

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 23 AUGUST 2005

MODERNISING THE PLANNING SYSTEM: SCOTTISH EXECUTIVE WHITE PAPER

Report by Executive Director of Development and Property Services

1 PURPOSE OF REPORT

1.1 To advise the Committee and provide comments for approval and submission to the Scottish Executive on the contents of the White Paper entitled 'Modernising the Planning System'.

2 BACKGROUND INFORMATION

2.1 In June 2002, the Scottish Executive published a review paper entitled 'Review of Strategic Planning – Next Steps and Conclusions' which essentially proposed the removal of Structure Plans from the planning system, the introduction of city region plans for the four largest cities and the preparation of local development plans for all areas of Scotland. Following the publication of this review paper, a Public Consultation document entitled 'Making Development Plans Deliver' was prepared by the Executive and the contents of that document were considered by the Development Services Committee of the Council at its meeting on 4 May 2005. The consultation paper again proposed the demise of the two tier development system in Scotland but also gave details of a number of procedural changes that were proposed and a number of changes relating to good planning practice. The Council's views on the consultation paper, as agreed by Committee, were forwarded to the Scottish Executive, as requested, by 30 July 2004.

2.2 Following consideration of the views received on the previous consultation exercise, the Executive has now prepared the Government White Paper which is the subject of this report.

3 THE WHITE PAPER

3.1 The Executive's objectives for the modernisation of the planning system are:

- (i) to place development plans firmly at the heart of the planning system, ensuring that development takes place in the context of a long term and inclusive vision for the future;
- (ii) to ensure that the planning system is fit for purpose and able to respond to different types of development proposals in the most appropriate way;

- (iii) to encourage greater efficiency in development plan preparation and the determination of planning applications;
- (iv) to make it easier for people to get involved in planning and help shape the future of their communities; and
- (v) to recognise planning's role in delivering sustainable development.

3.2 A synopsis of the main provisions of the White Paper is as follows:

- (i) The paper proposes to make the planning system fit for purpose by:
 - establishing the National Planning Framework as an instrument for securing the delivery of national policies and programmes;
 - introducing a new process for the determination of applications for developments of national strategic importance (called national developments);
 - introducing new procedures for the determination of applications for a range of key, large scale development proposals including housing and economic development (called major developments);
 - introducing new procedures for the majority of planning applications (called local developments) which are of local importance, to allow determination and appeals to be handled at a local level; and
 - reviewing the extent to which applications for very small scale developments (called minor developments) can be removed from the scope of the planning system altogether.
- (ii) The paper proposes to make the planning system more efficient by:
 - introducing a statutory requirement to update development plans every five years;
 - moving to a single tier of development plans everywhere apart from the four largest city regions;
 - introducing a requirement for one proposed plan, replacing the present system of consultative and finalised drafts;
 - introducing measures to encourage greater use of e-planning;
 - improving the way in which planning agreements are used;
 - introducing standard planning application forms; and
 - reducing the time limit within which an appeal can be submitted following refusal of an application from six months to three months.
- (iii) The paper proposes to make the planning system more inclusive by:
 - introducing new statutory procedures for pre-application consultations;
 - introducing new procedures to ensure wide public participation in the formulation of development plans, including notification of key development proposals to neighbours;
 - transferring responsibility for neighbour notification on planning applications to planning authorities, to improve public confidence;

- requiring more frequent use of hearings, allowing local people to present their views on planning applications before they are determined;
- introducing new procedures to assess whether local people have been engaged effectively in the development plan process, and in the processing of applications called in for determination by Scottish Ministers;
- introducing procedures to subject applications that do not accord with the development plan to enhanced levels of scrutiny; and
- introducing a new requirement for planning authorities to give reasons for their decisions, and notify individuals who have made representations when decisions are taken.

The paper also proposes that the planning appeals system will be reformed to create a greater sense of equality by:

- introducing early determination of appeals that are not well founded; and
- introducing new procedures that ensure an appeal is a review of the decision taken in light of the information submitted, limiting the right to introduce new evidence to support the appeal.

Effective use of existing enforcement powers will also be encouraged and amendments will be introduced to enable better monitoring of conditions attached to planning permission.

(iv) The paper proposes that sustainable development will be promoted by:

- using Strategic Environmental Assessments to improve the way in which the environmental consequences of decision making are addressed and to enhance the levels of transparency in policy making;
- recognising the need for development plans to respond to requirements to meet environmental obligations at European and International level;
- incorporating changes to Environmental Impact Assessment legislation that will make it easier for local people to participate in the decision making process; and
- striving for high quality design in all new development.

3.3 It is recognised by the Scottish Executive that the proposed modernisation of the planning system, as summarised above, will require a considerable change in the culture of planning and will place significant demands on planning authorities responsible for its implementation. It is considered essential that a framework be introduced that promotes an improvement in the planning system, this framework including;

- an enhanced system of audit for planning authorities, designed to identify and promote good practice;
- powers for Ministers to address areas where performance does not meet requirements; and support for planning authorities, through the Planning Development Budget and other means, to improve the capacity of the planning system to take on the necessary changes described above.

4 IMPLICATIONS OF THE WHITE PAPER FOR THE COUNCIL

4.1 The proposals are generally welcomed but the contents of the White Paper, if implemented, will have significant and widespread implications for the Council in the exercise of its overall planning function, including the development plan preparation process and the processing of planning applications. The most notable implications for the Council are as follows:

- (i) The Council will be required to produce a single authority-wide local development plan instead of the current Structure Plan and Local Plan. This will have serious implications for the current Structure Plan Team, in terms of its personnel, constitution and function. The Council has previously objected to the loss of a strategic plan for Ayrshire and thus this objection should be maintained. It will be necessary for the Council to explore, together with North and South Ayrshire Councils, the future role of the Team. In addition the legal status of the replacement Ayrshire Structure Plan will require to be confirmed when the new planning arrangements come into force particularly as it is proposed that the time horizon of the replacement plan would extend to 2025.
- (ii) The authority will be required to prepare a single 'proposed plan' following an early and thorough engagement with the public and other stakeholders on key issues to be addressed in the plan, in place of the current system of preparing consultative draft and finalised versions of the plan. This requirement is welcomed as the proposal will simplify the plan preparation process and the need for greater public engagement follows the practice adopted by the Council in producing the Adopted East Ayrshire Local Plan.
- (iii) The authority will be required to notify all owners, tenants and neighbours directly affected by site specific policy changes or proposals identified in a development plan. It is also proposed to transfer the responsibility for neighbour notification on planning applications from applicants to planning authorities and to require neighbour notification procedures to be introduced with regard to enforcement appeals. These requirements will impose significant new duties on the Council. It is likely that they will have significant manpower, workload and cost implications for the authority, involving the issue of thousands of notifications. The notification proposals will necessitate close examination once the details are available in respect of the Council's new obligations and the need for additional staff resources. The Council would expect that any additional financial costs as a result of the final proposals being implemented will be fully underwritten by the Scottish Executive.
- (iv) The authority will be required to implement a new hierarchy for dealing with planning proposals whereby proposed developments will be processed and scrutinised depending on whether they raise issues of national, major, local or minor importance. Elected members will continue to decide on major applications and more controversial local applications. Extended officer delegation powers are proposed in dealing with uncontroversial applications of local or minor importance. However the right of appeal against decisions

relating to delegated applications will be to a proposed new local review body comprised of locally elected members. This represents a significant departure from current established practice but it is considered that these measures will result in a significant improvement to the speed of decision making. It is also proposed that the time period for the lodging of an appeal should be reduced from 6 to 3 months and amendments are made to the functioning of the appeal system to prevent appeals progressing that do not properly address the reasons for refusal or to allow new evidence to be introduced. These proposals are supported by the Council.

It is proposed that a general review of the Town and Country Planning (General Permitted Development) (Scotland) Order 1922 be carried out to explore the extent to which applications for very small scale developments can be removed from the scope of the planning system altogether. This will help reduce pressure on staff involved in the development management process. This proposal is also supported in principle by the Council.

- (v) It is proposed to modernise the Public Local Inquiry system so that, where an appeal is properly lodged against a planning decision, the right to a planning inquiry is qualified so that this facility is reserved for those cases where the subject cannot be sufficiently scrutinised through written submissions and more informal hearings. The Council fully supports this proposal.
- (vi) It is proposed to introduce measures to require greater and more consistent use of hearings to allow the views of objectors and other interested parties to be heard before a planning decision is taken. This is already current practice in East Ayrshire.
- (vii) It is proposed to withdraw the current 'Notice of Intention to Develop' procedures relating to Council developments, requiring all local authority interest cases to be the subject of planning applications. As a result of this proposal, all local authority applications will become subject to all relevant reforms proposed in the White Paper. This proposal is supported by the Council.
- (viii) The proposals to strengthen the enforcement system are welcomed but should go further by making any breach a criminal offence and by allowing Authorities to take the past behaviour of an applicant into account as a material planning consideration or by some form of licensing system.

5 NEXT STEPS

5.1 Amendments to existing primary legislation will be required to implement a number of the changes described in the White Paper and it is expected that a Planning Bill will be introduced during the current Parliament. However, many of the changes proposed in the Paper can be carried out within the law as it presently stands. Pending the introduction of the Planning Bill, the Scottish Executive will be progressively implementing a number of the proposals prior to the Bill being introduced, i.e.

- (i) introducing the enhanced scrutiny procedures for proposals that are significantly contrary to the development plan;
- (ii) conducting a campaign to explain the rights of local people in the planning process;
- (iii) taking early action to press planning authorities to update their development plans;
- (iv) beginning the process of development and consultation on the next National Planning Framework and on Executive policy for renewable energy;
- (v) establishing a more proactive approach to influence the form and content of development plans; and
- (vi) initiating measures to improve local authority performance on Development Management (Promotion).

6 FINANCIAL IMPLICATIONS

6.1 A number of the proposals suggested in the consultation paper, if implemented, may well involve significant operational costs to the Council, especially in terms of costs of:

- (i) undertaking neighbour notification for planning applications and for new site specific proposals in local development plans;
- (ii) operating the new system of appeal tribunals where decisions have been taken at an officer level; and
- (iii) more proactive use of enforcement powers.

6.2 The removal of a number of applications for minor developments from the planning system will represent a reduction in planning fees received by the authority. However, this may be offset by the proposed raising of fees payable to the Council for major applications, to more accurately reflect application processing costs. However the Council would expect that any additional costs would be underwritten by the Scottish Executive.

7 LEGAL / AUTHORITY IMPLICATIONS

7.1 A number of the proposals suggested in the consultation paper, if implemented, will require changes to primary legislation and current operational planning practices which will have significant implications for the authority. In particular the proposed notification requirements in relation to planning applications and development plan proposals will open the Council up to legal challenge.

8 PERSONNEL IMPLICATIONS

8.1 The implementation of the proposals contained in the White Paper will have significant implications for not only the staff of the Planning, Development and Building Standards Division but also staff of other Council Departments who provide administrative and legal support to the planning function. Proper consideration of the personnel implications will be required to be undertaken by the Council once the details of the proposals are known but it is likely that additional resources will be needed to support the new arrangements and to meet the expectations contained within the White Paper. In addition, a key proposal suggested in the consultation paper is to remove the requirement of the three Ayrshire Councils to prepare a joint structure plan. As indicated above (paragraph 4.1 (i)) it will be necessary for the Council along with North and South Ayrshire Councils to explore the role of the team.

9 RECOMMENDATIONS

9.1 It is recommended that the Committee agrees to note the contents of this report and that a copy be forwarded to the Scottish Executive as representing the Councils views on the White Paper: Modernising the Planning System.

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Executive Director of Development and Property Services

15 August 2005 (KD/JL/SA)
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LIST OF BACKGROUND PAPERS

1. Scottish Executive White Paper: Modernising the Planning System.
2. Scottish Executive Consultation Paper: Making Development Plans Deliver.
3. Development Services Committee Report entitled 'Review of Strategic Planning – Next Steps and Conclusions' considered by Committee on 22 October 2002.
4. Development Services Committee Report entitled 'Making Development Plans Deliver – Public Consultation' considered by Committee on 4 May 2004.

For further information on the contents of this report contact Karl Doroszenko, Policy and Projects Manager or John Lilley, Principal Planning Officer on 01563 576751 or 01563 576754 respectively.

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