Local Government and Communities Committee

Planning (Scotland) Bill

Submission from the Health and Safety Executive (HSE)

Thank you for the opportunity to contribute to the call for written views as part of the Stage 1 scrutiny of the Planning (Scotland) Bill. We have made a number of comments on the proposals below although there is a risk we might have overlooked potential implications arising from some of the more technical points, given the extent of the changes and limited resource to scrutinise the accompanying documentation. In light of this, we ask that you continue to include HSE in further consultations as the Bill progresses, and request that to ensure we work effectively and efficiently together in future, policy officials engage HSE on the specific areas that will have a significant impact on our role.

Part 1 Development Planning

HSE has, in previous consultations, stressed the importance of ensuring processes are in place to consider HSE consultation zone requirements when developing plans. With this in mind, consideration should be given to HSE consultation zones being one of the prescribed matters that planning authorities should have regard to when gathering information to assist in preparation of the National Planning Framework and in the evidence report for preparation of the local development plan.

HSE’s experience in working with local planning authorities is that they should be encouraged to take responsibility for their role in terms of managing cumulative development around major hazard sites and pipelines. There is a need to consider what policies and guidance is required to help them deliver their responsibilities.

Part 2 Simplified Development Zones

If not considered early, the requirements regarding consultation with HSE in relation to proposed developments in major hazard consultation zones can be seen as obstructing development. In the case of simplified development zone schemes (SDZs), addressing this at the earliest possible opportunity is desirable, and HSE would welcome the opportunity to contribute to the preparation of SDZs or masterplans through its’ commercial pre-application service. This would present an early opportunity to provide advice if any part of the SDZ intersected with any of HSE’s consultation zones.
Part 3 Pre-application consultation

Part 3 Section 12 of the Bill amends sections 35A, 35B and 35C of TCP(S)A 1997 on pre-application consultation. HSE currently offers a pre-application service comprising a Planning Advice Web App and a more detailed consultancy package; depending upon the level of advice requested there might be a charge for this service. The amendment to (2) of 35C to read, “A pre-application consultation report is to be in such form and include such content as may be prescribed” could have implications for HSE. For example, if subordinate legislation prescribes a statutory role for HSE in pre-application consultation, this would have an immediate impact on HSE; both in terms of financial costs and an increased call on resources.

Part 4 Charges and fees

We note the amendments to section 252 of the 1997 Act, which give the Scottish Ministers powers to make regulations providing for the payment of fees and charges to planning authorities.

Like other statutory consultees, HSE is receiving reduced government funding and is looking to develop sustainable financial models for the future that are built on cost recovery and growing our commercial income. Currently, HSE does not receive any part of the fees given to the planning authorities for the contribution it makes to assessing land use planning and hazardous substances consent applications and providing its statutory advice. In addition, there are no measures in place under current planning legislation that allow HSE to recover its costs for this work.

The Regulatory Futures Review report recommendations expect regulators, like local planning authorities, to work towards full cost recovery for their regulatory activities. To sustain HSE’s and other statutory consultees’ role in the planning system longer-term and support effective housing delivery, consideration should be given to expanding the proposals on fees and charges to introduce appropriate cost recovery options for statutory consultees as well as for local planning authorities. We would welcome further discussions with Scottish Government on this important area.

Consultation requirements

We note that consultation requirements regarding proposed amendments to the National Planning Framework and the Local Development Plan, and the making or altering of a simplified Development Zone Scheme will be a matter for regulations post Bill. We assume, but perhaps you could confirm, that these regulations will be subject to further prior consultation.

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