

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - 11 OCTOBER 2006

PAN: COMMUNITY ENGAGEMENT 'PLANNING WITH PEOPLE' CONSULTATION DRAFT

Report by the Executive Director of Development and Property Services

1. PURPOSE OF REPORT

- 1.1 To advise the Committee and obtain the Committee's views on a Scottish Executive publication entitled 'Planning Advice Note: Community Engagement 'Planning with People': Consultation Draft'.

2. BACKGROUND INFORMATION

- 2.1 As part of its radical ongoing overhaul of the current planning system, Scottish Ministers are determined to make the planning system more inclusive and accessible to people. In this regard, the Executive has produced a consultation draft Planning Advice Note on the subject of Community Engagement. The draft PAN provides examples as to how people and communities can best participate and become involved in the planning process and gives advice to planning authorities and developers on how best to listen, engage and understand what people want for their area. Representations on the PAN are requested by 13 October 2006.

3. THE CONSULTATION DRAFT

- 3.1 The consultation draft looks in detail at the role that both planning authorities and applicants and their agents can play in achieving improved community engagement. In particular, the consultation draft requires planning authorities to seek to enhance the quality of community engagement in the delivery of their three key roles of:

- preparing development plans;
- deciding on applications for planning permission; and
- taking action against breaches of planning control.

It also describes how it is anticipated that such engagement should be achieved under the proposed new planning procedures and arrangements detailed in the new Planning Bill. A series of scenarios is also provided, illustrating how people and communities might engage in each of the three planning roles listed above. Similar requirements are placed on applicants and their agents to improve community engagement with communities, particularly at pre application stage.

3.2 The consultation draft details what communities can expect from the planning process and describes the various opportunities that will become available for communities to get involved in that process as proposed in the new Planning Bill. The document also describes how effective community engagement in land use planning can best be achieved and sets out a range of guiding principles and standards for use by planning authorities for development plan preparation, by applicants in pre-application consultations with communities and by communities engaging in general on planning issues. Advice is also given regarding various types of support that is available for all users of the planning system, comprising people and communities, planning authorities and councillors, and applicants. An annex is attached to the document giving good examples of community involvement and the document also contains a glossary of planning terms.

4. GENERAL COUNCIL OBSERVATIONS AND COMMENT ON THE PAN

4.1 The draft SPP sets out the main changes to public consultation and engagement procedures resulting from proposals contained the new Planning Bill. These changes comprise the following:

- the preparation and publication of a Development Plan Scheme, including a Participation Statement, setting out how and when the community and others can get involved in the plan preparation process;
- the preparation and publication of a Main Issues Report identifying the key areas of change to be addressed in the plan;
- the preparation and publication of the Proposed Plan and an associated Action Programme;
- the notification of owners and neighbours of new site specific proposals in the Proposed Plan;
- the engagement of local communities in the preparation of other planning issues such as development briefs for individual sites and in the preparation of supplementary guidance;
- the preparation and advertisement of weekly lists of new planning applications received;
- the transfer of neighbour notification of planning applications from applicants to planning authorities and extending the period allowed for representations from 14 to 21 days;
- the carrying out of pre-application consultation between applicants and local communities with regard to certain types of planning application;
- the arrangement of pre-determination hearings in a greater number of cases for the community to make its views known;

- the notification of anyone who has made representations or objections to any particular application, of the decision reached and the reasons for approval or refusal of the application;
- the establishment of Good Neighbour Agreements for significant developments;
- the requirement for Councils to publish a Planning Enforcement Charter setting out the Council's policy in respect of planning enforcement and advising of a more proactive approach;
- the introduction of larger fees for retrospective applications;
- the authority to require submission of applications when required; offence not to apply;
- introduction of temporary Stop Notices to enhance "immediate" enforcement powers.
- the introduction of "start", "progress" and "completion" notices to improve enforcement monitoring. Completion certificates will require to be "approved by the Planning Authority.

4.2 Comments on each of these proposed changes to community engagement procedures are detailed in the Annex to this report. In general terms, the proposed provisions of the PAN are worthy of support. However, the Council has serious concerns regarding the introduction of neighbour notification procedures in relation to local plan proposals and the transfer of neighbour notification procedures from applicants to planning authorities with respect to planning applications. These particular issues have previously been brought to the attention of the Council in a report to the 22 August meeting of the Development Services Committee by the Executive Director of Development and Property Services entitled 'Neighbour Notification: Report on the Working Group' with the Council stating its opposition to the introduction of these requirements.

4.3 A number of proposals contained in the PAN are already adopted Council practice, namely, encouraging applicants to carry out pre-application discussions with local communities on proposed major developments, the ability of objectors and applicants to state their case at pre-determination hearings and the notification of persons making representations on an application of the decisions reached, and the reasons for those decisions. The introduction of these proposals in the PAN is particularly welcomed.

4.4 The PAN recognises that a range of information and support is available in relation to community engagement for both people and communities and for planning authorities, Councillors and applicants. Particular recognition is given to Planning Aid for Scotland, in-house Council support for local community groups and community councillors, Communities Scotland advice to Community Planning Partnerships and the Scottish Executive's Planning Development Programme. It is agreed that utilisation of such groups and initiatives will have an important role to play in expanding community engagement and that involvement of these groups in this regard is worthy of support.

5. FINANCIAL IMPLICATIONS

- 5.1** There are no immediate financial implications for the Council as a direct result of the consultation draft of the SPP. However, the introduction of the provisions of the SPP will have financial implications for the Council, particularly as regards the costs of neighbour notification and the costs of advertising the weekly lists of applications received, in the local press.
- 5.2** Introduction of pre-application consultation involves the Council as Planning Authority checking if they have been undertaken, have been sufficiently undertaken and potentially allows for not registering applications if not properly undertaken. This will involve staff time and costs.
- 5.3** The improved monitoring measures and proactivity in enforcement will raise expectations and, if fully implemented, generate additional workload with resource implications; i.e. every development site to be issued with a "completion certificate" by the Planning Authority, this represents a substantial additional workload.

6. LEGAL IMPLICATIONS

- 6.1** There are no legal implications for the Council as a direct result of the consultation draft of the SPP. Changes to both primary and secondary planning legislation will be required to facilitate the new neighbour notification and other proposed procedures. There may be implications for the workload of Solicitor to the Council in dealing with any issues arising in this regard.

7. POLICY IMPLICATIONS

- 7.1** There are no direct policy implications for the Council as a direct result of the consultation draft of the PAN. However, once finally approved by the Scottish Ministers, some amendments to the emerging Alteration to the East Ayrshire Local Plan may be required to reflect the provisions of the document.

8. COMMUNITY PLAN IMPLICATIONS

- 8.1** There are no community plan implications for the Council as a direct result of the consultation draft of the PAN. However, the PAN recognises that the community plan will inform, and be informed by, the development plan and that planning authorities should strengthen the links between these two planning systems, utilising community planning networks in the development planning process.

9. RECOMMENDATIONS

- 9.1** It is recommended that the Committee:
- (i) Agrees to note the contents of this report; and
 - (ii) Agrees to authorise the Executive Director of Development and Property Services to submit a copy of this report to the Scottish Executive as representing the views of the Committee on the draft PAN.

James Lavery
Executive Director of Development and Property Services
JL/SA - FV
21 September 2006

LIST OF BACKGROUND PAPERS

1. Planning Advice Note: Community Engagement 'Planning with People': Consultation Draft

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

Implementation Officer: Alan Neish, Head of Planning, Development and Building Standards

ANNEX 1

PROVISIONS OF THE DRAFT PAN AND SUGGESTED COUNCIL COMMENTS ON THE ISSUES RAISED

The Draft Planning Advice Note contains a series of policy advice in respect of a wide range of considerations relating to community engagement. These relate to the development planning and the planning application and enforcement processes and are summarised below, along with the Council's comments on the individual issues raised.

Community Engagement in the Development Planning Process

It is proposed that the new planning system will require planning authorities to follow a number of steps in the preparation of their development plans, a number of which have community engagement implications, viz:

(i) the preparation of a Development Plan Scheme, including a Participation Statement, setting out how and when the community and others can get involved in the plan preparation process. The availability of the Participation Statement will require to be advertised in local papers and on the Council's web site. The extent to which the planning authority has met or exceeded its intentions to involve people, communities and business in the development plan process, as set out in its Participation Statement, will be assessed either by a Reporter from the Scottish Executive Inquiry Reporters Unit or the Scottish Ministers. Where consultation is deemed to have been inadequate, the planning authority can be directed to remedy any failure.

The Council is supportive of the requirement to prepare a Development Plan Scheme which gives a degree of certainty to users of the planning system that plans will be prepared within a prescribed time period and that public participation and consultation will be carried out as an integral part of the plan preparation process along certain agreed lines. There are also no objections to the assessment of the Participation Statement as proposed.

(ii) the preparation of a Main Issues Report identifying the key areas of change which need to be addressed in the plan. The Issues Report will be advertised and a six week period set aside for representations to be made on the issues identified.

The Council is supportive of this requirement which allows community engagement at the earliest informative stage of the plan preparation process.

(iii) the preparation of the Proposed Plan and an associated Action Programme, with a further six week period being set aside for representations, comments and objections to be made to the documents concerned.

This mirrors the consultation arrangements currently in place with regard to the finalised deposit draft stage of local plan production under the existing 1983 Structure and Local Plan Regulations. There are no objections to this particular consultation provision.

(iv) the notification of owners and neighbours of new site specific proposals in the Proposed Plan to ensure that they are aware of the proposals at an early stage in the plan preparation process.

The Council has strong reservations and objections to the requirement for local authorities to notify individual neighbours affected by new site specific proposals in a Proposed Plan. This particular proposal was placed before the 22 August 2006 Development Services Committee for consideration, in a report by the Executive Director of Development and Property Services entitled 'Neighbour Notification: Report on the Working Group'. At that meeting it was agreed that this requirement would place an extremely onerous burden on the planning authority, would be highly expensive to implement and would have a significant detrimental effect on the Council's already severely constrained professional and technical resources. This remains the view of the Council in so far as this particular provision of the consultative draft PAN is concerned.

(v) the engagement of local communities by the planning authority in the preparation of other planning issues such as development briefs for individual sites and in the preparation of supplementary guidance.

The Council is, in principle, generally supportive of this requirement.

Community Engagement in Development Management

It is proposed that the new planning system will require planning authorities to follow a number of steps in their processing of planning applications, a number of which have community engagement implications, viz:

(vi) the preparation and advertisement of weekly lists of new planning applications received.

It is agreed that this measure will greatly increase public awareness of all planning applications received by the authority. The Council already prepares a weekly list of all applications received which is available on the Council's web pages. The weekly lists are not currently advertised in the local press and the requirement to do so will undoubtedly involve the Council in additional expense to meet the advertising costs involved.

(vii) the notification of neighbours of planning applications, allowing 21 days for the public to comment.

This particular proposal was placed before the 22 August 2006 Development Services Committee for consideration, in a report by the Executive Director of Development and Property Services entitled 'Neighbour Notification: Report on the Working Group'. At that meeting it was agreed that the requirement for the Council to carry out neighbour notification procedures in respect of planning applications represents an unwarranted and unacceptable increase in the workload of the development management officers and their support staff. It is considered that, in addition to being an expensive procedure to implement, the introduction of neighbour notification could well result in significant delays in the processing and determination of the applications concerned. Unlike the case with notification procedures carried out by applicants, notification by the Council can only take place once the application has been received by the Council and delays in processing applications could well occur, particularly in instances where information on the addresses of owners or tenants of neighbouring properties is not readily available or subject to search. This remains the view of the Council in so far as this particular provision of the consultative draft PAN is concerned.

(viii) the carrying out of pre-application consultation between applicants and local communities before the submission of planning applications for developments which are significantly contrary to the development plan, all major developments, those developments requiring an Environmental Impact Assessment and large scale developments defined as 'bad neighbours'. Applicants will be required to submit a Pre-Application Consultation Report to the Council, alongside the planning application, setting out a list of all parties consulted, notes of discussions with pre-application consultees and details of any amendments proposed as a result of the pre-application discussions. The planning authority will check whether the applicant has engaged effectively with the community concerned and can refuse to register the planning application if consultation is considered to be inadequate.

Whilst the reasoning behind this proposal is understood, it represents yet another burden on Development Management staff who will require to check if the process has been properly undertaken and negotiate with applicants to achieve suitable compliance before registering the associated planning application. There is clearly the potential for conflict between applicant and Planning Authority in respect of when and what is required to adequately fulfil this obligation. It is essential that, to achieve consistency the Executive makes available much clearer guidance on key aspects of this process such as when is a development "significantly" contrary to the development plan; thereby triggering pre-application consultation.

(ix) the arrangement of pre-determination hearings in a greater number of cases for the community to make its views known.

The Council already operates a system whereby objectors to a planning application can request to speak at a hearing prior to any determination of the application concerned. Therefore proposals envisage a greater number of hearings. This places additional burdens on staff preparing reports and presenting at Committee. This will also impact adversely on processing times and performance. Current experience indicates Committee items are more likely to take in excess of two months to determine.

(x) the notification of anyone who has made representations or objections to any particular application, of the decision reached and the reasons for approval or refusal of the application.

This is in part already established practice within East Ayrshire Council whereby people making representations or objections to an application are automatically sent a copy of the Council's decision notice. This process would have to be widened to clarify the reasons for approval; reasons for refusal are automatically required as part of any Refusal to grant planning permission.

(xi) the establishment of Good Neighbour Agreements for significant developments, to provide a basis for communication, exchange of information and dispute resolution between communities and developers.

This proposal closely mirrors the current practice of East Ayrshire Council to establish local Liaison Committees to monitor developments which are considered to have a significant potential adverse impact on local communities. The Council is fully supportive of the establishment of Good Neighbour Agreements but feel that these agreements should be augmented with a requirement to constitute formal Liaison Committees between the developers / site operators, local communities, Council representatives and other bodies as considered appropriate. Such an arrangement would provide direct face to face community engagement at a personal level and would be of direct benefit to all parties involved.

Community Engagement in Enforcement

It is proposed that the new planning system will require Planning Authorities to undertake a number of additional measures which will enhance community engagement with and confidence in the enforcement process.

(xii) the requirement to publish a Planning Enforcement Charter setting out the Council's policy in respect of planning enforcement so that people can understand how to raise concerns and the nature of action that they can expect to be taken. It is proposed that such charters should be reviewed, updated and republished at least every two years or as directed by Scottish Ministers.

The Council is fully supportive of this particular initiative.

(xiii) The measures to improve enforcement monitoring include "start", "progress" and "completion" notices.

The Council recognises the benefits in these proposals but they will without doubt raise public expectations of the enforcement system, they will engage offers in additional workload post-decision on every consent issued, (completion certificates and site visits), and will require additional resources to implement. The Communities Committee recognised this when it called on the Executive to promote better resourcing of enforcement within Planning Authorities.

(xiv) The Council notes that the draft PAN contains no reference to the need to notify neighbours of enforcement decisions as referred in "Modernising the Planning System".

The Council would query whether this provision has been dropped.

(xv) The introduction of larger fees for retrospective applications as a means to deter developers from breaching the rules.

The Council is supportive of this particular proposal.

(xvi) Where there are breaches of planning control or breaches of planning conditions people can expect the Planning Authority to be proactive in using enforcement measures.

The Council supports a proactive approach but recognises that the means by which the draft PAN proposes to achieve this will have additional resource implications.