Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Aurora Planning Limited

Aurora Planning Limited provides independent town and country planning advice to clients across Scotland, including individuals, developers and third sector organisations. In doing so, we draw on combined experience of over 28 years in local government (including 10 years of Head of Planning for Aberdeen City Council) and a background in planning law, which gives us a unique perspective and insight into the planning system. Fundamentally though, our practice is underpinned by an aspiration to see a planning system that works for everybody and, to this end, we welcome this opportunity to submit written evidence on the Planning (Scotland) Bill.

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?

Given the Scottish Government’s commitment to engaging with all stakeholders with an interest in the planning process since the initial call for evidence by the Planning Review Panel in September 2015, we would hope that the Bill’s proposals do achieve a successful balance between securing appropriate development and taking account of the views of communities and protecting the environment. However, with considerable detail still to be confirmed through secondary legislation, it is difficult to give a definitive answer to this question at this stage. Much will also depend on how all stakeholders choose to engage in the new system and what capacity they have to do so. Ultimately the success of the Bill can only be measured against the outcomes of the new system and that will take time to judge.

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?

As one of the key initial drivers for the review of the planning system, we recognise the importance of delivering more housing across Scotland in terms of improving quality of life and furthering sustainable economic development. However, focussing purely on quantitative outcomes risks losing sight of the fundamental purpose of planning, which is to create great places, and some mechanism is required to ensure that planning performance takes account of qualitative outcomes, not just how many houses can be built (and how quickly). That means ensuring that the right number of houses are built in the right places,
and that these are of the right size and kind to meet local housing needs, with appropriate supporting services, green spaces and infrastructure to create places where people want to live. That may mean exploring new models of house building, including local authorities being able to acquire sites at existing land value to sell on to communities for affordable housing, and options for the use of Compulsory Purchase Order powers.

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?

We believe that the removal of statutory Strategic Development Plans (SDPs) is a retrograde step. The north-east has a strong track record of joint working across the two councils and with the private sector, as well as across sectors, through the Strategic Development Plan Authority, Nestrans and Opportunity North East (and their various voluntary predecessors). But in planning and transport terms at least, that has always been with a view to preparing a statutory regional level plan. In the context of an ever changing political environment, without a statutory requirement to work together towards a clear common end, and with an enhanced National Planning Framework (NPF) and Scottish Planning Policy (SPP) to replace SDPs, there is the significant potential for such collaborative working to fall by the wayside. That is particularly so given the continued lack of detail on how new regional planning partnerships will work, how regional views and priorities will be fed into and reflected in the NPF/SPP, and what additional resources will be made available to the Scottish Government’s planning team to facilitate such a dialogue. Replacing regional decision-making with a more national focus also risks the lack of ownership by regional partnerships and planning authorities and will require significant resource to ensure effective engagement by the Scottish Government so that the NPF/SPP reflects those priorities identified and defined at the regional level.

A more effective planning system would bring together regional planning, transportation and economic development functions, strengthening, rather than reducing, their role to ensure a holistic approach to preparing development plans and identifying infrastructure requirements, and a local commitment to delivery. With the review of the roles and responsibilities of the Regional Transport Partnerships also now initiated but with final decisions on that not being taken until the review of the National Transport Strategy in 2018, it is important that the primary planning legislation does not preclude the possibility of some form of multi-disciplinary statutory regional level partnership.

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?

We support the sentiment behind the proposals to focus plan making on delivery, but without the detail on how delivery programmes will work in practice, and the resources to be provided to planning authorities to implement these, it is difficult to judge how successful this might be. Planning can, however, only achieve so much on its own and so the proposal to create a stronger link between land use planning and community planning is welcomed in principle, but this needs to result in a corporate and partnership delivery programme.

We are also concerned about the proposal for Local Development Plans to be reviewed on a 10-year cycle. As experience in the north-east has shown, to retain a meaningful plan led system in rapidly changing economic and social circumstances, there must be scope for amendments to be made to policies and allocations in Local Development Plans between full reviews. While recognising that the proposals do allow planning authorities to amend a LDP within the 10-year cycle, and that the Scottish Ministers may also direct a planning authority to do so in certain circumstances, further detail on how this might work in practice is required to provide confidence that LDPs will remain up to date and relevant and that they will deliver.

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

This is an example of where the detail of the secondary legislation will be crucial. Whilst recognising that Simplified Development Zones (SDZs) may be of benefit to a limited number of sites, the proposed procedure for establishing them appears to undermine the principle of a plan-led system, particularly given that there is no clear requirement for regard to be had to the Development Plan or Local Plan Plans. Robust engagement arrangements will therefore be required in order to safeguard community interests. In addition, the potential for SDZs to be implemented in conservation areas and/or on greenbelt sites appears to run contrary to safeguarding environmental interests.

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?
The proposed new Local Place Plans will provide a unique opportunity for people to actively plan their own places, with better integration of land use planning and community planning. At the same time there is a danger that the proliferation of plans for both land use and community planning will cause confusion about exactly which plan does what, the status and priority of each and the relationship between them, making it difficult for communities to know where to focus their resources. And it is important that communities are both trained and resourced to participate in Local Place Plan preparation, otherwise it is possible that only those well resourced, more affluent communities may benefit.

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?

Timely and robust enforcement is crucial to the credibility of the planning system and to providing an assurance to communities that planning is focused on creating and maintaining quality places. We therefore welcome the strengthening of enforcement powers. It is, however, important that planning authorities are adequately resourced to enable them to use those powers and to do so in a much more streamlined way than at present.

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 ability to deliver infrastructure to support new development has been a frustration for many involved in planning over the years. We therefore welcome the idea of a levy to mitigate the cumulative impact from development and avoid overburdening local authorities, placing an unfair requirement on a single developer or unduly restricting development until infrastructure is provided. The proposed levy should provide certainty to planning authorities, developers and communities as to what is required, how much it will cost and that it can actually be delivered. That should benefit and incentivise the delivery of development and help to unlock sites planned for development.

It would be helpful if such a levy were able to be used flexibly and not be restricted to large capital schemes (such as roads), but rather also allow for the funding of smaller scale initiatives which often require revenue subsidy (such as supporting a bus service, allowing for a car club or supporting a bicycle hire scheme) which can contribute to achieving modal shift, as well as mitigating the impact of development. There should also be provision for Regional Transport
Partnerships (or any future regional transport/planning body) to secure and manage those elements (such as strategic transport) to be administered regionally, rather than at a national or local level. This will help to ensure that developments are facilitated across local authority boundaries and reflect strategic priorities in the area where funding is generated.

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?

We welcome the proposal for councillors to be required to undertake training before taking planning decisions, but this will need to be funded to ensure that local planning authorities can provide such training. That is particularly the case given that any authority that cannot exercise its functions because members have not been suitably trained may have those functions discharged by another authority or Scottish Ministers, removing local democratic decision making from those less well resourced authorities. Training should also be prescriptive and structured in such a way that councillors across Scotland receive the same training to ensure consistency between authorities. There should also be a mechanism for continuous assessment and a requirement for continuing training throughout a councillor’s term of office to ensure that standards are maintained.

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

A continued focus on performance and quality improvements is essential and the proposal to put performance reporting on a statutory basis is welcomed. This is, however, another area where the Bill is short on detail, with the form and content and process for producing performance reports to be set in regulations once the full shape of the reformed system has been finalised. It would be better if it was clear how each of the proposals in the Bill was envisaged to contribute to improved performance and how that will be measured, before the proposals are implemented. Clarity should especially be provided on how any assessment of planning authorities will be made and the criteria against which Ministers will be able to recommend, and potentially direct, performance improvements.

It is also important that any statutory performance reporting reflects all aspects of planning performance and not just those relating to timescales for the determination of planning applications. It is possible to reduce those timescales whilst not improving, or indeed having a detrimental impact on outcomes. Planning authorities, through Heads of Planning Scotland have worked well with the Scottish Government to develop and report on the current Planning Performance Reports and those reports should continue to evolve to reflect the
new system, and to also focus on the outcomes of planning decisions, measuring performance based on the quality of places created, as well as the performance of others whose input is essential to achieving those outcomes (applicants, agents, statutory consultees, community councils, councillors, key agencies and other council services).

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 we generally support the changes in the Bill relating to planning fees and the aspiration to move towards full cost recovery of planning services, it should be recognised that additional fees and resources will not in themselves automatically improve planning performance levels. They can only really be effective in doing that, and in ensuring a high-performing planning system, if those fees are able to be ring fenced and reinvested in planning services, and those other services essential to support the planning authority (such as education, housing, roads and legal). In doing that planning authorities will be able to provide a co-ordinated and streamlined service providing a fair return to applicants on their investment.

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

We believe that both the NPF and SPP have an important role to play in guiding the future development of Scotland and therefore we welcome them coming together and being given statutory status as part of the Development Plan. In doing that it will, however, be essential that local/regional issues across Scotland are properly reflected. Our comments in response to question 3 are also relevant in this regard. We are also concerned that where there is conflict between the amalgamated NPF/SPP and the Local Development Plan, the proposal to give the most recently prepared plan precedence effectively makes decisions subject to a timescale lottery.

We also recognise that the current system of supplementary guidance has not been particularly effective, and that it could be seen as a means for planning authorities to introduce policies that had not been subject to the same scrutiny as those in the Development Plan. At the same time we are concerned that the removal of statutory supplementary guidance will also remove the opportunity for and local flexibility in the application of national policies and the inclusion of locally specific policies in Local Development Plans. Again, the Bill does not provide sufficient detail on proposed non-statutory supplementary guidance to reassure us that it will be an adequate substitute.