



The Mountaineering Council of Scotland

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Alex Neil MSP
Cabinet Secretary for Social Justice
Communities and Pensioners' Rights
The Scottish Government

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Dear Sir

Submission to the Independent Review of Planning

1. Introduction

The Mountaineering Council of Scotland is an independent organisation established in 1970 as the national representative body for the sport of mountaineering in Scotland. It has over 12,500 members who are hill walkers, climbers and ski tourers. It is recognised by the Scottish Government as representing the interests of mountaineers living in Scotland. We also act in Scotland for the 75,000 members of the British Mountaineering Council on landscape and planning matters.

Our engagement with the planning system is twofold. Firstly, through contributions to local development planning consultations where we seek to ensure that development constraints are applied in upland areas, primarily in respect of renewable energy developments and dirt roads; secondly, by responding to specific planning applications for development in upland areas, both local applications and Section 36 applications submitted to the Scottish Government.

2. Development planning

We believe that local development planning has a valuable role to play but that it suffers from two problems.

First, local planning is subsidiary to the national Scottish Planning Policy and National Planning Framework. Perhaps in a small country this is inevitable, but it gives a pretence of local planning which is not present in reality. This can be seen by noting the similarities across all LDPs: there may be minor differences of wording and cosmetic presentational differences but the core of every LDP is about giving local spatial expression to national policy. As an example, we are aware of no LDP that has been allowed to include local landscape considerations into its wind farm spatial strategy map – all must adopt the hierarchy given in SPP.

If this nationally-led approach is to be retained, there is scope for greatly simplifying LDPs by explicitly configuring them as the local site-specific companions to a national plan. It may be

questioned whether this is desirable in terms of local democracy and maintaining regional diversity in landscapes and townscapes but that is not a question for the MCofS.

Second, local development planning is overly-complex with SPP/NPF, LDP, supplementary guidance, and other documents containing 'material consideration' all being produced and updated at different times. If there is a coherent design behind this, it is well concealed. In some areas there is also a regional level of planning (e.g. Tayplan) that seems completely superfluous, adding nothing (with the possible exception of cost to the taxpayer) that could not be achieved more efficiently by specific bi-lateral arrangements on major cross-boundary issues.

Such complexity leads to public confusion and fatigue and provides scope for unproductive exchanges at PLIs about which part of policy is engaged in a particular decision when multiple policies with different dates are potentially pertinent. As already noted, the content of much local planning is already actually set out nationally and an approach that explicitly recognised this would simplify the planning landscape.

3. Development management

We are concerned that the review uses language such as "...exploring how planning can be empowered to enable development ...". The purpose of the development management system is to both facilitate and control development to reflect the public interest – local and national – in particular proposals and particular sites. The public interest may be best served in some instances by not enabling development, such as in mountains and wild land where the very absence of development is integral to their quality and attractiveness.

This is not to suggest that the MCofS is in favour of inefficiency, and in this respect we note that the longest-awaited wind farm planning decisions sit not with hard-pressed local planning departments but with the Scottish Government.

Refusal of planning consent should be final. 'Repeat' applications should be excluded for a period of time, say 10 years, unless a new application is demonstrably substantially different and has explicitly and fully addressed the reasons for the initial refusal. There are several instances of repeated applications for wind farms with little evidence that newer applications have addressed the reasons why the earlier ones failed.

Permitted Development Rights have a place but the public interest is not currently well served by the exclusion of major landscape changes – specifically of concern to MCofS members' interests are afforestation and dirt roads (private ways) – from normal development management scrutiny through historic PDRs introduced in very different circumstances after World War Two which are no longer appropriate in the 21st century.

Planning consent is often accompanied by conditions. We are concerned that *national* consents requiring temporary construction tracks to be removed are being overturned by subsequent piecemeal *local* consents for permanent retention. We believe that such applications should be directed to the original consenting authority (i.e. Scottish Government) and should only be permitted under exceptional circumstances or where the effect is demonstrably trivial. We are aware of extensive lengths of Beaully-Denny power line construction tracks that have now been consented for permanent retention. When this hard-fought application was consented, the removal of all construction tracks was held up nationally as a key element of mitigation. It was not said that it could be undone quietly by local decisions, almost every one of which has simply been approval under delegated powers. The reputation of the system as a whole is ill-served by this anomaly.

4. Community engagement

Referring back to our earlier comments, we have witnessed disillusion accompanying the realisation that local engagement is of little moment when the outcome is trumped by national requirements. People have, for example, supported the inclusion of local landscape designations in wind farm spatial strategy maps only to have them struck out by Reporters as incompatible with SPP. If people are to be engaged productively, the limits of such engagement need to be explicit.

Our experience of community engagement by developers is that it is often not a two-way process of mutual engagement but a 'selling' exercise to get support for their scheme with little intention of making any substantive change to their proposal. This is especially the case with wind farms where the community benefit-led selling of proposals has bitterly divided communities and, despite it not being a material consideration, has distorted political perspectives on schemes that might otherwise not be found acceptable. While we understand the logic of developer contributions, it seems to us that it has a distorting effect on decision-making by converting the planning authority from an even-handed judge to an interested party and potential beneficiary.

5. Conclusion

We recognise that these comments do not cover the full range of the Review's remit. They are limited to those aspects of the planning system that the MCofS has had experience of and where it thinks there is scope for improvement. We hope the review panel find them helpful.

Yours sincerely

David Gibson
Chief Executive Officer