

Planning Committee

10:00am, Thursday, 3 December 2015

Scottish Government – Review of Planning System

Item number	9.1
Report number	
Executive/routine	Executive
Wards	All

Executive summary

The Scottish Government recently announced that the planning system would be reviewed and has set up a panel to consider evidence from stakeholders. This report provides a response on behalf of the Council as Planning Authority.

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Scottish Government – Review of Planning System

Recommendations

- 1.1 It is recommended that the Committee:
- agrees the Appendix to this report as the Council's written evidence in relation to the Scottish Government Review of Planning; and
 - agrees that the Convener provides oral evidence on behalf of the Council in relation to any hearing sessions, if appropriate.

Background

- 2.1 In September 2015, the Scottish Government announced its Programme for Government 2015-16. This included a commitment to review the planning system. It also includes a number of related topics such as accelerating housebuilding and land reform.
- 2.2 In order to take forward the review, the Scottish Government has set up a panel (the Panel) chaired by Crawford Beveridge, with Petra Biberbach (PAS - formerly Planning Aid for Scotland) and John Hamilton (Scottish Property Federation) as the other panel members.
- 2.3 The Panel has invited written evidence of up to 1500 words from any interested parties. The evidence is to be submitted by 1 December 2015.

Main report

History of the Planning System

- 3.1 In considering how the planning system should be changed, it is appropriate to look briefly at how it has evolved. Legislation relating to planning first started to emerge in the UK in the early part of the 20th Century, and was driven largely as a result of the impacts of industrialisation and the resulting urban development patterns and pollution.
- 3.2 The Town and Country Planning (Scotland) Act 1947 is often regarded as the legislation that delivered the modern planning system and many of the key tenets of it remain in place today. It was this piece of legislation that introduced overall controls on the right to develop land and required land owners to apply to local authorities for planning permission. It also introduced the requirement to prepare forward plans and, as such, introduced the 'plan-led' system.

- 3.3 While planning legislation specific to Scotland had been in place long before devolution, the Scotland Act 1998 made it clear that Planning was a matter for the Scottish Parliament.

The Current Planning System

- 3.4 The current legislation in place is the Town and Country Planning (Scotland) Act 1997, as amended by the Planning, etc (Scotland) Act 2006. This legislation provides the powers available to planning authorities and sets out their duties in terms of Planning.
- 3.5 The Scottish Planning Policy 2014 (SPP) sets out the Scottish Government's policy on planning. The principle policies within the document are 'sustainable economic growth' and 'placemaking' and describe how the development planning processes and development management processes should be used to deliver these objectives. While the outcomes sought from the planning system have changed over the years, it is debatable whether the legislative provisions have changed sufficiently to ensure these outcomes can be delivered.

The Purpose of the Review

- 3.6 The purpose of the review is described in the 'Programme for Government 2015-16' as follows:

"We will review the operation of the planning system in Scotland, identifying the scope for further reform with a focus on delivering a quicker, more accessible and efficient planning process, in particular increasing delivery of high quality housing developments. Our aims are to:

- Ensure that planning realises its full potential, unlocking land and sites, supporting more quality housing across all tenures and delivering the infrastructure required to support development.
- Streamline, simplify and improve current systems and remove unnecessary blockages in the decision-making process.
- Ensure that communities are more engaged in the process.
- Continue to meet our statutory and international obligations in protecting and enhancing Scotland's nature and environment."

- 3.7 The Scottish Government has announced that the review will focus on six key issues. These are as follows:

- Development planning;
- Housing delivery;
- Planning for infrastructure;
- Further improvements to development management;
- Leadership, resourcing and skills; and
- Community engagement.

Key Issues for Edinburgh

- 3.8 All of the issues set out above are relevant in Edinburgh. The city is at the heart of the regional economy and benefits from inward investment and economic growth. These are advantages that are not necessarily experienced in other areas of Scotland or elsewhere in the UK. However, they present their own challenges and the planning system is of key importance in delivering sustainable growth.
- 3.9 Proposed written evidence, from an Edinburgh perspective, is provided on each of the 'key issues' outlined above in the Appendix to this report. Those of critical local importance are 'housing delivery', 'planning for infrastructure', community engagement' and 'resources'. The response from the Council is focussed particularly on these elements.

Measures of success

- 4.1 To have influenced the review and the resulting changes to the planning system.

Financial impact

- 5.1 There are no direct financial impacts as a result of this report.

Risk, policy, compliance and governance impact

- 6.1 The report represents a positive action being taken by the Council in relation to overall Council objectives in terms of securing better outcomes for Edinburgh.

Equalities impact

- 7.1 There are no negative equalities impacts as a result of this report.

Sustainability impact

- 8.1 There is no sustainability impact as a result of this report.

Consultation and engagement

- 9.1 No consultation has been undertaken in relation to the preparation of this report.

Background reading/external references

Scottish Government - Programme for Government 2015-15

<http://www.gov.scot/About/Performance/programme-for-government>

Review of the Scottish Planning System

<http://www.gov.scot/Topics/Built-Environment/planning/Review-of-Planning>

Scottish Planning Policy

<http://www.gov.scot/Publications/2014/06/5823>

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Links

Coalition pledges

Council outcomes

CO25 the council has efficient and effective services that deliver on objectives.

Single Outcome Agreement

Appendices

City of Edinburgh Council Written Evidence

REVIEW WRITTEN EVIDENCE

1. Development planning

Development Planning is very important and should be retained in a new system. It provides a means of setting out how an area should grow or change and allow local communities and local authorities to influence and agree what should happen in their areas. The value of this should be recognised.

The advantage of a multi-tiered approach is that it allows for policy and direction from Scottish Government in terms of the National Planning Framework to be embodied in Strategic Development Plans (where required) and then for the Local Development Plans to set out where and how development is delivered. However, the current system is arguably not fit for purpose. The Council's experience through preparation of the SDP and LDP is that people often find it to be a complex and confusing process.

The plan-making process needs to be simpler with better alignment between plan tiers. Suggested changes are as follows:

- The Strategic Development Plan tier should be more closely tied to the production and updating of the National Planning Framework. While Joint Regional Committees could still develop proposed plans and the evidence base, this would be a lighter process with more focused public participation. The ownership of this tier of planning would rest in partnership with Scottish Government and public participation would be delivered (as appropriate) at the local level.
- LDPs would be the level that the 'how' and 'where' would be discussed with local communities, although the plans would need to conform to government/strategic targets. This, in turn, may allow for LDPs and related Action Programmes to have a stronger focus on delivery and placemaking.
- LDP Examinations should also be reviewed and should not necessarily be required as a matter of course. If the lead for strategic planning was to lie with the Scottish Government, then Local Development Planning should be in the ownership of Local Authorities. The role of examinations could be limited to call in by Scottish Government where there was a concern about compatibility with the NPF/Strategic Plan.

2. Housing delivery

The planning system can make land available for housing through the development plan and can influence the quality and density of housing through more detailed policies. In doing this, the planning system can also contribute to sustainable economic growth and can deliver placemaking and regeneration. The use of developer contributions can also assist in delivering the infrastructure requirements (although not always in full) associated

with new housing development. The Council's affordable housing policy has facilitated land that has allowed over a thousand affordable homes to be delivered.

However, the delivery of housing is not solely related to availability of land in terms of development plan allocations and planning permissions. The interests and intentions of both land owners and housebuilders are of equal relevance and in many cases are the reasons that land is not developed. There are also examples of initiatives such as the National Housing Trust that has secured the delivery of housing in circumstances where the market alone has been unable to deliver. A number of key points are as follows:

- The key to improving the quality and scale of housing delivery is closer alignment of spatial planning with decisions on public sector expenditure. In this regard, the Government Land Reform agenda and its provisions for site acquisition should be considered in relation to planning review objectives.
- The planning system could be more efficient, as described above; although even in its current form it does not represent a barrier to housing delivery. The Council's Housing Land Audit (HLA) 2015 (provided as background evidence) includes an analysis of the factors affecting the housing land supply and its effectiveness. There is no real assessment required in the current process of whether it is land that is the limiting factor or other factors such as finance or infrastructure requirements. The definitions and methodology in the Planning Advice Note 2/2010 (Affordable Housing and Housing Land Audits) need to be revised to address this.
- The actions flowing from an HLA should relate to more than just the allocation/granting of additional housing sites. Consideration should also be given to whether intervention in the form of infrastructure investment, compulsory purchase or additional investment in public sector led housing development should be made. This could also be tied to a 'brownfield first' approach.

3. Planning for infrastructure

The role of planning authorities should be seen as leading in these matters but close working with infrastructure providers is required. Action Programmes although relatively new are proving to be a useful mechanism through which infrastructure requirements can be understood amongst service providers and local government and the Scottish Government. They should also be the vehicle through which delivery mechanisms are agreed. The Council has prepared a financial assessment of its LDP and associated Action Programme and reported it to the Council's Finance and Resources Committee (provided as a background paper).

In line with the above, a review of the circular to allow more flexible use of developer contributions and longer periods for retaining them should be pursued. If a region wide or citywide infrastructure programme has been prepared and agreed by Scottish Government, through the relevant Action Programme, this should allow for more innovative funding models to be developed and would reduce the risk to the public purse in front funding infrastructure.

The ability to deliver infrastructure in advance of or with development has the potential to speed up the delivery of development.

4. Development management

The Development Management system is important in terms of delivering placemaking objectives and ensuring that proposals are in the public interest. The system needs to be efficient and should not be burdened with unnecessary administrative tasks.

The current system includes numerous permission types and lots of time is involved in dealing with smaller more administrative tasks such as 'prior approvals' or 'prior notifications' where there is little or no scope for added value. Consideration should be given to a simplified permission process with many of the current tasks that fall to local planning authorities removed and replaced with requirements for individuals or companies to self-certify that works are permitted development etc. The scope of permitted development rights should be reconsidered and possibly extended.

The key focus of the development management process should be on more significant development proposals, where detailed assessment is required to ensure that proposals are in the public interest. The role of the system should be to add value to development proposals.

5. Leadership, Resourcing and Skills

There can be better linkages made between spatial plans and community planning. Planning officials in Edinburgh have the skills and qualifications required to deliver a good service across a wide range of development types and on wider project work.

The fee system is a positive in that it assists with the resourcing of the service. However, there are a number of areas of work that do not currently incur a fee such as Listed Building Consent and pre-application advice or where these fees are not proportionate to the resource required, such as for major development. Heads of Planning Scotland undertook a costing exercise and for Edinburgh this showed that the average cost to the Council of a listed building application was £441 and we deal with over a thousand of these applications every year.

The ability to charge a fee against all consent processes and charge where additional services are provided is central to being able to provide a proactive planning service.

6. Community engagement

It is of vital importance that the public engage with the planning system and in Edinburgh there is currently a great deal of participation. However, that does not mean that no improvement is required. The planning process should be about actively seeking community engagement. The suggestions, made above, about simplifying the process should make it easier for people to engage with. Similarly, making the ownership of different parts of the process clear, should make it more transparent and accountable.

While it may seem counter-intuitive to be less prescriptive about requirements to notify and consult local communities, doing so may have the benefit of making community

engagement more focussed and genuine rather than a procedural requirement. Consideration should be given to a more focussed set of consultation requirements with a general onus placed upon local authorities to engage actively with local communities. Better linking of spatial planning with community planning may form the basis for better discussions with local communities about how their local areas should change over time. Extending appeal rights within the context of the current system would almost certainly slow down the planning process. However, it may be possible to provide a more general right for any party to request an appeal but that grounds for an appeals are dramatically reduced. The introduction of a Planning Tribunal with a remit to provide scrutiny to local decision making but restricted to procedural propriety and reasonableness, rather than reconsidering the planning merits of a particular proposal, could provide more parity and should be considered in reviewing the planning system.