Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Cramond and Barnton Community Council

This submission is based on a review of the Planning Bill and the interpretation of its contents within the Scottish Government’s ‘Policy Memorandum’ and ‘Explanatory Notes’. Questions posed in the consultation are presented in bold text and our community council’s responses in normal text.

The community council finds the format of the Bill difficult to follow, as much of its contents comprise amendments to the Town and Country Planning (Scotland) Act 1997. It would be much clearer for the layman (and professionals) to understand, if the Bill and subsequent Act was not an amending Act, but a stand-alone piece of legislation, which integrates elements of previous legislation with the provisions set out in the Bill. Devolution offers the opportunity for the Scottish Government to move away from Westminster ways of framing legislation and the opportunity should be taken to present legislation in an easy-to-understand format and using ‘Plain English’.

1. Do you think the Bill, taken as a whole, will produce a planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment?

No. This community council believes that the measures to frontload the planning system works in favour of developers and to the detriment of communities, which often do not engage with the planning system until detailed proposals are presented. It is not until the detail is available that communities can contribute objective views on whether development proposals will create quality places – a key objective of planning and planning reform.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?

Matching planning proposals with infrastructure delivery, introducing an infrastructure levy and strengthening completion notice provisions will help to increase house building. Provisions under other legislation (e.g. land reform legislation) are required to reduce the effects of ‘land banking’ by developers and landowners.

3. Do the proposals in Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

Scotland had a proud history of regional planning, which has effectively been diminished through local government reform and weakening the former regional focus of the planning system. In many respects, the approach of allocating
housing requirements by local authority areas, has resulted in the erosion of green belts and other urban fringe incursions around our cities to meet ‘paper’ requirements for housing allocations.

Strong regional planning provisions are required to meet housing requirements at a regional scale; for example, through a renewed national and regional focus on identifying and developing new towns/settlements with a wide range of community facilities and infrastructure – not ‘bolt-on’ urban fringe housing estates, as currently in progress, with few if any consideration to creating communities.

Undertaking regional planning as part of the NPF is unlikely to encourage public engagement, as it will be too ‘distant’ a process from the focus of communities needs and interests. If the proposed system is to work, there will need to be procedures to ensure meaningful engagement on the NPF and their regional components, at a regional/sub-regional level – not just through national consultation programmes.

Our community council is concerned that regional planning priorities will be set at national level or by regional partnerships without adequate engagement and scrutiny by, or accountability to, the communities directly effected by such priorities.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced?

This community council is concerned that –

a. removal of the Main Issues Report stage will reduce the likelihood of meaningful public engagement in considering locational and other options for future development
b. use of the title: ‘Proposed Plan’ suggests to the layperson that the plan has reached a stage of plan-making beyond that of a ‘Draft Plan’, ‘Initial Plan’ or ‘Consultative Plan’. After all, a planning ‘proposal’ is usually one which is intended to achieve final approval.

We welcome the proposed ‘gatecheck’ procedure based on an Evidence Report and the commitment to independent scrutiny of this, but are concerned that there would appear to be no public engagement provisions in respect of the Evidence Report prior to the Proposed Plan.

The community council welcomes –

a. the intention that the full council, not a delegated committee, will approve the LDP
b. provisions for amendments to the approved plan, within the extended plan period, where significant circumstances merit any such amendments
c. continuing provisions for independent scrutiny of LDPs by Scottish Government reporters

d. requirements for the preparation of a delivery programme and for this to be kept up-to-date and confirmed by the full council and its chief executive.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

While our community council understands the logic of giving consideration to design, infrastructure and environmental matters at an earlier stage in the development planning and development management processes and the potential for delivering pre-approved consents on the basis of design briefs, etc., recent experience has shown that such procedures (through LDPs, rather than SDZs) can enable the ‘rail-roading’ of layouts, land allocations (e.g. school sites), etc. by local planning authorities, without adequate scrutiny, community engagement and subsequent opportunities for reviewing the details of development briefs, etc., where circumstances change or enhanced development options are identified. It is often the case that communities can only really understand the characteristics and implications of major developments when the precise details of layouts, building heights, massing, designs and traffic management arrangements are available – and this is likely to be after the pre-approved consent stage in a SDZ.

6. Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans? If not, what more needs to be done?

This community council fails to understand how a Bill can ‘… ensure adequate financial and technical support for community bodies wishing to develop local place plans?’ as in the question above. Even the most economically advantaged communities may require local authority support (financial and technical) to prepare local place plans, or funding to employ professional support. Local authorities’ financial and staff constraints will hamper the ability of staff to support communities in preparing such plans, or participate in partnership approaches to preparing such plans.

If issues of resourcing local place plans and similar initiatives are a constraint for more affluent communities, such as ours, what hope is there for resourcing such initiatives within more economically and socially challenged communities? Grants or other funding mechanisms supported by the Scottish Government, or the funding of an independent support body (cf. Planning Aid Scotland) will be required to support communities in developing local place plans.

Experience within our community has shown that even larger local authorities seldom have the capacity or resources to deliver community-derived local place plans, action programmes, etc., with the consequences that the local authority’s credibility and community’s confidence in the planning system is greatly
diminished. In such cases, there needs to be some mechanism to ensure that communities’ ambitions are realised and arrangements for mediation in place, where required to resolve situations where proposals within local place plans and local development plans cannot be readily reconciled.

Issues of community engagement in planning matters are compounded by the pressures put on community councils, other interest groups and concerned individuals to respond to a never-ending stream of central, regional and local consultations, not just on planning matters, but other public services, budgetary programmes, etc.. The proposed development and community planning system – comprising the NPF, SDPs (where retained), LDPs, SDZs, locality plans, local outcome improvement plans and local place plans, along with development management consultations, etc. - is too complex and imposes community engagement demands which few if any volunteer-dependent community bodies can adequately service. Consultation fatigue is a common and increasing problem for community councils.

7. Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?

Increased fines, recovery of expenses, etc. are meaningless when Councils, such as the City of Edinburgh Council appear not to take enforcement cases seriously. The Council’s recent report in respect of its revised Enforcement Charter indicates that, out of 695 enforcement cases recorded for enforcement action, it only took formal action on 55 cases. While many cases may have been resolved by other means (e.g. negotiation), it is assumed that officers have dismissed the majority of reported enforcement cases.

8. Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

The community council supports proposals for an Infrastructure Levy that can help to spread the costs of infrastructure over a wider geographical area and capture a proportion of land value uplift resulting from planning approvals.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

Yes. L.p.a. members should be trained in planning matters.

Consideration should be given to the time burdens on members of planning authorities. For example, North and West Edinburgh has no representatives on the planning committee and consequently inadequately represented in planning.
decision making, due to part-time councillors not having the time to devote to the development management roles of the planning committee.

10. **Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?**

The community council supports provisions for the statutory role of a national planning performance coordinator and supports the intention that feedback will be sought from users of the planning system and that Ministers will be able to intervene to encourage, or require, performance improvements, as currently we are aware that confidence in the planning system is at a very low level within many of the community councils within our local authority area (i.e. City of Edinburgh Council).

Performance measures should be put in place to enable feedback by community councils and other bodies in respect of local planning authorities’ performances in—

a. complying with local development plan policies in development management casework. This community council’s experience is that our planning authority often dismisses objections to development application, based on valid interpretation of local development plan policies, due to a desire to avoid potential appeals.

b. undertaking enforcement action on breaches of planning conditions or other matters (e.g. s. 179 amenity orders)

c. working with communities to develop and implement local place plans, community-derived action programmes or similar initiatives

d. delivering infrastructure, which has been funded by developers’ contributions, in full and on time.

Funding of local planning authorities is a major constraint on planning performance and needs to be addressed by the Scottish Government.

11. **Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high –performing planning system the Scottish Government wants? If not, what needs to change?**

12. **Are there any other comments you would like to make about the Bill?**

**Delivery Plans** - There should be a requirement that planning applications for all major developments should be supported by an approved delivery plan, which ensures the advance provision of essential community services (e.g. education, primary health services) and key infrastructure, or matches the roll-out of the development with the staged provision of such services and infrastructure as are required to support the development.
PACs - While welcoming the intention that changes to the regulations concerning PACs should require more than one public event and increased engagement where a major development site has not been allocated in the LDP, this community council would also wish the regulations to require developers to submit the PAC Report to community councils (and similar bodies) for comment and for local planning authorities to approve these, having taken account of community submissions, before these are included in support of planning applications. This would ensure that the PAC consultations are accurately and fully recorded, rather than just being a ‘tick box’ exercise, as often the case at present.

Duration of Planning Consents and Completion Notices – We support the intended tightening of the timescales for planning consents and completion notices.

Rights of Appeal - Once again the Scottish Government has refused to recognise the need for a more balanced planning system that puts communities on a more equal footing with developers when development proposals are contentious. This community council advocates a community right of appeal or third party right of appeal, with limitations (e.g. initial ‘gatecheck’ by independent planning reporters on the grounds for the appeal). Too often, we see planning authorities over-riding/ignoring LDP and SPP policies in favour of developers and avoiding the refusal of applications, due to concerns that well-resourced developers will go to appeal - with no checks-and-balances to ensure that communities and other bona fide interests can challenge planning authorities’ or officers’ decisions. Consequently, our community council members and the communities we represent have lost much of their confidence in the planning authority and planning system and, as a result, are less likely to engage in the planning process.

Mediation in Planning - Where planning matters are contentious, the planning system tends to operate in an adversarial manner. The Planning Bill would seem to provide few, if any, real opportunities or procedures to extend the role of mediation in the planning system. This is a major lost opportunity to enhance how the planning system operates in Scotland.

Please do not hesitate to contact the Community Council should you wish to clarify or discuss any aspects of this submission.

Yours sincerely

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