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From: David Jennings [DJennings@aberdeencity.gov.uk]
Sent: 22 June 2007 10:58
To: Planning and Sustainable Development
Cc: Douglas Paterson
Subject: Consultation Response - Aberdeen City Council



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Planning - S...

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Dear Ms Carey,

Please find attached the response of Aberdeen City Council to the Scottish Executive consultation on
"Statutory Guidance on Planning and Sustainable Development". The report was approved by the Planning
Committee yesterday.

RESPONDEE INFORMATION FORM

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- 1 - (b)
- 3 - Yes
- 4 - Yes

Thanks,

David

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ABERDEEN CITY COUNCIL

Name of Committee : Planning

Date of Meeting : 21 June 2007

Title of Report : “Statutory Guidance on Planning and Sustainable Development” – Proposed consultation response

Lead Officer : Dr Margaret Bochel

Author of Report : David Jennings
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Other Involvement : Planning and Infrastructure

Consultation undertaken with : Economic & Environmental Sustainability Resources Management

Summary of Report

The Scottish Executive published draft “Statutory Guidance on Planning and Sustainable Development” on 29 March 2007 in support of the Planning etc. (Scotland) Act 2006. This report welcomes the consultation and proposes a response which highlights four principal areas of concern, namely:

1. The limited added value provided by the guidance;
2. The lack of a sense of priority or importance;
3. The potential inconsistency within the document; and
4. The challenges planning authorities may face in evidencing their compliance with the Act.

Recommendations

- a) That this report should be forwarded to the Scottish Executive as the response of Aberdeen City Council to the consultation.

Links to the Community Plan and to a Partnership for Aberdeen

The community plan identifies sustainable development as a key principle for ensuring a better quality of life for all people who live and work in the city. In the same way, “Partnership for Aberdeen” focused on economic, social and environmental issues as being critical to the future of the city.

Implementation

This report will be sent to the Scottish Executive before the closing date for consultation responses of 22 June 2007.

The Council will be legally obliged to have regard to the guidance, when issued in final form, when seeking to fulfil its development plan functions. It is anticipated that the guidance will be published in mid-2008 and will apply to future local development plans (rather than the local plan currently being prepared) and strategic development plans as well as supplementary guidance, development plan schemes and action programmes produced under the new Act.

Resource Implications

People : None

Finance : None

**Systems &
Technology** : None

Property : None

Other Equipment : None

Other : None

Other Implications

Health & Safety : None

Risk Management : The consultation response highlights a potential risk arising from the draft guidance in that it does not seem robust enough in clearly demonstrating how planning authorities can evidence their compliance with the Act.

**Human Rights/
Equalities/Diversity** : None

Sustainability : Sustainable development and how planning authorities can use the development plan to contribute to it is the purpose of the statutory guidance.

Environmental : The final guidance will help to integrate environmental, social and economic considerations into the plan-making process.

Social : The final guidance will help to integrate environmental, social and economic considerations into the plan-making process.

Economic : The final guidance will help to integrate environmental, social and economic considerations into the plan-making process.

Construction : This report does not relate to a construction project.

Signature :

Main Considerations

Background

- 1.1 Sustainable development is already at the heart of the planning system and the Scottish Executive's priorities for the planning system, as expressed in Scottish Planning Policy. Aberdeen City Council welcomes this, with sustainable development considerations being central to the existing structure plan and the local plan currently being prepared for the city.
- 1.2 The Planning etc (Scotland) Act 2006 introduces a statutory duty on planning authorities (and the Scottish Executive in terms of the National Planning Framework) to carry out their development plan function "with the objective of contributing to sustainable development". The legislative requirement (and the statutory guidance which is the subject of this report – see Appendix 1) does not apply to development management, enforcement or other aspects of the Act.
- 1.3 This new legislation sits alongside existing requirements contained in the Local Government in Scotland Act 2003 where the duty of best value must be secured "in a way which contributes to the achievement of sustainable development".
- 1.4 This consultation, along with that on "Developing the New Planning Performance Assessment Framework", is the first of a series of consultations from the Scottish Executive seeking to implement the new planning system established by the Planning etc. (Scotland) Act 2006. It is anticipated that a significant volume of consultation documents will be published in the second half of 2007 in relation to development planning, development management, enforcement and the National Planning Framework.
- 1.5 The draft guidance was published as one of the last acts of the outgoing administration of the Scottish Parliament. The new administration may bring a different perspective to the table prior to a final version of the guidance being published (anticipated in mid-2008).
- 1.6 In addition to four main issues relating to added value, priority, consistency and legislative compliance, a number of other comments on the draft guidance are provided below.

Added value

- 1.7 The preparation of guidance on planning for sustainable development is welcomed by Aberdeen City Council as a central point of reference on issues relating to planning for sustainable development. It also represents an important step that attempts to link the UK and Scottish sustainable development strategies of 2005 ("Securing the Future" and "Choosing our Future" respectively) explicitly with the planning system. Aberdeen City Council recognise the importance of the planning system in moving towards sustainable development and this guidance has the potential to be a significant link in the chain.
- 1.8 However, to a large extent the draft consists of a compendium of information sourced from existing published documents and appears to add little to the guidance currently available. While the document is fairly comprehensive in scope it adds little value, which is disappointing and potentially represents a significant lost opportunity unless this issue is addressed before the final document is published.
- 1.9 A report was prepared for DEFRA and the Sustainable Development Commission in 2006 on the implementation of duties similar to that being given to the Scottish Executive and planning authorities by the 2006 Act. It found that a statutory duty on its own was insufficient to ensure that it had an impact. A range of factors were identified as critical to

delivery – one of which was the presence of (statutory or non-statutory) guidance on interpretation and implementation. While it is accepted that “the new duty...offers significant opportunities for planning” (para 52), this statutory guidance doesn’t provide any substantial help in making this a reality. This raises the concern that the new duty may have very little impact at all unless the guidance aids implementation.

Priority

- 1.10 Aberdeen City Council, as noted above, considers that the planning system is very important in moving towards sustainable development. The draft guidance makes no attempt to clarify how important the planning system is in moving Scotland in the direction of sustainable development. Such a statement would have been helpful and set the context for the rest of the document. The planning system must be seen as fundamental to securing a sustainable future for Scotland. Decisions taken today have impacts which extend for decades or centuries into the future.
- 1.11 Also useful in setting context to the document would have been a coherent international context which, while alluded to, seems to be poorly developed in the draft guidance – without the sense of direction and ambition which could have provided dynamism to the whole document. At the same time, those statements which do appear (such as para 2, sentence 2) tend to over-state the case.
- 1.12 The draft does not give a clear indication of priorities for the planning system, areas where planning can have a significant impact or “quick hits”. If this was done, the guidance would add considerable value (in terms of delivery) to that currently available. This would help to provide greater focus to implementation in line with the sentiments expressed in paragraph 44. It would have been helpful to highlight the sectors of the Scottish economy where emissions of greenhouse gases are proportionally most significant and those where they are rising and therefore the areas which justify particular attention (where the planning system can have an impact). For example, how do the climate change impacts of commuting by car compare to other modes and how does this compare to the energy use of homes built to current building regulations as opposed to examples of good practice. The global footprinting project Aberdeen City Council has been progressing over the last few years with Aberdeenshire Council has the potential to be useful in this context.
- 1.13 The fact that no explicit definition of sustainable development is provided in the guidance diffuses meaning rather than providing clarity and focus. Instead, the Scottish Executive’s sustainable development goal (para 4), five guiding principles (para 5) and four broad outcomes (para 6) are all highlighted.
- 1.14 Climate change is explicitly seen as the principal challenge in sustainable development (para 7) and tackling it as an “imperative” (para 21). While these strong statements are warmly welcomed, they do not have a prominent position in the document as a whole and it does not work through the implications.
- 1.15 The guidance helpfully states that planning for sustainable development “is not essentially or exclusively about preventing inappropriate development. It is rather about ensuring the promotion and implementation of development in the right place and of the right design and quality” (para 21). While this puts a welcome emphasis on the promotional aspects of planning for sustainable development, it perhaps underplays the importance of preventing unsustainable development. Without a stronger statement on this issue, the guidance will be compromised and potentially unbalanced - being misused to justify the acceptance of low standards. It may be that SPP1 is the appropriate place for the full exploration of this matter rather than the current document. However, it is important that they are strongly

made if the importance of sustainable development and the imperative of climate change are to be reflected in development on the ground.

Consistency

- 1.16 There are a number of apparent inconsistencies within the draft guidance as well as guidance which will lead to inconsistent approaches across Scotland where a consistent approach might be more sustainable.
- 1.17 The draft guidance identifies the Executive's top priority, for example, as sustainable economic growth (para 28). However, as noted above, the guidance also identifies tackling climate change as an imperative. Reconciling these is given insufficient attention in the draft.
- 1.18 A further example of inconsistency can be found in relation to what makes developments sustainable. At one point it is stated that "for development to be sustainable, it must be the right development, in the right place, of the right quality and at the right time" (para 15). This is helpful in identifying four dimensions that require consideration through the planning system. However, elsewhere, reference is made to location, design and layout (para 32) and again in other places operational matters are identified (paras 32 & 38). This potentially confuses the message and is an example of where the inconsistent messages which already exist between different documents are highlighted when an attempt is made to bring them all together, rather than rethink how they fit together.
- 1.19 It is disappointing that the guidance appears to promote an inconsistent approach to the development of sustainability standards (para 45) rather than outlining national standards as proposed in England (e.g. "Code for Sustainable Homes"). No justification for this is given but it potentially adds considerably to resource demands on planning authorities and developers as well as the complexity faced by developers at a time when other issues (such as model policies) appear to point in the opposite direction. Expecting planning authorities to progress such standards independently appears to run counter to the principles set out in para 30, whereby 34 planning authorities will be trying to access similar scientific information and come up with 34 different standards – resulting in duplication, divergence and potentially credibility challenges. A national approach would be much stronger, easier to implement and be more likely increase the overall sustainability of new development. Having said this, Aberdeen City Council is progressing such work in light of a lack of action at a national level.

Legislative compliance

- 1.20 Given that legislative weight has been given to the requirement to contribute to sustainable development, thought is also required as to how authorities might evidence compliance with the legislation and how the courts might approach the duty. The opportunity has not been taken to provide any guidance on this. A more robust framework is required to reduce the scope for uncertainty and legal challenge. It is noted that the legislation is phrased in terms of "objective" rather than outcome but an exploration of this would have been helpful.

Other issues

- 1.21 It is noted that, although Sustainability Appraisal is identified as an option for planning authorities (para 13), it is not encouraged. In the context of this guidance, this could have been explored in more detail. In relation to the role of Strategic Environmental Appraisal (SEA), paragraph 12 expressed the role that the process can have in informing the decision-making process. However, the current text relating to the National Planning Framework suggests that SEA will "ensure that issues of environmental sustainability as

specifically addressed” (para 16). In reality all that SEA ensures is that the issues are explicitly considered and since the current wording is open to interpretation, paragraph 16 should be modified accordingly.

- 1.22 The guidance helpfully emphasises the importance of collaborative working between planning and building standards. However, it does not identify areas where such work could be fruitful or identify other partners, both at a national and local level.
- 1.23 The role of the planning system is seen at a fundamental level as enabling sustainable choices to be made by developers, operators and users rather than forcing more sustainable practices (para 20). However, this requires qualification and should receive a more prominent position in the document. In many cases, enabling sustainable choices to be made by users of new development (for example in mode of transport) is likely to result from ‘forcing’ more sustainable choices on developers – such as in the location of development in places which are accessible by public transport.

Conclusion

- 1.24 In conclusion, the draft guidance, while welcomed, is disappointing in that it doesn’t appear to take us any further forward and can perhaps be seen as a lost opportunity. The one advantage is that it does pull a number of strands of guidance together in one place. There is little in the draft which is challenged but the opportunity afforded by the preparation of the guidance does not appear to have been taken. Greater clarity and a clear expectation in terms of priority would make a significant improvement to the current draft and help give meaning and weight to the statutory duty. Without such changes it is difficult to see how the document will be used in practice.



SCOTTISH EXECUTIVE
Development Department

Statutory Guidance on Planning and Sustainable Development

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Consultation Paper