Local Government and Communities Committee

Planning (Scotland) Bill

Submission from South Ayrshire Council

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?

There are a number of factors in responding to this question.

In line with the previous comments of South Ayrshire Council (SAC), it is considered that the Bill does not deliver a ‘root and branch’ review of the planning system in Scotland and instead steers the planning system to a more centralisation position in the delivery of LDP’s.

The introduction of the NPF within LDP’s devalues the role of the LDP and reduces the role of the NPF. The content of an LDP will therefore be more weighted toward the certainty of delivering the aims of the Scottish Government rather than communities.

The increased reference to Local Place Plans (LPP’s) raises the expectations of the community, however LDP’s are to ‘have regard to’ rather than ‘take into account’ the LPP and in addition, the LPP must have regard to the LDP, which results in less weight being attached to the LPP’s. Furthermore, the LPP may result in certain sectors of the community being marginalised if they either do not have the means to prepare a LPP, or are unable to articulate their views.

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?

The bill has the potential for higher levels of house building to be delivered if a practical approach to the delivery of infrastructure is enacted through the Bill.

It is considered that in order to deliver additional housing numbers, the NPF would require to identify specific strategic expansion areas to ensure that sites are highlighted for infrastructure investment.

3. Do the proposals in the 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?

As per SAC’s previous comments, we welcome the recognition that strategic planning has an important role in delivering a high performing planning system.

Unlike the previous legislation (Planning etc. Scotland Act 2006), there is a need to recognise that strategic planning needs to take place across Scotland and that this
should not be limited to the current SDP areas. This is seen as essential within the context of the changes proposed for the National Planning Framework and the role identified for “regional working”.

Strategic Planning has a wider remit to promote the integration of national policies at a Regional /local level whilst ensuring wider environmental considerations are taken into account. It therefore should be regarded as an essential (not optional) component of a new planning system and it is considered that the ending of Strategic Development Plans would need to be replaced by Regional Development Plans.

If Regional Development Plans are not introduced, this will result in a significant gap in strategic, regional planning, which could be addressed by the introduction of regional planning within the NPF.

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?**

The removal of the requirement to provide a vision statement within the LDP, with the aim of removing any potential conflict with local outcomes improvement plans within the local authority is a positive step, however in all likelihood a vision statement would complement the council’s aims.

With regard to the content and delivery, the move from intervals of 5 years to 10 years for the preparation of plans, would lead to conclusion that the plans will be less responsive to change, although it is noted that a process is introduced to allow planning authorities to amend an LDP for their area, although additional information is required to assess how responsive such amendments will be.

The ‘gate check’ is welcomed if the aim of helping to address issues at an early stage rather than proceeding to final examination is welcomed, however concern is expressed as to how the changes to the preparation of the LDP will assist in increasing or capturing the aspirations for the community if the main participatory role of ‘communities’ is via the preparation of LPP’s.

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

SAC would reiterate their comments in relation to Simplified Development Zones in that SDZs may be an appropriate tool to assist delivery on larger areas of land of fairly uniform characteristics. However, they may not be suitable for smaller scale sites of varying physical characteristics in areas such as South Ayrshire. The formulation of design guidance and development parameters and the EIA process would require significant resources prior to SDZ designation.
Additional zoning does not in itself guarantee additional homes being built. Proposals which are brought forward through a Master Planning approach, promoted in conjunction with local communities, can be determined quickly and within timescales agreed with the developer.

SDZ’s are considered to be most effective where there is public ownership of the site and a potential uplift benefit from the development for the authority/public agency. The preparations of the schemes generally require financial support from planning authorities with no application fee to follow. The approach is unlikely to benefit significantly areas where there is currently market failure in provision and a significant high level of sites within a local development plan.

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?

SAC would re-iterate their comments in relation to the previous consultation in that LPP’s will require significant community education and capacity building exercises to assist understanding of what land use planning can and, more significantly cannot do, and avoid raising unrealistic community expectations. There is a danger LPP’s would concentrate on local, non-land use issues and would identify development sites on an entirely subjective basis.

The removal of the Main Issue Report stage which allows for public consultation causes significant concern in that there are wide sectors of the community who are currently able to engage with the development plan process but will be unable, as a result of a number of factors, to either participate in or instigate the preparation of a LPP. Working with and engaging with all sectors of the community it is considered, should be at the forefront of the development plan process, thereby facilitating a development planning process which is equitable and just.

LPP’s could also introduce delay into the plan making process, making the Government’s aim of a shorter process harder to achieve, and may prompt questions about the representativeness of the community body/ies preparing LPP’s, however, if communities are closely involved from the beginning of any process to develop LPP’s and planning and other professionals are required to engage with them at this early stage this would assist in informing the main issues for a proposed Place Plan. The community should continue to be closely involved in the development and delivery of the LPP with the process being closely aligned to the Community Planning requirements to produce Locality Plans.

A partnership approach to developing LPP’s will be particularly relevant as communities potentially start to acquire local community assets and infrastructure through the Community Asset transfer provisions of the Community Empowerment Act.
There will however be number of actions that communities will be able to deliver at the local level and these should be incorporated, along with other partner actions, into a relevant action plan for an area.

The draft Bill still does not adequately clarify how LPP’s undertaken by community groups will be resourced. This approach would only work if one local community body (or an agreed consortium) was empowered, in partnership with the Local Authority and other partners, to develop a plan for a specific area and on the proviso that the group liaised with public and third sector organisations on the preparation of the plan to avoid either duplication or conflict.

The LPP relies on active volunteers and community fundraising to support the preparation of LPP’s and unless the Scottish Government makes funding available, it is considered that many communities will be left behind.

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?

As per SAC’s previous comments, we support the increase in financial penalties as indicated in the draft Bill. In addition, it is considered that there should also be a fixed penalty for a breach of Advert Regulations.

Whilst supportive of the discretionary increase in fines, it is not considered that this will act as a deterrent. The success of enforcement is always dependent on the resources available – many developers are aware that enforcement is reactive and no proactive due to staffing and will therefore continue to challenge planning control with impunity.

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?

If an Infrastructure Levy is introduced, this should be centralised nationally and be a consistent levy which gives certainty. Such a levy would also require to be locally responsive i.e. returns from a development in Ayr would not be the same as in Edinburgh, yet the cost of school provision is the same irrespective of the geographical location.

It is considered that a more appropriate ‘levy’ would be a centralised form of taxation on all development, which would provide consistency and certainty.

It is considered that there is insufficient information within the draft Bill to comment more fully.
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?

The requirement for local government councillors to be trained in planning matters by accredited trainers is welcomed, however examinations are not supported as it is considered this would diminishes the training and professionalism of planners employed by local authorities.

In addition, it is suggested that regular reviews and feedback sessions are also required with Councils being required to produce training records if required (akin to continued professional development).

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

It is not considered that the proposals within the Bill will help drive performance improvements as such proposals do not address resource issues within planning authorities. In addition, the monitoring and performance is aimed at the time in which decisions are taken and not the quality of the decisions.

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?

Whilst the introduction of flexibility in the charging of fees by Councils is welcomed, for this to address performance, fees would have to be set at such a level to enable the employment of additional staff and ensure full cost recovery.

One area that requires significant officer time is the assessment of submissions made in response to major applications in particular, with some 800 submissions received in relation to a recent application assessed by South Ayrshire Council. Whilst not wishing to disadvantage or deter participation in the planning process, other jurisdictions would appear to have successfully addressed this issue.

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

It is suggested that the Bill addresses and changes the name of the Local Review Body to reflect that the role of the Body is to fully consider the application afresh, and not ‘review’ the decision made under delegated authority – the title ‘Local Appeal Body’ is suggested.

The current draft Bill is not considered to have resulted from a ‘root and branch’ review of the planning system or reduce the complexity of the planning system, enabling all members of society to engage in shaping the community they live in and actively participate. In particular, the replacement of the Main Issues Report and the emphasis placed on Local Place Plans will effectively result in large sectors of the
community being excluded from participating in the development plan preparation process.

This review offered a further opportunity to consolidate the numerous pieces of planning legislation, which has been missed.

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