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## NORTH AYRSHIRE COUNCIL

23 January 2018

### Cabinet

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**Title:** Planning (Scotland) Bill

**Purpose:** To respond to the Scottish Government's Local Government and Communities Committee Call for Evidence on the Planning (Scotland) Bill as introduced to Parliament on 4 December 2017.

**Recommendation:** To consider the implications of the Planning (Scotland) Bill and agree that Appendix 1 be submitted to the Local Government and Communities Committee as the Council's response to the Call for Evidence.

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### 1. Executive Summary

- 1.1 The Planning (Scotland) Bill was introduced on the 4<sup>th</sup> December 2017, following the Government's review of the Planning System. The Government is now asking for evidence as it considers the terms of the new Bill.
- 1.2 The Bill would make changes to Development Planning, Simplified Planning Zones, Development Management, Pre-application consultation, Schemes of Delegation, Fees and Charges, Enforcement, Training for Members, Performance of Planning Authorities, and introduce an Infrastructure Levy.
- 1.3 The changes introduced by the Bill are generally welcomed and seek to strengthen processes, engagement and participation in planning. However further details are required:
  - On transitional arrangements given the advanced stage of the Council's Local Development Plan, (due to be reported to Committee in April 2018);
  - Implications for the proposed regional partnership working arrangements; and
  - Implications for resources given the current constraints on Council budgets.
- 1.4 The feedback from the Scottish Government on the Council's Planning Performance Framework recognises that the Council already performs very well. The Council in its submission of evidence will want to ensure that any changes to the current system should not detract from the current high performing service standards achieved within the North Ayrshire Council Planning Service.

## **2. Background**

- 2.1 In September 2015, the Scottish Government (SG) initiated a Review of the Planning System with the appointment of an independent panel. In May 2016, the panel published the report 'Empowering planning to deliver great places', which contained 48 recommendations for reform over six main themes:
- Strong and flexible development plans,
  - The delivery of more high quality homes,
  - An infrastructure first approach to planning and development,
  - Efficient and transparent development management,
  - Stronger leadership, smarter resourcing and sharing of skills,
  - Collaboration rather than conflict – inclusion and empowerment.
- 2.2 The SG response was published in a consultation paper in January 2017, 'Places, People and Planning' which set out a series of 20 proposals under four key areas of change:
- Making plans for the future: for Scotland's planning system to lead and inspire change by making clear plans for the future,
  - People make the system work: to empower people to decide the future of their places,
  - Building more homes and delivering infrastructure: to help deliver more high-quality homes and create better places where people can live healthy lives, and developers are inspired to invest,
  - Stronger leadership and smarter resourcing: to reduce bureaucracy and improve resources so Scotland's planning system can focus on creating great places.
- 2.3 The Council's response to the consultation was approved by the Cabinet in March 2017. The key points made by the Council were:
- Support proposed Regional Partnerships;
  - Opposed the need for statutory provisions to align community and spatial planning;
  - Support a regional focus within the National Planning Framework;
  - Support the need for developers to set out delivery programmes;
  - Disagree with the need for local communities to prepare Local Place Plans;
  - Support improvements to the Pre-application procedure; and
  - Support for specific measures to address the particular challenges of the island communities.
- 2.4 In June 2017 SG published both the analysis on the consultation paper and a Position Statement, which set out an integrated package of proposed improvements to the planning system.
- 2.5 The proposed improvements were further considered at stakeholder meetings and the Bill was published in December 2017. The proposed changes within the Bill are as follows: -

- NPF - Scottish Planning Policy (SPP) which is the SG's statement of how the Government's policies should be addressed, will be incorporated into the National Planning Framework (NPF), as a single document, which, with the Local Development Plan will now be the Development Plan.
- Regional Working - Planning Authorities will be required to assist in the preparation of the NPF, with 2 or more authorities co-operating on this matter through Regional Partnerships, where they exist.
- LDP - Local Development Plans would move to a 10 year cycle from the current 5 with a requirement to take into account the Local Outcome Improvement Plan (LOIP). The Main Issues Report stage of the preparation of the Plan would be removed to be replaced with a single Proposed Plan. A gate check procedure would be introduced to consider the Plan during its preparation rather than the examination solely at the end of the process. The preparation of the Plan would have to be justified with an Evidence Report.
- Delivery - Action Programmes to be replaced by delivery programmes which are agreed by the Council and signed off by the Chief Executive and the full Council, raising the corporate commitment to its content.
- Local Place Plan (LPP) - There is a new right for communities to produce LPPs to further empower communities to plan their areas, which would link with LOIP's. The LPP would be prepared by a community body, and the LDP would be expected to have regard to the LPP.
- Simplified Development Zones - SDZ will replace Simplified Planning Zones to broaden the uses and developments which could be removed from planning controls to improve certainty for developers.
- Development Management - Changes to Development Management include the removal of the payment of separate charges for advertising applications in the press; removing the need for certain types of applications to be determined by the full council, to enhance the Pre-application Consultation (PAC) requirements, enhanced Schemes of Delegation to permit wider local decision making on reviews, completion notices to ensure developments are completed within reasonable timescales, effective resourcing of the planning service by moving to full cost recovery by reviewing the current fees, and introducing higher fees for retrospective applications and discretionary charging for service provision in addition to the statutory fees; and improved enforcement powers
- Member training - Mandatory training for elected members requiring attendance and/or completion of an examination before being involved in planning decisions.
- PPF - The current Planning Performance Framework would become a statutory requirement. A national performance co-ordinator would be appointed with powers to conduct assessments of performance and pursue improvements.

- Infrastructure - The introduction of an assessment framework to support the collection of an infrastructure levy to support the delivery of necessary infrastructure across a wider area, than directly related to the development proposal at hand. It would capture a proportion of land value uplift to give some public benefit from the value created by planning decisions.

2.6 The Bill would make changes to Development Planning, with the removal of the strategic tier of plan, and a strengthened National Planning Framework; amend the process of the Local Development Plan (LDP), align the LDP with Locality Outcome Improvement Plans (LOIPs) and introduce Local Place Plans (LPP) to further empower communities.

2.7 The Scottish Government state that the Bill contains a range of provisions:

- Focus planning, and planners, on delivering the development that communities need,
- Empower people and communities to get more involved and to have a real influence over future development,
- Strengthen the strategic role of planning in co-ordinating and supporting the delivery of infrastructure needed to support development, including much-needed housing,
- Reduce complexity, whilst improving accountability and trust in planning processes and decision-making.

2.8 It is noted that much of the detail of the proposed changes would come later through secondary legislation and guidance.

### **3. Proposals**

3.1 To agree that Appendix 1 be submitted to the Local Government and Communities Committee as the Council's response to the Call for Evidence.

#### 4. Implications

<b>Financial:</b>	Further detail is required to fully assess the implications of the Bill and proposed changes on financial resources. The Council has input to a COSLA questionnaire on the terms of the financial memorandum contained in the Bill.
<b>Human Resources:</b>	Further detail is required to fully assess the implications for staff resources.
<b>Legal:</b>	The Bill will make statutory changes to the Council's role as Planning Authority.
<b>Equality:</b>	An Equality Impact Assessment has been undertaken by the Scottish Government
<b>Children and Young People:</b>	There are no implications for Children and Young People associated with this report.
<b>Environmental &amp; Sustainability:</b>	A Strategic Environmental Assessment has been undertaken by the Scottish Government
<b>Key Priorities:</b>	The Bill supports in principle the key strategic aims of the Council in respect of growing the economy and regeneration of our town centres, and working together to develop stronger communities.
<b>Community Benefits:</b>	N/A

#### 5. Consultation

5.1 NAC Democratic Services (Legal Services) were consulted on the evidence prepared.



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For further information please contact **James Miller, Senior Manager Planning Services** on **01294 324315**.

## Background Papers

- [Planning \(Scotland\) Bill As Introduced \(592KB pdf posted 5 December 2017\)](#)
- [Planning \(Scotland\) Bill Policy Memorandum \(427KB pdf posted 5 December 2017\)](#)
- [Planning \(Scotland\) Bill Explanatory Notes \(461KB pdf posted 5 December 2017\)](#)
- [Planning \(Scotland\) Bill Financial Memorandum \(407KB pdf posted 5 December 2017\)](#)
- [Planning \(Scotland\) Bill Statements on Legislative Competence \(168KB pdf posted 5 December 2017\)](#)

## Appendix 1

### North Ayrshire Council Submission to the Scottish Government's Local Government and Communities Committee on the Provisions of the Planning (Scotland) Bill

The changes introduced by the Bill are generally welcomed and would seek to strengthen processes, engagement and participation in planning. However further details are required in particular on both the transitional arrangements, which is important given the advanced stage of the Council's Local Development Plan, which will be reported to Committee in April 2018; and furthermore on the proposed regional partnership working arrangements, and the implications for resources given the current constraints on Council budgets. The following comments are offered as evidence to be considered by the committee.

#### 1.1 **NPF** - Further detail is required on:

- the transitional arrangements between the current system and the proposed changes taking effect and how they are applied. This is of particular relevance to North Ayrshire given the advanced stage of LDP preparation (Proposed Plan due to be considered in Spring 2018). A gradual approach to introducing the changes will encourage effective operational planning for services.
- the implications of integrating NPF into the Development Plan. For example how national policies which set housing targets will impact on the content of the LDP), and the resource implications of having to feed into the NPF development.
- how closely aligned, in terms of timescales, NPF and Local Development Plans are expected to be. This is particularly pressing given the progress of our current Local Development Plan and could have a resource implication at a time when there are current constraints on budgets and staff resources and workloads.

#### 1.2 **Regional Working** - The regional pathfinder project and the Ayrshire Growth Deal are examples of close co-operation between the 3 Ayrshire Authorities which could be a model

for the future regional partnership to assist in the preparation of the NPF, and influence strategic policy development within the region. Further detail is required on the operational requirements of this regional working and its expected resource implications of partnerships feeding into the NPF (and how many regional partnerships the SG expect each LA to be a part of).

- 1.3 **LDP Timescales** - the move to a 10 year cycle would be out of sync with the timing of all other Council plans and strategies, which are generally on a 3 or 5 year cycle. Whilst we recognise that a wholesale move towards a more strategic and long-term framework for development of an area would be beneficial, and noting that provision is made in the new legislation for periodic updates or amendments to the Plan, concern is that beyond year 5 the Plan is likely to become less well aligned with the Council's other key strategies and programmes such as the LOIP, SHIP, and Local Housing Strategy where either local issues dominate or funding streams are not known until much closer to the base date. The 5 year timescale is also a key timeframe in SPP, with regards to the requirement to maintain a 5-year effective supply of development sites.
- 1.4 **LDP Process** - The Main Issues Report stage of the preparation of the Plan would be removed to be replaced by an independently determined gate check procedure that would consider whether a new Plan can be commenced, which may lead to added costs for the Council if multiple gate check submissions are required which is not a requirement of the current system. However it would deliver an earlier check on the direction of the Plan in respect of national policy and could lead to quicker examinations following the Proposed Plan stage. Further details on the expected costs of requesting gate checks and examinations is required to better understand the expected implications of this additional step.
- 1.5 **Delivery** – The sign off of the Delivery Programme stage of the Local Plan by the Chief Executive and the full Council is in accordance with this Council's current practice, as the Local Development Plan Committee has full Councillor Membership. The key change is that the programme would now align with all other relevant Council delivery programmes, e.g. Capital Plan, which would require more detailed commitment and programming which may have resource implications for the Council.
- 1.6 **LPP** – We support the further integration of community-led planning with the Development Plan process. We recognise the benefits of ensuring community buy-in to the planning process at the front-end rather than more adversarial interventions such as third party right of appeals. The introduction of Local Place Plans is a potential tool to do that but it is unclear how it would be resourced, managed and integrated. We have concerns that LPPs may undermine other community plans, such as the LOIP if their role is not clearly defined. We also have concerns that they may favour well-resourced communities already engaged in the planning process over other communities, and may have significant resource implications for the Local Authority, both in terms of managing the process of agreeing and publishing an LPP but also in then having to integrate that into a 10 year LDP. We propose that placing the LDP process within the Locality Planning process, with local elected members, community representatives (including community councils) and Community Planning Partners being involved in the co-production of the LDP, would be a more collaborative and effective approach than the separate development of Local Place Plans.

- 1.7 **SDZ** – The Council is one of 3 Authorities taking part in a pilot scheme funded by the Scottish Government on the Simplified Development Zones (SDZ). Evidence to date has indicated support for this approach from the development industry which may unlock current underperforming sites. There has been a significant resource implication for preparing the designation and the SDZ is aimed at front-loading the process placing the resource implications on the Local Authority. Further clarity on the Scottish Government's funding mechanism, expectations for the scope, scale, and frequency of use is required.
- 1.8 **DM** – The changes to Development Management are generally welcomed, which would improve local accountability and efficiency of decision making. The timescale for the review of fees has not established and the Government should be encouraged to bring this forward, given the aim to fully fund the planning system, at times of decreasing Council finances.
- 1.9 **Enforcement** – We support the increases in the maximum fines that can be levied by the courts but would add our support for more immediate powers, not necessarily requiring court approval. We should make improvements to the fixed penalty notice to ensure that the enforcement issue is addressed as well as the fine paid.
- 1.10 **Member training** – The Council currently undertakes training on Planning for all members. A statutory requirement for such training, with penalties for any failures is wholly unnecessary. The current practices should continue to be supported
- 1.11 **PPF** - The Planning Performance Framework was introduced by the Heads of Planning Scotland as a means of demonstrating high levels of performance at a local level, rather than the purely statistical return on the time to decide an application. A statutory requirement, with a national performance co-ordinator with possible powers to penalise Authorities is unnecessary and unwelcome.
- 1.12 **Infrastructure** - The introduction of an infrastructure levy to support the delivery of necessary infrastructure across a wider area is welcome. The proposal to capture a proportion of land value uplift to give some public benefit may be seen as a barrier to the delivery of development by the landowners and industry but is recognition of the need to support infrastructure provision to facilitate development in these financially challenged times for all Authorities. The Council would support a national levy which would deliver added resources across the country. Allocation of national funds to support infrastructure development could support inclusive growth policy that would spread investment appropriately.
- 1.13 **Island Communities** – In our response to the consultation paper dated January 2017, the Council recommended:-
- Island proofing all local plan policies and guidance to reflect and support the Islands distinct development opportunities.
  - Simplifying planning policies for rural and edge of settlement housing on the island and
  - Enhancing greater collaborative working with stakeholders to deliver housing for key workers and employment land on the islands.



The Council is therefore concerned that the Bill does not contain any provisions to reflect the particular challenges and opportunities of island communities.