

EDINBURGH ASSOCIATION OF COMMUNITY COUNCILS (EACC)

Response by the EACC to the call by the Scottish Parliament's Local Government and Communities Committee for views on the Planning (Scotland) Bill

Note: *This submission is structured around the Committee's questions. A separate response has already been submitted on the Financial Memorandum.*

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?

No. The question is itself unbalanced in that "need...to secure... development" has only to be balanced "with the views of communities". There must be community rights as well. There is inadequate protection for open spaces (including green-belt) not just adjacent to built up areas, but also remote wild areas which are an important part of our natural environment need further protection from insensitive developments such as wind farms. Future food security is not adequately addressed in the Bill.

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?

Quite possibly no discernible impact on house building. The factors governing this are complex, but mainly related to affordability. In the context of Edinburgh the current CEC Housing Land Audit and Delivery Programme shows that actual delivery of new housing is not restricted by lack of effective housing land. Maybe only a large programme of publicly funded forms of social housing will address the shortfall.

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?

No. The lack of detail in the Bill and reliance on later regulations to develop "regional partnerships" make this an impossible question to answer. There is a very real concern that this will just result in increasing centralisation and central direction of strategic development issues, to the detriment of local democracy and input. In times of financial stringency there is no incentive for a planning authority to take part in a regional partnership. Strategically, increasing development at all costs and extending the built environment have to be balanced by the need to protect and maintain our open spaces, farmland and natural environment for the benefit of all.

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 focused 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?

No, it will not meet the needs of communities. There should be an equal right of appeal for communities for decisions not in accordance with the LDP. The removal of the MIR with the LDP then being treated as a draft until adoption, is reasonable, coupled with the introduction of the "gate-check" process. However it should not be possible for a planning authority to approve proposals for sites still under examination prior to adoption of the LDP or for these sites to be subject to

EACC Planning Bill Response (contd.)

appeal decision whilst the LDP is still under examination.

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

Only if they are fully considered and examined as part of the LDP procedure. It should not be possible for a landowner or developer to initiate this process. A planning authority should be able to decide if simplified planning zones are appropriate for its area. Edinburgh with its concentration of listed buildings, conservation areas and heritage sites may not be suitable for SDZ and this process could be inimical to good place-making.

- 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?

It is unclear what those “avenues” are. The complexity of the bill itself is unlikely to lead to any enthusiasm for greater community involvement. The relation between the LDP and Local Place Plans (LPP) still needs to be clarified; how the LDP “can have regard to” LPP. If community bodies such as community councils can be adequately resourced professional involvement with the preparation of LPP could enhance community involvement in the planning process. Without adequate resourcing CCs are likely to feel increasingly cut off.

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?

Yes, this is welcome provided that planning authorities commit sufficient resources to what is currently the “cinderella” service of planning administration. Local people want to see unauthorised work speedily removed and any failure to comply should not be encouraged by delayed action and ineffective measures as at present.

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?

In principle this is supported. Ultimately we all pay for infrastructure whether it is loaded onto development costs or through forms of public investment. The devil will be in the detail and the relationship needs to be carefully balanced between the levy and other forms of developer contributions to infrastructure such as through Sec75 agreements. Will the levy largely supersede other forms of developer contributions towards the provision of infrastructure? Or if the levy is for more strategic infrastructure and Sec 75 more local, a careful balance is required so as not to make development less commercially viable. For new housing additional costs loaded onto each unit could have the effect of making market housing less affordable and thereby increasing the demand for “affordable” housing. It is not clear how the levy will ensure that infrastructure is

EACC Planning Bill Response (contd.)

provided in advance of being needed and not afterwards, unless there is also upfront public finance.

9. Do you support the requirement for local government councilors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

Yes.

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

It depends how performance improvements are defined. If it is just speed of processing applications this can be achieved by more perfunctory assessment, which is a criticism of the present performance framework. There should be a measure of how effective community input has been, for instance.

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?

We have not been able to come to any conclusion about this as so much is left to later detailed regulation.

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

12/1 The time available to consider such a complex measure was far too short, including as it did the seasonal period when many community councils were in recess and the EACC had no meetings scheduled.

12/2 The Bill is written in such a way that it cannot be understood without reference to other legislation. Even the Explanatory Notes are difficult for a non-specialist to follow, so this is not a good way to conduct a public consultation.

12/3 It has not been possible to come to a view about the true impact of what is proposed as so much is left to later regulation not detailed as this stage. Overall it is likely to be costly to implement and administer, with many opportunities for disputes and opacity, creating extra business for planning consultants and specialist legal advisers.

12/4 The EACC has noted the more detailed commentary on the Bill prepared by the South West (Edinburgh) Communities Forum (SWCF) and supports the SWCF submission.

12/5 In September 2015 the First Minister announced “a root and branch review of the planning system”. What we now have nearly 2.5 years on is an almost impenetrable legal thicket.