

Email to: [ecclr.committee@parliament.scot](mailto:ecclr.committee@parliament.scot)

29 March 2018

Dear Sir/Madam,

### **Written Evidence – EU Environmental and Animal Welfare Principles**

The Royal Town Planning Institute (RTPI) is the champion of planning and the planning profession. We work to promote the art and science of planning for the public benefit. We have around 2100 members in Scotland and a worldwide membership of over 25,000. We:

- support policy development to improve approaches to planning for the benefit of the public;
- maintain the professional standards of our members;
- support our members, and therefore the majority of the planning workforce, to have the skills and knowledge they need to deliver planning effectively;
- maintain high standards of planning education;
- develop and promote new thinking, ideas and approaches which can improve planning;
- support our membership to work with others who have a role in developing places in Scotland; and
- improve the understanding of planning and the planning system to policy makers, politicians, practitioners and the general public.

RTPI Scotland thanks the Committee for the opportunity to comment on the significance of the environmental principles to the Scottish planning system. The principles underpin a number of policies and guidance notes that influence plan-making and development management decisions. We have answered the questions of relevance to planning below.

- 1. How important are the EU principles of:  
The precautionary principle  
Preventive action  
Environmental damage should as a priority be rectified at source  
The polluter should pay  
Animal sentience**

The *precautionary principle*, *preventive action*, and *the polluter should pay* are principles that permeate much national planning policy and guidance in Scotland. This means that they also shape local policy, the delivery of development and therefore the balance of land use in Scotland. Our answer to question 2 highlights some of the most significant references to these principles in national planning policy and guidance.

- 2. How and where have these principles had an impact on environmental and animal welfare policy in Scotland?**

The *precautionary*, *polluter pays* and *preventative action* principles are all referenced throughout Planning Advice Note 51: Planning, Environmental Protection and Regulation. Environmental Impact Assessment and Strategic Environmental Assessment are subject to regulation and process outwith planning legislation. They do however interact closely with statutory planning activities, and the outcomes of these procedures are important material considerations in statutory decision making about land use.

Scottish Planning Policy (SPP) applies the *precautionary* principle to decision making about development that could significantly impact national or internationally important landscapes and heritage. SPP also applies this principle with regard to development and flood risk.

Planning Advice Note 33: Development of contaminated land applies the *polluter pays* principle to decontamination costs. Contamination, and the high costs associated with decontamination, can be a major barrier to the delivery of sustainably located sites, and has a particular impact on regeneration.

Finally, Environmental Impact Assessment includes consideration of decommissioning of development once its useful life is complete. This is particularly relevant to renewable energy and minerals development. The requirement for restoration, including habitats restoration, is provided for by the inclusion of time limited conditions attached to planning consents. This practice relates to the implementation of the *environmental damage should be rectified at source* principle.

### **3. Views on the appropriateness of retaining/adopting/enshrining these EU principles in law or alternative principles/approaches that could be adopted**

RTPI Scotland's understanding is that these principles are not just derived from EU law, but also from international treaties to which the UK is a signatory. They are given effect in the UK and devolved nations through the UK's membership of the EU. There will therefore need to be clarity about how the UK, and thereby the constituent devolved nations, intend to give effect to their commitments included in international treaties following the exit from the EU. As well as within the scope of the UK's commitment to international treaties, the principles also now form the basis of international best practice in environmental decision making. It would therefore be consistent with statements from both Scottish and UK Ministers regarding ambitions for continued high environmental standards following the UK's exit from the EU to maintain adherence to the principles.

### **4. Views on if and how environmental principles could and should be enshrined in law in Scotland and enforced?**

The RTPI takes the view that for a "UK single market" to function successfully following the exit from the EU powers should be repatriated to national capitals, followed by a convention in which a common environmental framework is agreed collaboratively by the UK government and devolved governments/executive.

Scottish planning policy and guidance, cascading down to local policy and development delivery, would then be required to implement the principles of the framework agreed where relevant to spatial planning issues.

### **5. Examples of where key environmental principles have been enshrined in domestic legislation elsewhere**

Section 4 of the Environment (Wales) Act 2016 lists a number of principles with regard to the 'Sustainable Management of Natural Resources', which embody the *precautionary* and *preventive action* principles.

I trust that you will find these comments helpful. If you would like to discuss any aspect or require clarification of any points raised, please contact me on 0131 229 9628 or by email to [kate.houghton@rtpi.org.uk](mailto:kate.houghton@rtpi.org.uk).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Houghton', written in a cursive style.

**Kate Houghton**  
Policy & Practice Officer