

Planning Committee

10am, Thursday, 5 December 2013

Scottish Planning Policy Further Consultation: Sustainability and Planning

Item number 7.2
Report number
Wards

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Executive summary

Scottish Planning Policy Further Consultation: Sustainability and Planning

Summary

The purpose of this report is to approve the Council's response to the draft Scottish Planning Policy (SPP): Sustainability and Planning consultation. The consultation proposes further change to the principal policies contained within the Draft SPP issued in April 2013. It is proposed that previously separate policies for sustainable economic growth and sustainable development are replaced with a single policy for 'Sustainability and Planning' and that a presumption in favour of sustainable development is introduced.

The response is generally supportive of the combined policy but expresses concern about the presumption in favour of development and what this may mean in practice. It also proposes some changes to the detail of the policy.

Recommendations

It is recommended that the Committee approves the response set out in Appendix 1 of this report as the Council's response to the consultation Draft Scottish Planning Policy: 'Sustainability and Planning'.

Measures of success

The Council's views are taken account of in the review of these two national planning documents.

Financial impact

There are no direct financial implications for the Council arising from this report.

Equalities impact

This report is a response to a Scottish Government consultation. The Scottish Government have carried out a Partial Equalities Impact Assessment (EQIA) of SPP. A more comprehensive final EQIA will be developed using the partial EQIA and taking into account the views of a wide range of stakeholders following the public consultation period.

Sustainability impact

The impacts of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties have been considered, and the outcomes are summarised below.

- The proposals in this report will reduce carbon emissions because it supports national policy to create sustainable places.
- The proposals in this report will increase the city's resilience to climate change impacts because it supports national policy to support climate change and mitigation.
- The proposals in this report will help achieve a sustainable Edinburgh because it supports national policy which creates sustainable places.

The SPP is the subject of a statutory Strategic Environmental Assessment process (SEA). The SEA identifies that SPP make a significant contribution to reducing greenhouse gas emissions and climate change adaptation.

Consultation and engagement

The Council's response has been prepared following engagement with relevant Council services.

Background reading / external references

[Draft Scottish Planning Policy: 'Sustainability and Planning Consultation'](#)

[Draft Scottish Planning Policy](#)

National Planning Framework 3 and Scottish Planning Policy, Report to Planning Committee, [8 August 2013](#)

Review of Scottish Planning Policy, Report to Planning Committee, [28 February 2013](#)

National Planning Framework Review, Report to Planning Committee, [6 December 2012](#).

Scottish Planning Policy Further Consultation: Sustainability and Planning

1. Background

- 1.1 Scottish Planning Policy (SPP) is a non-statutory statement of Scottish Government Policy on nationally important land use planning matters. A review of the policy is currently underway and a revised draft SPP was published for consultation in April 2013. A Council response was agreed by Planning Committee in August 2013.
- 1.2 The Draft SPP set out six principal policies along with a number of subject policies. Among the principal policies were policies for Sustainable Economic Growth and Sustainable Development. Having reflected on the responses to the draft SPP consultation, the Scottish Government is now considering replacing those policies with a principal policy for 'Sustainability and Planning', and introducing a presumption in favour of sustainable development.
- 1.3 A consultation paper was published on 28 October 2013 setting out the proposed text to replace that set out in the Draft SPP. Consultation responses are sought in relation to this text only and are required to be submitted in writing by 16 December 2013. The expected date of publication of the finalised SPP is June 2014.
- 1.4 The CEC response to the draft SPP raised concerns about the principal policies for Sustainable Development and Sustainable Economic Growth. The concerns related to:
 - requirement that the planning system should attach significant weight to economic benefit of proposed development;
 - principles appearing more focussed on economic growth than sustainable development;
 - the need for guidance on economic benefit and how this should be balanced with environmental impact and other considerations;
 - the potential for the two policies to compete against each other;
 - omission of quality as a key element of sustainable growth; and
 - the potential for requirement on applicants to demonstrate economic benefit to be onerous.

2. Main report

Consultation Document

- 2.1 The consultation paper sets out proposed text for a single policy 'Sustainability and Planning'. It begins by setting out a policy presumption in favour of development that contributes to sustainable development. This means that the planning system should contribute to economically, environmentally and socially sustainable places by enabling development that balances costs and benefits of the proposal over the longer term.
- 2.2 The context for sustainability and planning is set out. This refers to the Government's central purpose, the Government Economic Strategy, the National Planning Framework, the UK's shared framework for sustainable development and the requirement of the Planning etc (Scotland) Act 2006 that functions relating to plan preparation must be exercised with the objective of contributing to sustainable development.
- 2.3 Twelve policy principles are set out:
- to give due weight to net economic benefit;
 - to respond to economic and financial conditions, as outlined in local economic strategies;
 - to make efficient use of existing capacities of land, buildings and infrastructure;
 - to support delivery of housing, business, retailing and leisure development;
 - to support delivery of infrastructure, for example transport, education, digital and water;
 - to support climate change mitigation and adaptation;
 - to protect and enhance cultural heritage, including the historic environment;
 - to protect, enhance and promote access to natural heritage; including water, air, soil, green infrastructure, landscape and the wider environment;
 - to reduce waste and facilitate its management;
 - to have regard to the principles for sustainable land use set out in the Land Use Strategy;
 - to avoid over-development and protect the amenity of new and existing development; and
 - to improve health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation.
- 2.4 Development plans should reflect the presumption in favour of development that contributes to sustainable development. Where plans are out-of-date or do not contain policy relevant to the proposal then the policy presumption in favour of development that contributes to sustainable development will apply subject to there being no adverse impacts which would clearly outweigh the benefits when assessed against the policies in SPP. Applicants will be required to provide

good quality information describing economic, social and environmental implications of the proposal, however this should be proportionate to the scale of the application.

- 2.5 Definitions of sustainable development and sustainable economic growth have been included and are as follows:
- Sustainable Development – Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
 - Sustainable Economic Growth – Building a dynamic and growing economy that will provide prosperity and opportunities for all, while ensuring that future generations can enjoy a better quality of life too.

Response to Consultation Paper

- 2.6 The Council's response to the consultation is attached at Appendix 1.
- 2.7 The consolidation of the sections on sustainable development and sustainable economic growth is welcome and consistent with the Council's comments on the main draft SPP submitted earlier this year. It removes the potential for two policies to compete against each other and allows a more balanced approach between economic and environmental considerations.
- 2.8 However it is questionable whether the presumption in favour of development that contributes to sustainable development is necessary as planning legislation already requires development plans to contribute to sustainable development and applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In other words, there is already a presumption in favour of sustainable development contained in the legislation. It would be more helpful if the SPP were drafted to guide planning authorities in preparing development plans on how ministers expect them to comply with their legal duties on sustainable development.
- 2.9 The language used is similar to the presumption against the demolition of a listed building in Scottish Historic Environment Policy. However this has proved straightforward to apply as there is no confusion here with the listed buildings legislation.
- 2.10 For the presumption to operate, it would be important to define sustainable development more precisely as the Brundtland definition is far too broad to be used in planning policy that aims to manage development. In addition, it is not clear what it means for a plan to be out-of-date and this would need to be defined.
- 2.11 The Scottish Government has agreed UK principles which form the basis of sustainable development policy. It is important that there is a shared understanding of what these principles mean for the planning system. The relationship between the SPP and these principles should be detailed and

interpreted in the context of the SPP to avoid any possibilities of misunderstanding.

- 2.12 The policy principles in the draft document do not adequately address what should be achieved in terms of sustainable development by the planning system and could be improved, for example by reference to the need for compact urban form, mixed uses, reducing the need to travel and access by sustainable transport modes.
- 2.13 It is helpful to provide definitions of sustainable development and sustainable economic growth. While there is no longer a principal policy for sustainable economic growth there are a number of references throughout Draft SPP to the concept. There will continue to be debate about what it might mean and if it is possible to achieve, however it is helpful to have the Scottish Government set out what it means in relation to planning.

3. Recommendations

- 3.1 It is recommended that the Committee approves the attached Consultation Questionnaire as the Council's response to the consultation Draft Scottish Planning Policy: 'Sustainability and Planning'.

Mark Turley

Director of Services for Communities

Links

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|--------------------------|---|
| Coalition pledges | P8 Make sure the city's people are well-housed, including encouraging developers to build residential communities, starting with brownfield sites P50 Meet greenhouse gas targets, including the national target of 42% by 2020. |
| Council outcomes | CO9 Edinburgh residents are able to access job opportunities. CO16 Edinburgh draws new investment in development and regeneration. CO17 Edinburgh's economy creates and sustains job opportunities. CO18 Green – We reduce the local environmental impact of our consumption and production. CO19 Attractive places and well maintained – Edinburgh |

remains an attractive city through the development of high quality buildings and places and the delivery of high standards in the maintenance of infrastructure and public realm.
CO22 Moving Efficiently – Edinburgh has a transport system that improves connectivity and is green, healthy and accessible.

Single Outcome Agreement

SO1 Edinburgh’s economy delivers increased investment, jobs and opportunities for all
SO2 Edinburgh’s citizens experience improved health and wellbeing, with reduced inequalities in health
SO4 Edinburgh’s communities are safer and have improved physical and social fabric

Appendices

Appendix 1: Draft Scottish Planning Policy: ‘Sustainability and Planning’ Consultation Questionnaire response by City of Edinburgh Council

Appendix 1

Draft Scottish Planning Policy: Sustainability and Planning Consultation Questionnaire response by the City of Edinburgh Council

Please answer the questions relevant to you and provide further comment, including evidence or justification in the box provided

Responses should focus on the content of the consultation paper. There is no need to repeat comments on other sections of the Draft SPP that was consulted on previously.

Consultation Question 1

Y N

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

 x

The Council is concerned about the introduction of this presumption. In relation to development plans such a presumption is unnecessary as Section 3E the Town and Country Planning (Scotland) Act 1997 as amended by the Planning, etc. (Scotland) Act 2006 already creates a legal requirement to contribute to sustainable development which has considerably greater force than a policy presumption. The existence of such a presumption in SPP in addition to this legal duty would lead to confusion. It would be more helpful if this section of the SPP were drafted to guide planning authorities in preparing development plans on how ministers expect them to comply with Section 3E.

In relation to development management, the presumption is also unnecessary as there is already such a presumption effectively written into the legislation. Section 25 of the Town and Country Planning (Scotland) Act 1997 requires determinations to be made in accordance with the development plan unless material considerations indicate otherwise, and Section 3E requires that development plans are prepared with the objective of contributing to sustainable development. Again, the existence of such a presumption in SPP would lead to confusion.

It is noted that the concept of a presumption is used in the Scottish Historic Environment Policy (para 3.40) with regard to listed buildings but this has proved straightforward to apply as there is no confusion here with the listed buildings legislation.

When applying the presumption in development management it is not clear when a plan should be considered to be out-of-date. This could be interpreted as more 5 years from adoption or it could be when the context of the plan has changed. Where a plan is more than 5 years old it does not necessarily mean that the content is no longer relevant, it will depend on how much change has taken place.

The application of the presumption would depend critically on the definition of sustainable development. The Brundtland definition is far too broad to be used in planning policy that aims to manage development. It would be difficult to determine if a proposal contributes to sustainable development as defined and this would be open to much interpretation. Without a stricter definition, the presumption in favour of development that contributes to sustainable development would quickly be seen as a presumption in favour of almost all development.

The development plan should be succinct. The presumption may lead to lengthier development plans which try to cover all eventualities to ensure that the presumption in favour of sustainable development does not undermine the strategy in the plan.

The presumption could lead to proposals which are not identified in the plan being given consent which may undermine the overall strategy of the plan.

Consultation Question 2

Y

N

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

The overall approach which brings together sustainable development and sustainable economic growth addresses concerns expressed in the CEC response to the draft SPP and is welcomed. It removes the potential for two policies to compete against each other and allows a more balanced approach between economic and environmental considerations. Within the principles, the change in the weight to be given to economic benefit and inclusion of the word 'net' is supported. This should allow appropriate weight to be given to all relevant factors. However, the text on Context – Sustainability and Planning, together with the list of policy principles seems to place an emphasis on economic development over other, more usual, interpretations of sustainability.

The five guiding principles of the UK's shared framework for sustainable development are referred to within the policy context. It is important that there is a shared understanding of what these principles mean for the planning system. For policy to be sustainable it must reflect all five principles. The relationship between the SPP and these principles should be detailed and interpreted in the context of the SPP to avoid any opportunities of misunderstanding.

The policy principles do not adequately address what should be achieved in terms of sustainable development by the planning system and could be improved:

- The overall principle set out is that planning should enable development that creates sustainable places across Scotland. The policy principles then set out are to guide decisions to achieve this. This terminology is different to that used elsewhere in draft SPP which sets principles for the 'planning system'. The policy principles which are set out should crucially apply to development plans as well as decisions. This is particularly important given that the system should be plan-led.
- Two of the principles included require decisions to support delivery of housing, business, retailing and leisure development and infrastructure. These principles are too open and general and may not be sustainable. For example retailing in certain forms and locations could be highly unsustainable.
- Draft SPP is clear that it should not restate policy set out elsewhere. However, the principles for sustainability and planning should be consistent with Designing Streets and Creating Places which sit alongside SPP as well as reflecting Designing Places which will be replaced by the revised SPP. The principles for sustainability should encourage compact urban form and reducing the need to travel through creation of mix of uses and should

include reference to the promotion of development that encourages sustainable transport modes and avoids reliance on private cars. This should link to the principles contained within the Principal Policy of Place-making.

- Principles relating to improving health and well-being should include reference to the need for facilities to be provided locally and for there to be a mix of uses to create places for social interaction.
- In terms of transport it would be beneficial to have a clearer transfer of policy principles from Movement, Page 44, Section 189. To accord with Section 189, it would be desirable to combine two principles into:
 - to support the efficient use of existing capacities of land, buildings and infrastructure, e.g. transport, education, digital and water and, if necessary, to consider the delivery of additional facilities.

Within the section on delivery it is stated that development plans should reflect the presumption in favour of sustainable development but it does not define what sustainable development means for development plans.

It is helpful to provide definitions of sustainable development and sustainable economic growth. While there is no longer a principal policy for sustainable economic growth there are a number of references throughout draft SPP to the concept. There will continue to be debate about what it might mean and if it is possible to achieve, however it is helpful to have the Scottish Government set out what it means in relation to planning.

As indicated in the response to Question 1 the definition of sustainable development needs to be more detailed if it is to be used in determining applications.

The 'Outcomes' for planning set out in draft SPP relate specifically to the principal policies and will need to be altered to reflect the new Principal Policy.

Consultation Question 3

In relation to the Equalities Impact Assessment, please tell us about any potential impacts, either positive or negative, you think the proposals in this consultation document may have on any particular groups of people.

No comments

Consultation Question 4

In relation to the Equalities Impact Assessment, please tell us about what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups.

No comments

Consultation Question 5

In relation to the Business and Regulatory Impact Assessment, please tell us about any potential impacts, positive or negative, you think the proposals in this consultation document may have on business.

No comments