Local Government and Communities Committee

Planning (Scotland) Bill

Submission from West Dunbartonshire Council

The Council's responses to the questions set by the Local Government and Communities Committee are set out below:

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?

The provisions of the Bill are a step in the right direction. In principle, the Bill should achieve its aim of delivering appropriate development whilst balancing the views of communities and the protection of the built and natural environment. However, this is dependent on secondary legislation and guidance providing more details on the actual requirements of the new Planning Bill, as there is little detail of how many of the aspects of the new Bill work in practice.

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?

Expanding the range of powers available to Councils could help to unlock many of the problems associated with delivering house building. However, there still has to be recognition that meeting housing targets and developing land allocated for housing within the Local Development Plan is not just the sole responsibility of the Planning Authority as there are many different drivers influencing housing delivery: economy, market, behavioural, societal, fiscal, policy, land ownership interests, the role of the housebuilders and community interests.

Infrastructure plays a crucial role in the ability of housing developments to be delivered, however the Planning Bill does not take into account that many of the issues in the deliverability of housing rests with the house builders themselves: the ability to finance an development; the attractiveness of an area for development and the ability of the construction industry to build an increased rate of housing units. The land use response is only one of the issues. Therefore, although the Bill gives more tools to Local Authorities to help deliver land, there is also a responsibility by housebuilders to deliver higher levels of house building.

The Bill therefore should provide a mechanism to ensure that the housebuilders and other parties involved in the deliverability of increased housebuilding are more open and realistic about the amount of land required and the number of units that can be delivered within a ten year Local Development Plan period. It is suggested this could be accomplished through a duty, contained within the Bill, requiring Homes for Scotland to co-operate with Local Authorities to derive a scale of programming for their areas which is a more realistic reflection of what is likely to be built in the next 10 years, taking into account past rates of
completions on sites, developers overall local portfolio, the amount of development active in an area.

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?

The Planning Bill does not provide specific provisions to create a sufficiently robust planning system at the Regional level. Without a specific provision within the Planning (Scotland) Bill there will be no duty or requirement for local authorities to provide a Regional Plan of the area or to contribute and deliver regional planning and infrastructure provision.

The Council is still of the view that Strategic Development Planning Authorities should be retained and would strongly encourage the Committee to reconsider their proposed removal from the Planning system in Scotland. The Glasgow and Clyde Valley Strategic Development Planning Authority has worked successfully for many years in delivering regional planning on behalf of the eight Glasgow and Clyde Valley Member Authorities. The removal of this layer of Regional planning, without any mechanism to replace Strategic Development Plans, is considered to be a significant oversight within the proposed Planning Bill.

Therefore, the Council is of the view that the Planning Bill should be altered to retain the statutory role of Strategic Development Planning Authorities and Strategic Development Plans (SDPs) to ensure that Regional Planning is maintained.

Should the Committee decide to endorse the Scottish Government’s proposal within the Bill to remove SDP’s, then the Bill will require to be altered to contain a section in relation to Regional Planning and Infrastructure delivery or to specify that Secondary legislation will provide further legislative provision on the role and duty of Regional Partnerships in relation regional planning and infrastructure delivery.

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 simplification of the Local Development Plan process is welcomed as is the move towards a 10 year Plan period. The preparation of the Evidence Report is also recognised as a worthwhile process if it leads to upfront and early agreement, for example, of housing numbers and the amount of housing land required at the outset of the LDP process. Nevertheless, the Council would like to see a direction within the Bill that once the Appointed Person has agreed the Evidence Report, including the amount of housing required for the LDP area then this cannot be re-challenged at any examination of the Proposed Plan. This would help to give certainty at the outset of the process and enable infrastructure providers to be able to ensure that development can therefore be delivered.
The alignment of the Local Outcome Improvement Plan and the Local Development Plan is also to be welcomed; however, there is no reciprocal arrangement for the Local Outcome Improvement Plan to reflect the provisions of the Local Development Plan. Unless the Planning Bill requires this, there will be an imbalance as Local Outcome Improvement Plans usually do not look at spatial planning. Therefore, to ensure that there is equilibrium between the two Plans, the Planning Bill requires to be amended to ensure that the Local Outcome Improvement Plan is also required to give due consideration to the Local Development Plan in its preparation and that the Local Outcome Improvement Plan should also set a spatial planning context for the area.

The aims of the Bill to create plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities is supported in principle, however further detail on how the system will work in practice i.e. through Secondary Legislation and Guidance, is required. Therefore it is difficult to fully answer the Committee’s question in detail.

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

This Council has no recent experience of Simplified Development Zones (previously Simplified Planning Zones) however where they have been used in other Council areas the need to enable development whilst protecting community and environmental interests has, it is understood largely been achieved. Without the benefit of further detail in terms of the Planning Bill on how the system will work in practice, it is difficult to answer the Committee’s question in detail. The Council assumes that secondary legislation will provide further detail in this respect. The Council also welcomes the introduction of discretionary charging to recoup costs of preparing these schemes which can be expensive to prepare and administrate.

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 introduction of Local Place Plans will offer more avenues for community involvement in the Planning System. Also by introducing a requirement for Local Development Plans to have due regard to Local Place Plans, it will give communities another avenue to influence the Local Development Plan. The issue is whether there will be an interest from some local communities and how the local communities get the necessary skills to produce the Local Place Plans.

The Planning Bill does not require the Local Place Plan to accord with the strategy for the Local Development Plan but to only have due regard to it. This could lead to future problems where a community, for instance, could completely disregard the spatial strategy of the Local Development Plan and then submit
their own Local Place Plan to the Council which is fundamental in conflict with the Local Development Plan. If this results in the Council deciding not to reflect the Local Place Plan, i.e. during a review, due to its non-compliance with the Local Development Plan spatial strategy then this could affect the relationship between the Council and the communities and could provide a negative experience of the new process. The Bill also does not specify what Local Place Plans can include or focus on.

Therefore, to avoid this, the Council is of the view that the Planning Bill requires to be altered to ensure that before the Local Place Plan is submitted to the Council that it accords with the spatial strategy of the Local Development Plan. The Planning Bill should also specify that Local Place Plans should only relate to planning matters otherwise there is likely to be a duplication with Locality Plans for the area, and there is a risk that they may be dominated by non-planning matters which results in another version of Locality Plans.

The Planning Bill also does not provide any procedure or provisions on how Local Place Plans are to be treated within the Delivery Programme of the Local Development Plan. The Council requests that the Committee alters the Bill to address this issue, which could be through Secondary legislation and/or guidance.

The Council is not convinced that there is adequate financial or technical support provided within the Planning Bill that would enable communities to prepare Local Place Plans. Communities within certain areas may not have the technical expertise or finances to prepare a Local Place Plan even if they wish to do so without help. While the idea of a Local Place Plan is to be supported, financial and technical support should be available to support communities which have not produced this type of plan in the past. There should be greater integration between Local Place Plans and Locality Planning with Local Place Plans being the spatial aspect of Locality Plans.

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?

In theory, increasing the level of fines applicable when a breach of planning control is established is to be welcomed, as is any increase in the ability of the Council to recover expenses where applicable. Consequently, the increased fines may act as a deterrent and discourage some of the more serious breaches of planning control. However, in order to be effective it will be necessary for enforcement to be sufficiently resourced. If there are insufficient resources then the level of fines may be irrelevant to a degree, if Council’s cannot effectively resource breaches of planning control. The requirement for Courts in setting the amount of the fine to have regard to any financial benefit the convicted person accrues is welcomed, however often the Procurator Fiscal is not interested in breaches in planning control and the case does not progress beyond the first stage and the Council have to remedy the breach through direct action. The strengthening of powers to register a charging order in the Land Register or Register of Sasines is fully supported.
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?

It is considered that the Infrastructure Levy is only applicable within areas where there is significant demand for development and, in that instance; the infrastructure levy may be a good way of securing investment in new infrastructure within these areas. In areas like West Dunbartonshire the application of the infrastructure levy would act as a barrier to development. The Council is also concerned that more prosperous Councils could pool resources together to deliver infrastructure in order to attract development to their area to the detriment of smaller and more disadvantaged areas, which could be left behind in infrastructure terms if they also do not apply the levy.

The Planning Bill therefore requires to rethink the approach to the Infrastructure Levy and the Council is of the view that the Regional Partnership level is the correct level for the governance and distribution of the infrastructure levy and its benefits so that infrastructure investment can spread throughout the regional area.

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 Council supports the provisions of the Planning Bill in this respect and is of the view that elected members serving on the Planning Committee or involved in planning decisions should require to be trained appropriately so they are kept up to date of new legislation and practices and they are aware of the consequences of their decisions and actions.

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

The annual Planning Performance Framework currently produced voluntarily by Planning Authorities is a good report of how a Planning Authority is performing and helps to showcase achievements and improvements made during the previous year. Presently, the majority of Planning Authorities make their reports publicly and put them to their respective Council Committee. The Planning Performance Framework, Benchmarking and Peer Reviews has encouraged and increase dialogue between authorities and improve the sharing of good practice. The changes being proposed of putting the current arrangements on a more formalised structure is sensible.
The appointment of a national planning performance co-ordinator and having an expert on hand will assist authorities who have performance issues. The person will require being sufficiently experienced and independent in order to be effective. However, it must not be overlooked that planning should primarily be assessed on place making and achieving quality development on the ground and that whilst good performance should be encouraged, timescales are not the sole measuring tool that should be applied to determine if the planning system is succeeding.

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?

The Council is of the view that these changes are not likely to have a significant impact on the resourcing of planning authorities. Whilst the introduction of discretionary charging is supported, there is concern that the discretionary element of fees will inevitably result in calls for reduced/waived fees in all manner of situations, which will undermine any benefit from increasing fee levels generally. Making provision for fees to be charged to the Scottish Ministers in terms of their planning system is not agreeable and this Council believes that this should be funded by central government.

A surcharge on retrospective applications is welcome as it will encourage compliance and contribute towards enforcement costs, although it may result in greater difficulty in getting errant developers to submit retrospective applications.

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

The Council has submitted a response to the Finance and Constitution Committee’s call for written evidence, which disputes the potential savings identified within the Financial Memorandum. The Council is strongly against any potential reduction in our financial settlement from the Scottish Government based on these financial assumptions. The savings identified in the Financial Memorandum are questionable and are likely to be absorbed by the other requirements of the Planning Bill resulting in no or minimal savings and certainly not on the level identified within the memorandum.