occupation rising from 36 per cent of households in 1981 to around 63 per cent in 2001. According to research, half of this is attributable to the RTB scheme²⁵ and this has made it easier for families who would otherwise have struggled to aspire to become property owners to get onto the housing ladder despite their economic status.

However, we should not overlook the fact that the Right to Buy was a policy that was imposed on local authorities by central government. As such it was part of a wider centralising tendency which reduced the autonomy of councils.

2.3 Housing in other countries

Housing policy in Scotland has been characterised by central control and funding with support going towards the building of new social housing and affordable homes. The danger with such centralised systems is that they are not sufficiently responsive to the needs and wishes of people and so resources go where bureaucrats think they should go rather than where people would like them to go.

All countries with welfare states have some form of commitment to ensuring access to housing for all their citizens because it is one of the most basic of human needs, although this does vary from country to country. However, according to international studies carried out for the Department of Work and Pensions,²⁶ the international trend, amongst most of the countries studied, has been away from housing support for the construction and rehabilitation of social housing and towards more personal consumer subsidies, usually in the form of housing allowances for those individuals and households in need. In countries such as Australia and New Zealand, in particular, support is directed to those on low incomes and these countries have very small social rented sectors. In Australia, the social rented sector comprises 6 per cent of their total housing stock and in New Zealand it is 7 per cent. This compares with 24 per cent in Scotland. The great advantage of such demand-side support is that it is focused on the needs of individual households, giving them control over housing resources and able to exercise some choice over their housing.²⁷

²⁴ (<http://www.scotland.gov.uk/Publications/2006/09/15085602/3>).

²⁵ Colin Jones, Alan Murie, 1998, *Reviewing the Right to Buy*, Joseph Rowntree Foundation. Available at: <http://www.jrf.org.uk/publications/reviewing-right-to-buy>

²⁶ *Social Housing, Tenure and Housing Allowances: An International Review* by John Ditch, Alan Lewis and Steve Wilcox of the University of York. Peter Kemp, *A Comparative Study of Housing Allowances*, Department of Work and Pensions.

²⁷ Peter King, *Choice and the End of Social Housing*, IEA, June 2006

3. Policy Recommendations

Greater tax raising powers to local authorities: Reform Scotland set out in its earlier report 'Local Power' that local government should become responsible for raising most of the money it spends. This is essential if councils are to have greater autonomy and be more accountable to their local communities for the decisions they take and services they provide. At present, councils have little local control over tax raising and should, over time, be given the freedom to set the rates of a range of different taxes with business rates returned to local control as a first step. Until such financial powers are extended, it would be worth looking at ways of altering the local government grant settlement to ensure that this took increases in households and businesses into account.

This greater financial autonomy would be particularly beneficial to the planning system. Instead of costing money, it would mean that new development – whether residential or commercial – would bring extra revenue to local authorities outweighing the cost to councils of providing additional public services. This should reduce the need for developer contributions and, as in Switzerland and Germany, the link between new development and additional revenue would provide a genuine incentive to permit appropriate development. Further, this would create a much more positive culture within the planning system with planners becoming key figures within local authorities responsible for delivering growth and extra revenue.

Different local authorities would, no doubt, adopt different approaches to planning, as they can do at present. However, they would bear the financial consequences of their own decisions as well as being answerable to the local electorate for the balance they struck between allowing new development and conserving the environment.

Devolution of planning power: Reform Scotland has consistently advocated pushing power down within society so that decisions are taken as close to those affected as possible. Therefore, where communities wished to take on this responsibility, local planning decisions should be taken at the level of the local community to ensure that decisions are taken as close to the affected community as possible. This builds on the greater local engagement and

involvement in the planning system encouraged by the 2006 Planning Act and, combined with an appropriate system of finance, this would help to achieve the right balance between local economic development and the preservation of the local environment.

As set out in Reform Scotland's report 'Local Power', this could be done by giving local communities the right to acquire powers over areas such as planning from existing local authorities. This would only happen where communities wished to go down this route and expressed this desire in a local referendum. Such an evolutionary approach recognises that the current network of community councils in Scotland is patchy with some working better than others. Until areas have a properly-constituted community council in place, decisions would be taken by representative committees of local councillors.

Initially, local communities would receive funding associated with the powers devolved to them. However, this should take into account increases in households and businesses resulting from any permitted development. They should also be able to attach conditions and negotiate compensation agreements with developers. This greater local control should result in necessary development taking place where the relative value of the development to the local community outweighs its costs in terms of loss of environmental amenity. This will encourage development that is sensitive to the local environment, e.g. more small scale developments in keeping with the existing nature of the local area, since developers would have a financial interest in minimising the detrimental effects of any development. It is certainly preferable to a system whereby a higher authority can impose a development on a local community in return for what they view as adequate compensation, but which may not be viewed as such by the community affected. For developments defined as national or major this is, however, unavoidable as these would still be decided by the Scottish Government and the wider local authority. Even in these cases though, developers would have to negotiate with affected local communities to promote sensitive development.

The financial incentive should limit the 'Nimby' mentality and force local communities to look at the costs and benefits of any development to their community. With well over a thousand community councils in Scotland, competition would also mean that if any developer felt they were being held to ransom they could just go elsewhere. Instead, a process of negotiation would be encouraged.

As part of this bottom-up approach to planning, in future councils should not be forced to work together to produce Strategic Development Plans which cover the four main city regions. While it might make sense for councils to work together, this should be a matter for them to decide.

Reform the role of ‘quangos’ and infrastructure providers in the planning process: Reform Scotland set out in the report ‘Democratic Power’ its view that quangos should either become part of government, be made fully independent or scrapped.

Applying this to those bodies involved in the planning system, such as Scottish Natural Heritage (SNH), the Scottish Environmental Protection Agency (SEPA) and HistoricScotland, we would maintain their statutory right to be consulted on applications and, in particular, to advise on compliance with EU law. However, they should become independent organisations working on a contractual basis with planning authorities and charging them fees for the advice and services they provide. This would enable planning authorities to ensure that any work was done within the required timescale and avoid any unnecessary delays.

It is also important that there is a level playing field when it comes to the provision of essential infrastructure such as water and sewerage services. Planning authorities should be able to set their own regulations in relation to the provision of water and sewerage services free from central guidance, although they would need to meet EU standards in these areas. It is reasonable for Scottish Water, as well as other agencies such as SEPA, to point out their concerns about the lack of appropriate water and sewerage services in any development project, however there is no need for any presumptions in favour of connections to public water supplies or waste-water treatment works.

This would enable developers to investigate alternative ways of supplying water and sewerage services since new technologies have been used successfully in other countries. The Scottish Government could facilitate this process by setting up a Scottish approval testing and certification system to verify that any new technologies meet the required standards. It would then be up to the developer to convince the planning authority that suitable arrangements for providing water and sewerage services are in place.

This has the potential to speed up development and make more land viable for development particularly in rural parts of Scotland.

Housing support should go to people rather than on buildings:

Reform Scotland has advocated giving the users of services greater choice. In relation to housing, this could be achieved by a shift in policy at the Scottish Government level away from providing support for building new social housing to support for households, empowering them to make choices about housing for themselves.

Initially, this could be done by redirecting the Scottish Government's housing budget towards support for tenants. However, to make this policy work effectively it would require the transfer of responsibility for Housing Benefit from Westminster to Holyrood along with associated funding, although this might change if Scotland gained greater fiscal powers in the future. This would enable a new and simpler Scotland-wide system of housing support to be developed which took into account specific Scottish needs, local rent levels and whether those receiving support were single, part of a couple or a family with children. Combining the money currently going towards housing benefit in Scotland with that going towards social housing providers would enable more generous support to be given directly to households. This would give landlords a genuine incentive to let their properties to them and help to ensure that support goes to those most in need.

This would not only enhance tenants' choice, but also make the whole housing system more responsive to their needs and wishes. Such a system places greater trust in housing providers, whether Registered Social Landlords, local authorities or those in the private sector to make their own decisions and respond to the needs of their tenants. Further, it would place them on a more level playing field, although this would require a review of the legal structures for rented housing to ensure that tenants all have the same rights. There are a number of options, but extending assured tenancies of unrestricted length to all tenants would be a sensible starting point. While this would not be popular amongst private landlords, it could be balanced by enhanced rights to repossession for rent arrears and abuse of the property. It would certainly help to enhance competition and drive up standards.

This policy assumes that people are able to make decisions for themselves. But we should recognise that giving tenants this enhanced choice and responsibility may mean that some need additional advice and support, particularly in the early stages because they are unused to paying rent. Ensuring that this support was provided would be the responsibility of local authorities, although they may well want to involve voluntary organisations in the provision of such advice.

Local control over housing policy: As far as possible, housing policy should be determined at the local level with the Scottish Government concentrating on providing the necessary support to households. This will ensure that policies are more responsive to local needs and so help to provide a better balance between supply and demand. Combined with local government gaining greater autonomy and financial responsibility, it will also help to encourage diversity and innovation in housing provision and particularly in relation to the funding of new infrastructure through methods such as Tax Increment Financing and municipal bonds. Such models, together with new forms of private finance, could be developed in conjunction with the Scottish Futures Trust.

As with planning, areas such as building guidelines should be part of a local framework and local authorities should be free to decide on their own policies in relation to other aspects of housing such as support for home ownership. While the right to buy scheme was undoubtedly successful in boosting home ownership in Scotland, it was a policy which saw national priorities override local autonomy. Reform Scotland has consistently argued that greater powers need to be passed down to local authorities because they are best placed to make decisions for their local areas. In keeping with this, it is right that it is local councils, not Holyrood, which decide whether the right to buy scheme should apply to new tenants in their areas.

Local authorities would also be free to introduce any other policies to boost home ownership or to transfer their housing stock.

4. Conclusion

The planning and housing systems in Scotland could be made more responsive to the needs and wishes of people living here. The 2006 Planning Act was a step in the right direction since it increased the opportunity for people to become involved in the planning process from an early stage. However, too many decisions in relation to both housing and planning are still taken by central bodies which do not have the necessary knowledge to make decisions for diverse communities across Scotland. The reforms set out in this report are intended to remedy this situation by giving local communities and people much greater control over how their own parts of Scotland develop.

This is the best way to ensure that we meet our future housing needs, allow the economy to develop in a sustainable way and preserve the environment of Scotland.

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