Local Government and Communities Committee

Planning (Scotland) Bill

Submission from East 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?

East Ayrshire Council (EAC) broadly welcomes the proposed amendments to the planning system under the Planning (Scotland) Bill 2017. The Council is supportive of creating a more streamlined and less procedure heavy system and agrees that development planning is the cornerstone of the planning system. The council welcomes support for the NPF to be more focused at a regional level along with the removal of the need to restate national policy in local development plans.

There are concerns that the system may introduce a top down approach to policy and become overbalanced. There is a risk that SPP will become too prescriptive in the wording of national policy and remove powers from local authorities to direct or control development within its area. To a degree this has already happened to the detriment of local planning. SPP should provide a framework for the policies and allow local authorities to plan for their areas at a local level and clearly indicate where and how policy should apply. It is envisioned that efforts to improve engagement on a local level will be hampered if major areas of policy is delivered nationally by SPP.

EAC also have concerns about the lack of detail surrounding the new process for creating development plans. The area around gate checks and the evidence report is vague and further information is required before a full response can be formulated. The Council finds it difficult to understand how an independent Reporter can determine whether the evidence provided at the start of the plan making process is sufficient if the issues that the plan needs to tackle are not fully known or the approach the plan will take to tackle them is sufficiently developed.

Moving to a 10-year development plan phase is welcomed in principle as well as the idea of spending time and effort delivering the plan. There is a need to address the issue of funding to planning policy teams to cover the additional expenses that will be incurred as a result of the new system along with the ability to deliver the aims of the plan. East Ayrshire Council has always combined into one team the preparation of planning policy and proposals and its delivery where appropriate on site. Its experience is that delivery requires a different set of skills and that implementation of proposals requires more resources overall than preparation.

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?
EAC recognise and welcome the proposed changes within the Bill that aim to generate and support housing development. For example adjustments to the HNDA, the infrastructure levy and the principle of freeing up officer time to focus on implementation and delivery. There are concerns about the lack of detail provided about changes to housing need and what impact this will have on local development plans. It is stated that the Scottish Government (SG) may take responsibility for establishing housing need, but there is little to clarify how this will be achieved and what influence local authorities will have over these figures. Local authorities should be able to influence, determine and sequentially amend housing figures in the LDP.

Currently HNDAs works reasonably well in areas where there is a growing population and high demand for market housing. However the current HNDA model struggles to identify the issues arising within the housing market or that are related to the provision of affordable housing where total population is forecast to remain stable or fall and where the composition of the population is also likely to change dramatically over time. HNDAs should be able to take account of changing demographics and a perception of low demand.

There is also the issue around how 10-year LDPs will take account of other council plans, such as Local Housing Strategies that align to 5 year timescales.

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?

EAC support the principle of regional partnerships and see the value in working alongside other local authorities. The Council also values the flexibility within the proposals for partnership working at a regional level. We feel that it is important that regional working be established and agreed throughout Scotland and that it has particular relevance to transport and infrastructure planning as well as economic development. It should be made clear that Authorities have the flexibility to work with a number of regional partnerships as relationships are not uniform and may vary depending on the topic under consideration.

EAC support the principle that local authorities should contribute to the preparation of the National Planning Framework. However it is unclear how much information councils will be asked to prepare. There is a risk that the information required could put an unnecessary amount of strain on the resources of all local authorities particularly at certain points of the planning cycle and may counter some of the positive reasons for moving to a 10-year plan period. These capacity issues must be taken account of during preparation of 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?

East Ayrshire Council supports the need to focus on places and on delivering development. The Council welcomes the principle of moving from a 5 year plan to a
10 year plan and that removing 1 plan from a 10 year period could free up some resource to focus more on its delivery. The Council also support the ability to amend the plan in part as time moves forward.

However, there is a lack of detail surrounding the proposals that needs to be addressed before a full answer to the questions posed can be prepared. It is considered naïve to assume that removing a plan from the system will guarantee a net resource saving particularly if the focus is to be on delivery (see comments above). There will need to be flexibility in what is required in the evidence report as what may be appropriate evidence for one authority may be quite different from another authority.

Also, the Council would not expect that examination costs will necessarily reduce as a result of the gatechecking process. There is no guarantee that the introduction of the gatechecking process will result in a more streamlined examination process; local stakeholders and interested parties may remain just as aggrieved at the direction and detail of the plan. The cost implications therefore of the gatechecking process could be significant.

It is worth noting that the Council welcomes the potential for reduction of duplication of policy within plans, but this does not automatically mean that officer time will be substantially reduced. It should however mean that local development plans are smaller and more place based.

Although preparation of statutory supplementary guidance is time consuming, it is seen as adding value and much needed support to the local development plan. It is recognised that guidance can be developed in another form, but the lack of statutory status creates doubt that it will carry the same weight under scrutiny. There is a risk that authorities could combine current supplementary guidance into the plan in order to ensure its status. This could lead to the development of significantly long, detailed LDPs containing excessive amounts of information, which is contrary to the current ambitions of the new system. The current system has the potential to work well but there is a need for further guidance to ensure greater consistency nationally and to minimise the amount and number of such guidance.

The Council welcomes the proposal to enhance existing action programmes so as to focus on delivering development. Whilst the Council supports the principle of this, its success will ultimately depend on the commitment and cooperation of partners, i.e. utilities companies, infrastructure providers, housebuilders and so on. Where the local authority is not actively involved in the delivery of the development (i.e. it is a private developer on private land) which is frequently the case, it will still be very difficult for the Council to be able to drive the development programme. The preparation of a delivery programme will rely on receiving robust and full information from all relevant stakeholders.

The new front loaded ‘Gatecheck’ system should assist with consistency in the preparation of LDPs nationally. It is highly likely however that there will be a need to produce additional evidence to support particular aspects of the plan as it is developed. All the gate-checking can feasibly do is to that ensure that the basic
There is concern that the evidence stage will be a tick-box exercise and questions around quality in the submissions remain. It is difficult to ascertain how reporters can approve the evidence at the gatecheck stage without the existence of a main issues report or draft plan.

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

The principle of SDZs are generally welcomed, though there is doubt that they would provide sufficient additional benefit to many areas that are already in demand for development and may therefore be more appropriate for areas of low demand. However, EAC does recognise that even in areas of high demand delivery can be stalled because of infrastructure constraints. Whether SPZ is the correct tool in such areas is a moot point and it may be that other tools are required.

EAC would like to raise the following concerns about SDZs:

- They will take a considerable amount of time and resource to create and may well become ‘expected’ in areas of low demand or where development rates are low; development in these areas may be stalled particularly as the new system beds down in these areas until SPZ are created and approved.

- There is no clear description of how costs can be reclaimed by local authorities.

- It is not clear how development coming forward is checked against design codes, or how enforcement of breaches to the code will be handled.

- There are concerns that SDZs will either become too flexible and deliver low quality development or too rigid and have no flexibility to allow changes in the development process.

- Although EAC welcome the flexibility, we have worries about the introduction of SDZs to conservation areas.

Rather than releasing the powers on a national scale and allowing them to be applied in all parts of the country, EAC suggest that it should be used as a discretionary tool to stimulate development in areas where the market is less robust or where significant infrastructure issues are evident.

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 Council welcomes the fact that the LDP must take account of Local Outcomes Improvement Plans.

The principles of Local Place Plans will complement the Community Empowerment Act and hopefully widen the opportunity for community members to have an input to the LDP process. This is welcomed by EAC. However EAC anticipate a large variation, across its own area and the rest of the country as a whole, in the ability and willingness of communities to engage. It is very likely that some communities will actively engage in developing local place plans, while others simply will not. Where they do engage it is likely that significant support will be needed from Planning Authorities. There is a lack of detail on a range of matters, such as management, timescales, support and resourcing, that makes it difficult to formulate a full response at the present time.

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?

The increased level of fines will act as a deterrent to generally law abiding people who would be dissuaded from carrying out unauthorised development because the risk to their reputation and that the financial impact would out-weight the benefits of carrying out the development without gaining planning permission.

However, these changes do not address the growing trend of small businesses ignoring the requirement for planning permission and carrying out development without permission, where there is significant short term financial reward. This trend occurs due to the ethos of the Planning Enforcement process to try and find resolutions to unauthorised development and in part due to the complicated and time consuming nature of bringing an enforcement case to prosecution.

The provisions should include an effective fixed penalty fine system for the unauthorised development based on the relevant Planning Fee. It is noted that there is currently a fixed penalty fine process within the legalisation however it is unenforceable due to the lack of refer to the Court system if the person fined does not pay.

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?

In terms of housing, the introduction of an infrastructure levy in principle is welcomed. This could unlock the development potential of key sites, however EAC have concerns that it could act as a disincentive for developers investing in our area. Up front support is often required to stimulate development with the levy being
applied to recoup costs. EAC support a national infrastructure levy that can be targeted at strategic investment sites to stimulate development.

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?

A requirement for training is supported. However, EAC as presumably is the case for most planning authorities, has and will continue to provide training for relevant local members.

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

Overall the proposals are accepted and supported although much more information on how the process will work is required. The proposed changes will maintain the ongoing drive within planning authorities to raise standards and improve performance. The appointment of a National Planning Performance Co-ordinator will help to ensure consistency between Planning Authorities in auditing methods and techniques and ensure the spread of good practise.

The powers of the Performance Co-ordinator to conduct assessments and pursue improvements are welcomed.

The Council accepts that there will be a need at times for a formal performance assessment. Greater clarity on how the proposals will work is required urgently.

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?

Given the funding challenges to be faced by Local Government over the coming years and the internal pressures for Council services to be self-funding, all Planning Authorities will come under pressure to ensure their fee income matches their staff outgoings and their overheads. If the performance is to be maintained and improved, as will be required by the Performance Co-ordinator, it is important that the new fee structure is flexible enough to adjust quickly to unforeseen pressures on the Planning System ensuring the gap between income and outgoings is as small as possible.

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

No further comments.