

THE LAND USE PLANNING SYSTEM IN SCOTLAND – BUT NOT AS WE KNOW IT?

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INTRODUCTION

In December 2005, the Scottish Executive published its Planning etc (Scotland) Bill. This sets out a raft of measures to improve the efficiency and effectiveness of the statutory land use planning system, whilst promoting greater inclusion and opportunities for public involvement (Peel and Lloyd 2006). The Bill followed the publication of a Discussion Paper, **Modernising the Planning System**, which was issued in late June 2005 (Scottish Executive 2005). This itself was the culmination of a series of consultation exercises and research studies about how best to reform a land use planning system that has prevailed throughout the post-war period. This article examines the influences on the Discussion Paper, identifies the principal components of the Planning Bill, and explores some of the reactions to the proposed reforms. It focuses on the key areas of controversy and the implications for the implementation of the proposals. Some contextual points are helpful.

The lineage of the Discussion Paper and the subsequent Planning Bill can be traced directly to a number of earlier debates about the need to modernise the arrangements for development planning in a devolved Scotland. From this perspective, the agenda to revise and reinvigorate the land use planning system can be located within the broader modernisation project associated with the Third Way political economy (Stoker 2004a). Here, modernisation may be interpreted as a response to a host of global, national, regional, and local pressures for change, which reflect the shifting nature of state-market-civil

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relations (Giddens 1998). Yet, the evolving arguments about the appropriate form of state regulation and market control in these new circumstances, and the associated re-alignment of rights and responsibilities in modern societies, play out differentially on public policy. Certain common modernisation themes and principles inform the **Modernising the Planning System** Discussion Paper. These are primarily concerned with securing efficiency and effectiveness; enhancing transparency of decision making and increasing opportunities for public participation; and improving the regulatory framework for securing economic growth. These ambitions bring the land use planning system to the centre-stage of public policy priorities in Scotland (Scottish Planner 2006). Yet, other modernisation objectives may sit less comfortably with planning's objectives to mediate property development rights in the public interest. It is these tensions which are addressed in this article.

Devolution has presented an opportunity for a fundamental re-think of the role of land use planning in Scotland, and particularly its role in the management and development of the modern state (Scottish Office 1999). Indeed, since 1999, there has evolved an extensive review of strategic planning arrangements (Turok and Bailey 2002). It is important to note, however, that the influences on the Discussion Paper and subsequent Planning Bill do not stem from a domestic agenda alone, but form part of much broader debates about Scotland's place in Europe, the nature of changing state-market relations, the perceived role of regulation in an economically advanced state, and issues associated with the promotion of civic renewal, social justice, and community engagement. As a consequence, the modernisation of the land use planning system explicitly addresses a complex of issues concerned with spatiality, strategic planning, and sustainable development.

In parallel, there is a particular concern with issues of identity, capacity, and cultures of engagement in order to effect change. Here, the theme of 'culture change' is being actively deployed as a device to secure the desired outcomes in the planning system. This article argues that forthcoming debates around the reform of the planning system are more likely to be about the modernisation of a bureaucratic system, but also address critical issues around the practices, cultures and techniques of the planning profession; the competing interests of those who engage in the planning process; the arrangements, skills and leadership capacities of locally elected members and national politicians; and the nature and form of the new civic interest required in the management of Scotland's land resource. In effect, state, market and public interests are being

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socially reconstructed in order to make the so-called plan-led system deliver the Scottish Executive's priorities.

THE ROAD TO THE PLANNING BILL

Traditional land use planning practice was initially introduced as a government device to manage and allocate the use and development of land and property in the wider social interest (Rehfishch 2003). In its present form, it was introduced in the Town and Country Planning Act (1947) as part of the post-war social welfare apparatus. Its specific focus was the public regulation of private land use and development. At that time, it was intended to address the re-building of towns and cities; provide for new housing, commercial, industrial and retailing development; and administer the necessary legal rules and regulations to ensure that the development of land served the broader community. In practice, this particular form of state intervention comprised two elements: development plans, which set out the broad land use intentions for different areas according to economic and social circumstances, and development control to effect regulation (Hayton 1999). Essentially, these two components still form the core of the land use planning system, but, over time, they have been supplemented by the introduction of central government planning policy guidance and advice.

Since its introduction, the land use planning system has undergone a number of important organisational and institutional changes, and associated styles of practice (Poxon 2000). These reflect a number of influences, including the nature of the different political economies in place, changing industrial and demographic circumstances, shifts in public expectations and calls for greater involvement, the more sensitive societal awareness of environmental agendas, and the different development conditions which have emerged across urban and rural Scotland (Peel and Lloyd 2005a). Furthermore, the reforms to local governance structures and the different institutional arrangements for managing regional development have also played a part in determining the continuing evolution of the statutory land use planning system.

Evolving strategic debates

An important aspect of the refinement of the planning system has turned on strategic matters. It has been argued that the conventional land use planning system in Scotland tended to operate in too narrow a way, at too local a level, and in a disconnected manner which militated against effective and consistent strategic planning (Turok and Bailey 2002; Lloyd 1997). In the 1970s, for

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example, the Select Committee on Land Resource Use in Scotland advocated the case for a national strategic plan to more effectively manage the land and property resource in the face of existing and anticipated change (HMSO 1972). Although a national plan was not put into place at that time, the importance of asserting and articulating the national interest in strategic land use planning matters was recognised, and led to the introduction of selective planning policy guidelines (Lloyd 1994). These national statements seek to address key strategic issues, such as those associated with the development of the coast, agriculture, housing, and retailing, and have proven to be an enduring feature of the Scottish planning system.

Moreover, strategic planning practice has been identified as an established strength of the Scottish planning system, particularly with respect to metropolitan-wide planning, such as in West Central Scotland (Lloyd and Edgar 1998). Indeed, Glasgow city-region, for example, was described as ‘an unique experiment in regional governance; the only metropolitan regional council ever introduced in the UK and with an exceptional range of services by which to support its strategies’ (Wannop 1995, p.113). This *genre* of strategic planning tradition has persevered as evidenced by the current joint structure planning arrangements for Glasgow and the Clyde Valley which effect a new approach to integrating a number of different institutions, jurisdictions, and policies (Goodstadt and Buchan 2002). This illustrates a shift in planning beyond a traditional concern with local land use regulation. The contemporary emphasis is on fostering a more strategic approach, involving joint working between authorities, stimulating greater inter-jurisdictional thinking, promoting active engagement with economic development and social justice agendas, and finding innovative solutions to secure environmental sustainability. Here, increasing emphasis is being placed on the idea of spatial planning, a concept which derives much of its spirit and purpose from the European agenda and the specific objectives of seeking balanced socio-economic development of the regions within Europe, improvement of the quality of life, responsible management of natural resources and protection of the environment, and the rational use of land.

Whilst the idea of spatiality is not particularly well-defined in practice (Faludi and Waterhout 2002), it is acknowledged as increasingly pervasive in influencing conventional land use planning thinking and practice in the UK (Allmendinger 2003). Moreover, it is clear that spatial planning is being put into effect in different ways in the UK principally as a result of devolution (Shaw and Sykes 2005; Gaffikin et al 2001; Neill and Gordon 2001; Harris

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and Hooper 2004). The spatial project is associated with the European Spatial Development Perspective which has stimulated fresh thinking around the promotion of regional competitiveness, cohesion, and sustainability, and also places considerable emphasis on co-operation and co-ordination (Turok and Bailey 2002). This commitment to seeking to devise relatively more integrative spatial agendas has prompted debates about how to promote a particular interpretation of 'positive' planning that is nonetheless sensitive to specific local circumstances and requirements.

In Scotland the spatial influence is evident in the National Planning Framework for Scotland (Scottish Executive 2004a), an idea that had been gathering momentum for some time (Turok and Bailey 2002; Hayton 1999). The National Planning Framework emphasises the critical issues of quality and connectivity, and seeks to promote a clear understanding of the role and provision of infrastructure in the broader economic and social development of Scotland. In effect, it advocates a strategic prioritisation of investment and development, and places considerable emphasis on managing and shaping the Scottish territory, through, for example, the use of individual city-visions (Peel and Lloyd 2005b). It also serves a practical role in providing a pragmatic response to the allocation of European Structural Funds (Tewdwr-Jones 2004; Roberts 2003; Danson et al 1999). In addition to its emphasis on the cities as the perceived main engines of growth, and the promotion of city-regions, an important characteristic of the first National Planning Framework was its asserted role as providing a broad spatial framework for public policy in general:

It [the National Planning Framework] sets out a vision of Scotland in which other plans and programmes can share and to which they can contribute. It is not an economic development strategy but complements the Executive's Framework for Economic Development in Scotland, highlighting the importance of place and identifying priorities for investment in strategic infrastructure to enable each part of the country to play to its strengths in building a Scotland which is competitive, fair and sustainable. It is not intended to be a prescriptive blueprint, but will be a material consideration in framing planning policy and making decisions on planning applications and appeals. It will be taken into account by the Executive and its agencies in policy and spending decisions. (Scottish Executive 2004a, para.1)

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Modernising the planning system

Reflecting a broader agenda for the change and reform of the public sector, the consultation exercises and preparatory work associated directly with modernising the land use planning system have not been immune to a particular rhetoric of reform which is articulated as ‘what works’, ‘fit for purpose’ and ‘not re-inventing the wheel’. Modernisation is recognised as a principal plank of New Labour’s current political agenda (Cowell and Martin 2003). The concern with modernisation reflects the idea that the government’s actions are new and innovative; and that political will is committed to changing and demonstrably improving institutions associated with local and regional governance and public sector delivery (Stoker 2004a). Following Stewart (2003), this approach rests on ‘modernising’ community leadership through an enhanced role for local authorities; democratic renewal, based on defining new state-citizen relations; and improving performance in meeting needs and delivering services. Indeed, running through this modernisation agenda is a commitment to a progressive politics which stresses the focus of activity on the ‘new localism’. This involves a recognition of the complexity of modern governance, and highlights the contemporary search for an appropriate form of democracy which rests on active engagement, and which furthermore celebrates the importance of social capital in state-market-civil relationships (Stoker 2004b). The preoccupation with ‘what matters is what works’ invites a relatively pragmatic approach to reconfiguring local public services (Stewart 2003, p.3). The introduction of community planning is a case in point.¹ It is in this context that the contemporary reform of the land use planning system must be understood.

It is worth noting, however, that planning systems across the economically advanced world have similarly been subject to processes of reform (Campbell 2003). Moreover, this has extended to a degree of introspection and self-reflection by the planning profession with respect to what some see as an ‘image problem’ (McClendon 2003). In particular, development plans have been the focus of concern, specifically in terms of their inefficient preparation;

¹ *Community planning has been introduced at a time when the land use planning system has been undergoing substantial reform. Significantly, commentators have argued that community planning has added to the institutional complexity at the local level, and necessitates a re-thinking of the role and purpose of the land use planning system (Allmendinger et al 2005; Tewdwr-Jones 2004; Scottish Executive 2004c).*

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ineffective coverage and review; and lack of consistency in interpretation and implementation across Scotland (Scottish Executive 2001). The efficiency and the effectiveness of development plans, however, has been something of a perennial concern (Hayton 1999; Planning Advisory Group 1965). In parallel, the performance of the development control system has also been criticised for the perceived inefficiencies in its procedures and administrative arrangements (Booth 2002). Particular attention has turned on what are held to be the additional costs and delays, inconsistencies and uncertainties for the property development sector at large, and negative consequences for economic performance imposed by the planning system (Evans 2003; Corkindale 1998). Yet, it is precisely the complexity of the land use planning system as a form of state intervention in land markets and the regulation of private property rights that makes its modernisation so challenging. The land use planning system is at once expected to facilitate development, resolve conflict, and regulate and enforce outcomes in the perceived public interest. Increasingly, it is the articulation and consensus around 'the public interest' itself that is proving so elusive, and which the planning system, by default, is having to mediate. Indeed, it is the pre-requisite of the social reconstruction of the public interest which must accompany the practical reforms of the public administration of the planning system which is proving so challenging.

Redefining the public interest

Reflecting the political, ideological, and economic characteristics of the land resource itself, land use planning is more than a simple tool of government intervention to correct for failures in private property development markets. This has made planning a highly politically charged activity, and, as a consequence, it has attracted critical attention from the different interests involved with land and property development. On the one hand, for example, concern has been expressed that the land use planning process and its integral decision making arrangements are vulnerable to capture by vested interests. In this context, MacKay (2004) points to the tendency to rely on the 'he who shouts loudest' syndrome which is held to characterise local planning practice. On the other hand, land use planning is criticised by different interest groups for not necessarily addressing their particular concerns. This line of criticism spans a range of matters emanating from the political arena (Boyack 2003); property development sector (MacKay Consultants 2005); the environmental lobby (Pennington 2002; RSPB Scotland 2005); think tanks (Lloyd and Peel 2002); and 'NIMBY' communities (Gleeson and Memon 1994). The contested arenas around land use planning outcomes have thus further highlighted

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debates around the transparency of decision making processes and the efficacy of arrangements for public participation (Jenkins et al 2002), together with attempts to introduce alternative mediating mechanisms in resolving conflicts over land development (Hague and Higgins 2004; Lloyd and Peel 2003a).

This belief in the need for improvement was reflected in the Partnership Agreement (Scottish Executive 2003) which asserted the Scottish Executive's intention to address the concerns of the public and the land and property sector with respect to the operation of the established land use planning system. Specifically, it affirmed its commitment to promote economic growth and competitiveness, secure greater social and environmental justice, and enhance the opportunities for community engagement (Lloyd and Peel 2003b). The very title of the Discussion Paper, **Modernising the Planning System**, strikes at the heart of the Scottish Executive's political agenda to reform the system.

PRINCIPAL ELEMENTS OF THE DISCUSSION PAPER

In preparation for the Discussion Paper, a number of initiatives and themed reviews were put in place which sought to identify the appropriate evidence of the case for, and form of, modernisation which was perceived as appropriate to a modern Scotland. One strand which sought to identify evidence of the performance of the land use planning system and the potential options to secure its modernisation involved the publication of consultation papers, and the commissioning of research. These initiatives dealt with specific aspects of land use planning practice, including the appeals process, third party rights, development plans, model policies, and, particularly, ways of securing more inclusive processes for participation and civic engagement (Scottish Executive 2005). Importantly, this process sought to canvass opinion, ideas, and recommendations and to foster a collaborative approach to the modernisation of the land use planning system. Further, a National Consultative Group was established in order to engage with stakeholders around Scotland about the issues.

In tandem, practical changes to existing arrangements and instruments were put in place, including the review of national strategic guidance as Scottish Planning Policies, the updating of practical advice in the form of Planning Advice Notes, and developments in electronic planning. Specific research was commissioned to scope the legal opportunities and 'options' for the subsequent legislation (Rowan Robinson 2003). As a consequence, the Discussion Paper proposed a number of ideas intended to address development planning;

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development control (reincarnated as development 'management'); the strengthening of enforcement; and enhancing the status of the National Planning Framework. Importantly, this portfolio of reform variously requires legislative, policy, institutional, procedural, and culture change (Figure 1 at end of article).

Within a new 'hierarchy for planning', proposed developments will be differentiated depending on whether they raise issues of 'national', 'major', 'local' or 'minor' importance. It is suggested that this process of prioritisation will better focus the purpose of the land use planning system in general. It is therefore expected that this would better enable it to deal with individual development applications at the appropriate institutional level. Moreover, it is proposed that the arrangements for dealing with development applications be refined so as to simplify the land use planning system, better allocate the planning resource, and better facilitate the subsidiarity of decision-making.

Importantly, those developments that are considered to be of national, strategic importance will be decided in the context of the second National Planning Framework by Scottish Ministers and the Scottish Parliament. Significantly, the next iteration of the National Planning Framework will become a stronger vehicle for identifying where inter-regional choices can or need to be made. The proposed introduction of strategic development plans (effectively the four city regions) and the enhanced status of the National Planning Framework clearly demonstrate an awareness that a proactive, assertive, and managed approach to the national management of the land resource is critical for a modern nation state. This builds on established Scottish experience.

REACTIONS

The Discussion Paper was a direct response to pressing calls for reform of the land use planning system from a wide constituency of development, environmental and business interests. It represents an ambitious attempt to modernise land use planning in Scotland, and re-assert its role in serving the broader national political objectives relating to economic, social and environmental agendas. Significantly, however, the competing expectations and demands from the users of the planning system highlight contemporary contradictions between, for example, the commitment set out in the Partnership Agreement to growing the Scottish economy and enhancing public participation (Scottish Executive 2003). This ambition was articulated, for example, in the foreword to the Discussion Paper where the First Minister

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asserted the significance of promoting greater fairness and equity through land use planning – ‘a system where everyone’s views are listened to and taken proper account of’. In addition, he stated that the:

proposals will improve the efficiency of the planning system to allow the investment we need to grow the economy and create jobs and opportunities for all. They will ensure that local people are better able to participate in decisions that affect them, and that no developments will go ahead where community voices have not been fairly heard. They will also ensure that our commitments to sustainable development remain at the centre of everything we do.

(Scottish Executive 2005, Foreword)

Nevertheless, this quotation belies the ambitious intentions for the modernisation of land use planning. This can be illustrated by certain bi-polar tensions. The business sector, for example, has continued to articulate a concern with the negative impact of land use planning regulations on investment (CBI Scotland 2003). In contrast, the environmental lobby argues that land use planning controls do not provide sufficient protection for the natural environment (Scottish Environment LINK 2005a). As a consequence, the demands for change from a broad church of opinion have created high expectations of the Discussion Paper in securing a modernised land use planning system in Scotland. It inevitably demands a delicate balancing act to be sustained with respect to securing efficiency and effectiveness gains while promoting greater inclusion and accountability in the land use planning processes and outcomes.

In the preparation of the Discussion Paper, the Scottish Executive clearly sought to instigate an inclusive process of modernisation, and one that has sought to consider a spectrum of ideas. Ultimately, not all of these have found expression in the Discussion Paper. A consultation paper, for example, which had earlier outlined the possible options for the introduction of third party rights of appeal is a case in point (Scottish Executive 2004b). This issue remains both controversial and sensitive. Research elsewhere has demonstrated the complexities and practical implications of introducing such arrangements into the dynamic tensions associated with private-led land and property development processes (Ellis 2002). In certain quarters, third party rights of appeal had assumed an iconic status. Specifically, it became a touchstone for debates around the greater democratisation and inclusion of the land use planning system. Its omission from the Discussion Paper is clearly a concern

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for some groups, as articulated, for example, by the ‘voice of Scotland’s environment movement’, Scottish Environment LINK:

This [Discussion] paper is a missed opportunity for Scotland’s people and our environment. The Executive have produced a package of measures which amount to ‘good housekeeping’ but significantly fail to provide any real rights for communities seeking to engage with the Scottish planning system. Ruling out Third Party Rights of Appeal sends a bleak message to all those who care about their local surroundings – you can engage with the process but not on an equal footing with developers.
(Scottish Environment LINK 2005b)

A contrary view would hold that there are sufficient opportunities for public involvement and community engagement in the decision-making processes of the land use planning system. This argument would also suggest that any arrangements for third party rights of appeal would have a detrimental effect on the investment and development of land and property. Moreover, the perceived lack of fairness of the system is also being addressed through proposed measures to strengthen the enforcement system, which has been traditionally seen as a relatively ‘weak’ aspect of the regulatory procedures (Rowan Robinson 1987). From a development industry perspective, for example, Drivers Jonas (2005) observed:

Developers will initially breathe a sigh of relief that the controversial Third Party Rights of Appeal are nowhere to be seen within the Discussion Paper, but beneath the surface there are a whole range of radical new ideas proposed – ideas that the Executive has not previously consulted on. Consultations on modernising the planning system may have started back in 1999, but the scale of the current proposals are such that every aspect of the system as we know it is proposed to change.

These contrasting intellectual positions reflect the duality of purpose set out in the Discussion Paper. It seeks to secure greater efficiency in the different stages of the planning process, and in the exercise of its statutory regulatory responsibilities. At the same time, there is an explicit resolve to promote greater inclusion in the planning system. The Discussion Paper asserts that these are compatible outcomes whereas the selected reactions noted above would suggest efficiency and inclusion may be relatively more mutually exclusive. The intention of the Scottish Executive, however, is to strengthen the plan-led system by ‘front-loading’ public engagement around establishing

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the development plan vision. It is anticipated that this would improve the efficiency of the subsequent management of individual planning and development applications.

In this context, the proposed intention to place a duty on other agencies dealing with environment and infrastructure to engage in development planning, and to take more explicit account of development plans in their own affairs, is an attempt to create a more robust planning tool. Moreover, the Discussion Paper proposed placing a statutory duty on local planning authorities to update development plans on a quinquennial basis. This directly seeks to address the concerns that development plan coverage was incomplete and that particular plans were out of date and therefore a source of delay and uncertainty to the land and property development process.

This re-balancing of the planning process has inevitably raised concerns about the necessary resources required to implement the intended outcomes:

With so many proposals for greater priority, such as development plan preparation, public consultation, enforcement, and design quality, there must remain concerns that the resources will be available to deliver this important package.

(Royal Town Planning Institute in Scotland 2005)

It is important, however, to be aware that the planning profession itself acknowledged that reform of the land use planning system is necessary (U'ren 2003). Indeed, the Royal Town Planning Institute in Scotland (2005) broadly welcomed what it describes as a 'comprehensive package for reform of planning'. The question remains, however, as to how these measures will be implemented in practice.

An important theme of the Discussion Paper is to demonstrate whether or not the system will be fit for purpose. Essentially, there is an emphasis on delivery which mirrors intentions and expectations across the modernisation programme of the public sector at large, and the need for strategic spatial planning in the national interest in particular. The Discussion Paper clearly seeks to ensure more tangible results in terms of land and property development, whilst ensuring the standards are compatible with the public interest, inclusion, and sustainable development. Importantly, the Discussion Paper seeks to introduce a new 'culture' amongst all the users of the land use planning service as integral to the modernisation proposals. Effectively rights and responsibilities

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to make the system workable and effective are being redefined and rejuvenated.

There will be a duty on developers to engage in pre-application consultations on certain types of planning proposal in order to facilitate the more efficient administration of the planning process. Local planning authorities will be expected to contribute to the emphasis on delivery through wider schemes of delegation, and revised arrangements for local appeals. In the context of major developments, processing agreements will be put in place in order to establish a realistic time-table for the determination of planning applications. Effectively, the processing agreement would seek to define the 'contractual' relationship between developer and planning authority. In addition, communication channels are being extended so that developers would be required to notify local planning authorities of the commencement of development. An underlying clue as to the intended culture change is evident in the very nomenclature of planning which is being recast to emphasise development *management* rather than development *control*. It is clear that the Planning Discussion Paper is keen to change the image and mind-sets of all those involved and to enhance the reputation of the land use planning system. The key point is that whether or not the system 'delivers' is being articulated as a shared responsibility:

To effect change, planners will also require the support of all those with a stake in the planning process, including statutory consultees and members of the public, the Royal Town Planning Institute and the academic institutions responsible for educating the next generation of planners, and providing them with the necessary knowledge, skills and competencies. (Scottish Executive 2005, p.31)

Clearly, these considerations must raise important questions about the continuing role of statutory land use planning in a modern society where vested interests compete for specific purposes, and yet change rests on a recognition of the importance of a shared cultural shift to defined societal goals.

CONCLUSIONS

Notwithstanding the catalogue of criticisms and concerns associated with the land use planning system, there remains a broad political consensus that it performs a very necessary role in modern society (Tewdwr-Jones 2004). It provides a statutory and legal framework for regulating the use and

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development of land in the broader public interest. This serves a number of important purposes, including providing protection for private property interests, confidence for investment in land and property development, and consistency in decision-making for the different public and private sector interests involved in individual development decisions. Moving on from this, then, the challenge is to devise the most appropriate institutional and policy arrangements, and to inculcate the appropriate conditions for building trust and social capital around the land and property agenda. In this context, the Discussion Paper sets out a philosophy of modernisation, together with a programme of practical recommended changes to enable the planning system to be more effective, efficient, and inclusive in a modern setting. Taken together, these metrics suggest a need to create a new legitimacy and standing for land use planning for all stakeholders involved.

Whilst this article has focused on the modernisation agenda in Scotland, there is international evidence that reform processes in the arrangements, practices, and cultures of conventional land use planning systems continue to gather considerable momentum. Here, the Scottish experience can contribute to that wider debate and understanding of the changing state-market relations being defined in a global context. The motivations for change recognise, on the one hand, the importance of establishing robust planning arrangements to manage modern economies and communities. They also recognise, on the other hand, a concern with the viability and vitality of the land use planning arrangements in place in terms of efficiency, effectiveness, and inclusion. These reflect a host of global, national, regional, and local pressures for change. Significantly, these arguments are bound up with processes of industrial and corporate restructuring, economic diplomacy and trading relations, and the associated governance arrangements, and state-market-civil relations. Planning modernisation, therefore, is not confined to Scotland and forms part of a much more powerful and compelling programme of change. These debates raise questions around the appropriate forms of regulation perceived to match the dynamics of rapidly evolving circumstances. Critically, it is these processes of re-aligning rights and responsibilities in modern societies that then become pivotal to implementing the new planning arrangements being put into place. Here, it is important not to under-estimate the political sensitivity of land in a modern state. Land use planning deals directly with the complex interests associated with land ownership, land use, its management and development, and its future viability as a finite resource. It is a highly contested arena, and one that is striving to establish its own niche in very dynamic and sensitive circumstances.

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Whilst certain common public policy themes and principles can be identified both in the Discussion Paper and the Planning Bill around modernisation, spatiality, sustainable development, inclusion, and securing efficiency and effectiveness, in the specific context of the reform of land use planning there is also an important conversation to be had about the identities, capacities, and cultures of engagement around the land resource. The two formal documents discussed in this paper which inform debates about planning in a modern Scotland clearly show the complex of interests and identities involved, and the power influences at play. Here there is a need to be sensitive to the competition for control and influence over the land development process. The essential heterogeneity of identity suggests that care needs to be taken in mediating and reconciling the different positions involved. In particular, important contemporary questions arise around the capacity of the land use planning system to deal with broader national spatial agendas, to finance the necessary infrastructure to support socially desirable patterns of development, and to reconcile the articulated needs of the different local identities. Cultures of engagement are therefore important in a host of ways. The forthcoming debates, then, are likely to be as much about the modernisation of the planning system as with a radical re-assessment of the practices and techniques of the planning profession; the skills and leadership capacities of locally elected members and national politicians; and the nature of the new civic interest required in the management of Scotland's land resource. It will also involve consideration of what is necessary from all the interests involved in making the land use planning system work within a new spatial awareness of Scotland as a collective entity.

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Figure 1
Content of Proposed Planning Bill

Changes to Development Planning	Changes to Development Management	Other Issues
Introduction of Strategic Development Plans and	Introduce new hierarchy for handling planning applications. These will	Measures to strengthen the enforcement system,

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<p>Local Development Plans.</p> <p>Abolition of Structure and Local Plans - the existing two tier system of development plans.</p> <p>Speed up significantly the drafting of plans, with only one 'proposed plan' to replace current two stages of draft and finalised plans.</p> <p>Place a statutory duty on planning authorities to update plans every 5 years.</p> <p>Give Ministers powers to direct that certain development plans be updated.</p> <p>Direct notification of owners, occupiers and neighbours of new site specific proposals in local development plans.</p> <p>Mandatory public examination of strategic development plans.</p> <p>Planning authorities to have a duty to publish a Development Plan Scheme and Action Programmes.</p> <p>Duty on agencies to engage in development planning and take account of development plans in their policy formulation and decision making.</p>	<p>be classified as national, major, local and minor developments.</p> <p>Define enhanced status for national planning policy documents.</p> <p>New schemes of delegation within planning authorities and revised arrangements for local handling of appeals.</p> <p>Early determination of appeals and changes to other appeal procedures.</p> <p>Reduce time period allowed for appeal from six months to three months.</p> <p>Standard application forms for planning permission.</p> <p>Promote the use of e-planning to encourage provision of planning information and services online.</p> <p>Issue guidance to planning authorities to ensure that consultations on planning applications are proportionate and appropriately targeted, to minimise delay.</p> <p>Improve the framework relating to the use of</p>	<p>including:</p> <ul style="list-style-type: none"> • introducing an offence under Planning legislation where a retrospective application is not submitted, when required; • introduce Temporary Stop Notices, capable of taking immediate effect; • introduce notification of commencement of development; and re-state and clarify the need for, and information required by, a Planning Contravention Notice and ensure the current prosecution powers for non-compliance are simplified. <p>Revise provisions for Tree Preservation Orders.</p> <p>Review and update legislation on planning fees and charges.</p> <p>Changes to the definition of listed buildings - to clarify the</p>
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<p>(e.g. SNH, SEPA, Scottish Water etc).</p> <p>Requirement for planning authorities to publish a schedule of land in their ownership to which development proposals in the local development plan relate.</p> <p>Reduce scope for inquiries to delay the examination of development plans, by using alternative methods.</p> <p>Appointment by Scottish Ministers of reporters to local development plan examinations.</p> <p>New framework to define the scope for planning authorities to depart from the reporter's recommendations after local development plan examination.</p> <p>Provide powers for Ministers to set out transitional arrangements in regulations.</p>	<p>planning agreements (called Section 75 Agreements) including allowing applicants to submit unilateral planning obligations as part of the appeal process, to speed up decision making, and requiring all completed agreements to be available in public registers.</p> <p>Wider power for planning authorities to decline to determine applications which are similar to applications submitted within the previous 2 years.</p> <p>Direct notification to neighbours of appeals against enforcement notices.</p> <p>Provision of full record of relevant factors and reasons for decisions and full text of planning decisions.</p> <p>New procedures for notifying local people of intended developments and greater use of hearings to discuss views of developments.</p> <p>Statutory duty for developers to carry out pre-application consultations on certain</p>	<p>position on partial demolition of non-listed buildings within conservation areas - and other updating of the listed buildings legislation.</p>
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	types of proposals. Provision for Ministers to direct an independent inquiry where decisions contrary to professional advice or departures from the development plan are frequently taken.	
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