

ABERDEEN CITY COUNCIL

COMMITTEE	Enterprise, Strategic Planning & Infrastructure
DATE	12 November 2013
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Scottish Planning Policy Consultation
REPORT NUMBER:	EPI/13/224

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is for the Committee to agree a response to the Scottish Government's re-consultation on parts of Scottish Planning Policy. This response has been put together in collaboration with the Strategic Development Planning Authority and Aberdeenshire Council. It is intended to agree a joint response from the three authorities at the Strategic Development Planning Committee on 11th December 2013.

2. RECOMMENDATION(S)

It is recommended that Committee agree the contents of this report and forward it to the Strategic Development Planning Committee for submission to the Scottish Government.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

4. OTHER IMPLICATIONS

Scottish Planning Policy (SPP) is a non-statutory statement of Scottish Government policy which carries significant weight in development plan and development management decisions. The current SPP was published by the Scottish Government in February 2010.

5. BACKGROUND/MAIN ISSUES

A draft SPP was published for consultation in April 2013. The Council, through the SDPA responded to that consultation at its meeting of June

2013. The Scottish Government published the responses themselves and an independent analysis of those responses in October 2013.

Following reflection on the consultation responses and the views of a range of stakeholders the Scottish Government has decided to re-consult on additional changes to two aspects of SPP:

- the introduction of a presumption in favour of development that contributes to sustainable development; and
- a proposal to replace the principal policies on 'sustainable economic growth' and 'sustainable development' with one on 'sustainability and planning'.

The consultation paper was published on 28 October 2013, with a closing date for responses of 16 December 2013. It can be viewed here; <http://www.scotland.gov.uk/Publications/2013/10/3406/0>

Discussion

There are two main questions raised by the consultation which are discussed in turn below.

Do you think the SPP should include a presumption in favour of development that contributes to sustainable development?

The consultation proposes introducing a presumption in favour of development that contributes to sustainable development. As proposed, this would be expressed at the start of the document before the document's 'Principal Policies'.

There is already a legal requirement on planning authorities to carry out their development plan functions with the objective of contributing towards sustainable development, as highlighted in the consultation paper (para 6). In this context it is not clear that the text adds anything in a development plan context. As a consequence, the third sentence in paragraph 8 is superfluous as it carries less weight than the legal requirement and should be deleted.

However, the Scottish planning system is built on another legal obligation - the status of the development plan in the determination of planning applications. The City Council, Aberdeenshire and SDPA have demonstrated their commitment to the plan-led system over recent years and maintain that commitment moving forward. All three plans (the structure plan and two local development plans) are up-to-date and work is well advanced on reviewing them to ensure they remain up-to-date.

There is the significant potential for a conflict between the 'presumption' as set out in the consultation document and the Town and Country Planning (Scotland) Act 1997 regarding the determination of planning applications.

Paragraph 9 states two pre-conditions for the presumption to apply in the determination of planning applications: where the development plan is 'out-of-date'; or where the development plan does not contain policies relevant to the proposal.

No definition is provided for either of these conditions. The 1997 Act places a legal requirement on planning authorities to submit a replacement strategic development plan within four years of the approval of the previous plan (s10(8)) and to replace its local development plan at least every five years(s16(1)(a)). However, this is not the same as defining the plan as 'out-of-date'. Although meeting these timescales is extremely important, there may be a variety of reasons why this is not achieved – and this could be caused by a range of factors, only some of which would be in the control of the planning authority. To have, in effect, an expiry date for development plans will have the consequence of planning authorities being even less likely to be able to accommodate modifications to the development plan prior to examination.

The planning act requires the determination of planning applications to be in accordance with the plan unless material considerations indicate otherwise. However, implicit in the text of the SPP is that being 'out-of-date' means that the development plan can be disregarded in the determination of planning applications, being replaced with a 'presumption' instead. The introduction of a presumption in favour of development which contributes to sustainable development should be strongly resisted.

If the 'presumption' were to be included, there would need to be clarity about what an 'out-of-date' development plan is to know when the presumption applies from a Development Management perspective. This should not just be a plan that is more than five years old as such a plan may still be up-to-date in its policy content.

Any presumption of this kind would require a change to primary legislation as it would change the basis for the determination of planning applications - which would be strongly resisted on the information currently available.

The third sentence in paragraph 9 is therefore potentially extremely dangerous and should likewise be deleted, along with the concept of the presumption.

A possible amendment to paragraph 1 would be - "The planning system should contribute to the creation of more economically, environmentally and socially sustainable places by enabling development that supports this, balancing the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place, it is not to allow development at any cost."

Paragraph 1, as amended above, does not rely on the presumption being included within the text and would be a positive start to this part of the SPP which should be welcomed.

Do you think the proposed approach to sustainability and planning is appropriate?

The revised draft SPP proposes merging the first two principal policies ('Sustainable Economic Growth' and 'Sustainable Development') into one entitled 'Sustainability and Planning'. This proposal has the potential to clarify the interpretation of the document and is generally supported. However, there are four issues which need to be addressed. The concept of resource efficiency is key to sustainable development and is integral to the current structure plan and proposed strategic development plan. However, the proposed amendment to SPP removes this concept altogether.

There is a need to ensure that development proposed today will be appropriate in the longer-term as well as the current time. This impacts on a range of the bullet points in paragraph 7 but means, for example, that net economic benefit must be seen in a longer-term context than short-term financial gain or responding to short-term economic or financial conditions (bullet 2). The weight to be given to net economic benefit will also vary geographically and SPP must be drafted in such a way as to respect this as different areas will have different priorities.

Reducing inequality and the wider social dimension of sustainable development is weakly reflected in the bullet points in paragraph 7. Providing for the needs of the whole community is vitally important, with affordable housing being one example.

There should be clarity in the SPP that Scotland is currently not a sustainable place and that the nature and quality of new development needs to change significantly if the Scotland of the future is to be more sustainable. With these amendments, the merger of the first two principal policies is acceptable.

The consultation proposes adding two glossary entries for 'sustainable development' and 'sustainable economic growth'. While the definition for 'sustainable development' is the commonly used Brundtland definition, this is not particularly helpful in the context of the presumption. However, the definition given for 'sustainable economic growth' relies on a response to a parliamentary question of November 2012 (S4W-10994) when more authoritative definitions exist, such as those by the Organisation for Economic Co-operation and Development (OECD).

6. IMPACT

Development Plan policies arising out of the SPP are likely to contribute to the following Single Outcome Agreement priorities:

1. We live in a Scotland that is the most attractive place for doing business in Europe;
10. We live in well-designed, sustainable places where we are able to access the amenities and services we need;
12. We value and enjoy our built and natural environment and protect and enhance it for future generations;
14. We reduce the local and global environmental impact of our consumption and production;
15. Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Development Plans contributes to "Aberdeen - A Smarter City" in terms of providing a clean, safe and attractive streetscape and by promoting biodiversity and nature conservation, encouraging wider access to green space in our streets, parks and countryside, and improving access to affordable housing in the private sectors by working with developers to maximize the effective use of developer contributions

An EHRIA has not been carried out for this report as it is a response to an external consultation document, which will itself be subject to a similar assessment by the Scottish Government.

7. BACKGROUND PAPERS

Draft Scottish Planning Policy Consultation – Sustainability and Planning.

<http://www.scotland.gov.uk/Publications/2013/10/3406/0>

8. REPORT AUTHOR DETAILS

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