

**ABERDEEN CITY & SHIRE
STRATEGIC DEVELOPMENT PLANNING AUTHORITY**

Date: 11 December 2013

Title: Scottish Planning Policy Consultation

1 Purpose of Report

- 1.1 The purpose of this report is for the Aberdeen City and Shire Strategic Development Planning Authority (SDPA) to agree a response to the Scottish Government's re-consultation on parts of Scottish Planning Policy.

2 Background

- 2.1 Scottish Planning Policy (SPP) is a non-statutory statement of Scottish Government policy which carries significant weight in development plan and development management decisions. The current SPP was published by the Scottish Government in February 2010.
- 2.2 A draft SPP was published for consultation in April 2013. The SDPA responded to that consultation at its meeting of June 2013. The Scottish Government published the responses themselves and an independent analysis of those responses in October 2013. The SDPA Bulletin attached to the agenda for this meeting provides more information on the responses received.
- 2.3 Following reflection on the consultation responses and the views of a range of stakeholders the Scottish Government has decided to re-consult on additional changes to two aspects of SPP:
- the introduction of a presumption in favour of development that contributes to sustainable development; and
 - a proposal to replace the principal policies on 'sustainable economic growth' and 'sustainable development' with one on 'sustainability and planning'.
- 2.4 The consultation paper (Appendix 1) was published on 28 October 2013, with a closing date for responses of 16 December 2013.

3 Discussion

- 3.1 There are two main questions raised by the consultation which are discussed in turn below.

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

- 3.2 The consultation proposes introducing a presumption in favour of development that contributes to sustainable development. As proposed, this would be expressed at the start of the document before the document's 'Principal Policies'.

- 3.3 There is already a legal requirement on planning authorities to carry out their development plan functions with the objective of contributing towards sustainable development, as highlighted in the consultation paper (para 6). In this context it is not clear that the text adds anything in a development plan context. As a consequence, the third sentence in paragraph 8 is superfluous as it carries less weight than the legal requirement and should be deleted.
- 3.4 However, the Scottish planning system is built on another legal obligation - the status of the development plan in the determination of planning applications. The SDPA and both councils have demonstrated their commitment to the plan-led system over recent years and maintain that commitment moving forward. All three plans (the structure plan and two local development plans) are up-to-date and work is well advanced on reviewing them to ensure they remain up-to-date.
- 3.5 There is the significant potential for a conflict between the 'presumption' as set out in the consultation document and the Town and Country Planning (Scotland) Act 1997 regarding the determination of planning applications.
- 3.6 Paragraph 9 states two pre-conditions for the presumption to apply in the determination of planning applications:
- where the development plan is 'out-of-date'; or
 - where the development plan does not contain policies relevant to the proposal.
- 3.7 No definition is provided for either of these conditions. The 1997 Act places a legal requirement on planning authorities to submit a replacement strategic development plan within four years of the approval of the previous plan (s10(8)) and to replace its local development plan at least every five years (s16(1)(a)). However, this is not the same as defining the plan as 'out-of-date'. Although meeting these timescales is extremely important, there may be a variety of reasons why this is not achieved – and this could be caused by a range of factors, only some of which would be in the control of the planning authority. To have, in effect, an expiry date for development plans will have the consequence of planning authorities being even less likely to be able to accommodate modifications to the development plan prior to examination.
- 3.8 The planning act requires the determination of planning applications to be in accordance with the plan unless material considerations indicate otherwise. However, implicit in the text of the SPP is that being 'out-of-date' means that the development plan can be disregarded in the determination of planning applications, being replaced with a 'presumption' instead. The introduction of a presumption in favour of development which contributes to sustainable development should be strongly resisted.
- 3.9 If the 'presumption' were to be included, there would need to be clarity about what an 'out-of-date' development plan is to know when the presumption applies from a Development Management perspective. This should not just be a plan that is more than five years old as such a plan may still be up-to-date in its policy content.

- 3.10 Any presumption of this kind would require a change to primary legislation as it would change the basis for the determination of planning applications - which would be strongly resisted on the information currently available.
- 3.11 The third sentence in paragraph 9 is therefore potentially extremely dangerous and should likewise be deleted, along with the concept of the presumption.
- 3.12 A possible amendment to paragraph 1 would be - "The planning system should contribute to the creation of more economically, environmentally and socially sustainable places by enabling development that supports this, balancing ~~es~~ the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place, ~~it is~~ not to allow development at any cost."
- 3.13 Paragraph 1, as amended above, does not rely on the presumption being included within the text and would be a positive start to this part of the SPP which should be welcomed.

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

- 3.14 The revised draft SPP proposes merging the first two principal policies ('Sustainable Economic Growth' and 'Sustainable Development') into one entitled 'Sustainability and Planning'.
- 3.15 This proposal has the potential to clarify the interpretation of the document and is generally supported.
- 3.16 However, there are four issues which need to be addressed.
- 3.17 The concept of resource efficiency is key to sustainable development and is integral to the current structure plan and proposed strategic development plan. However, the proposed amendment to SPP removes this concept altogether.
- 3.18 There is a need to ensure that development proposed today will be appropriate in the longer-term as well as the current time. This impacts on a range of the bullet points in paragraph 7 but means, for example, that net economic benefit must be seen in a longer-term context than short-term financial gain or responding to short-term economic or financial conditions (bullet 2). The weight to be given to net economic benefit will also vary geographically and SPP must be drafted in such a way as to respect this as different areas will have different priorities.
- 3.19 Reducing inequality and the wider social dimension of sustainable development is weakly reflected in the bullet points in paragraph 7. Providing for the needs of the whole community is vitally important, with affordable housing being one example.
- 3.20 There should be clarity in the SPP that Scotland is currently not a sustainable place and that the nature and quality of new development needs to change significantly if the Scotland of the future is to be more sustainable.
- 3.21 With these amendments, the merger of the first two principal policies is acceptable.
- 3.22 The consultation proposes adding two glossary entries for 'sustainable development' and 'sustainable economic growth'.

3.23 While the definition for 'sustainable development' is the commonly used Brundtland definition, this is not particularly helpful in the context of the presumption. However, the definition given for 'sustainable economic growth' relies on a response to a parliamentary question of November 2012 (S4W-10994) when more authoritative definitions exist, such as those by the Organisation for Economic Co-operation and Development (OECD).

4 Recommendations

4.1 It is recommended that the SDPA agree this report as its response to the Scottish Government consultation.

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Draft Scottish Planning Policy: 'Sustainability and Planning' Consultation

DRAFT SCOTTISH PLANNING POLICY: 'SUSTAINABILITY AND PLANNING' CONSULTATION

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Consultation Background

i A review of Scottish Planning Policy (SPP) is currently underway. The review was announced in the Scottish Parliament on 18 September 2012 by the Minister for Local Government and Planning, Derek Mackay MSP. The aim of the review is to bring the policy up-to-date, focus it on sustainable economic growth and emphasise placemaking.

ii A Draft SPP was published for consultation between 30 April and 23 July 2013. Over 1600 responses were received to the consultation. The responses were analysed by an independent consultant.

- Draft SPP: <http://www.scotland.gov.uk/Publications/2013/04/1027>
- Consultation responses: <http://www.scotland.gov.uk/Publications/2013/08/1205>
- Analysis of Consultation Responses Report: <http://www.scotland.gov.uk/Topics/Built-Environment/planning/NPF3-SPP-Review/SPP-Review>

iii Having reflected on the responses to the consultation and taking into account the views of a range of stakeholders, the Scottish Government is now considering replacing the Draft SPP principal policies on 'sustainable economic growth' and 'sustainable development' with a principal policy on 'Sustainability and Planning' and introducing a presumption in favour of sustainable development into the SPP. Proposed replacement text for the SPP is set out below, on pages 4 and 6 of this consultation paper.

iv Scottish Ministers have also indicated their intention to bring forward an amendment to the Regulatory Reform Bill (at Stage 2) which will make it clear that the planning functions of a local authority will not be subject to the proposed duty to contribute to sustainable economic growth. This is on the basis that sustainable economic growth is already an established element of planning policy and practice which is being strengthened through the review of the SPP and the National Planning Framework (NPF).

- Regulatory Reform Bill information: <http://www.scotland.gov.uk/Topics/Business-Industry/support/better-regulation/BetterRegulationBillConsultation>

v The Participation Statement accompanying the Draft SPP states at paragraph 14 that where significant changes are made following consultation then further consultation may be required. It indicates that this would be undertaken for a period of 6 weeks with a focus on the significant changes. The Participation Statement also indicates that a significant change could require an update to the Strategic Environmental Assessment (SEA) Environmental Report. This is not required on this occasion as this scenario has been considered and consulted upon as a 'reasonable alternative'. The environmental information contained within the Environmental Report therefore remains valid.

Consultation Background

- Participation Statement: <http://www.scotland.gov.uk/Resource/0042/00421033.pdf>
- Environmental Report: <http://www.scotland.gov.uk/Publications/2013/04/3435>

vi A change to the timescales for publication of the final SPP was announced in the Scottish Parliament on 4 September 2013. It will now be published in June 2014, alongside the finalised NPF3. The reviews of both documents have so far been progressed in tandem and there are benefits to this integrated approach – in particular, enabling Parliament’s views to be taken into account, where they are relevant to the SPP rather than the spatial strategy within the NPF.

Consultation Document

Policy Presumption

This SPP presumes in favour of development that contributes to sustainable development.

1 This means that the planning system should contribute to economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place, it is not to allow development at any cost.

Context – Sustainability and Planning

2 The Scottish Government's central purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.

3 The Government Economic Strategy (2011) indicates that sustainable economic growth is the key to unlocking Scotland's potential and outlines the multiple benefits of delivering the Government's purpose, including creating employment opportunities, achieving a low carbon economy, tackling health and social problems, maintaining a high quality environment and passing on a sustainable legacy for future generations.

4 The Scottish Government's commitment to the concept of sustainable development is reflected in its purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

5 The National Planning Framework (NPF) is the spatial expression of the Government Economic Strategy and sustainable economic growth forms the foundations of its strategy. The NPF sits at the top of the development plan hierarchy and must be taken into account in the preparation of strategic and local development plans.

6 The Planning etc. (Scotland) Act 2006 requires that functions relating to the preparation of the National Planning Framework by Scottish Ministers and development plans by planning authorities must be exercised with the objective of contributing to sustainable development. Under the Act, Scottish Ministers are able to issue guidance on this requirement to which planning authorities must have regard. This principal policy is guidance under section 3E of the 2006 Act. The Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Policy Principles

Planning should enable development that creates sustainable places across Scotland.

- 7 To do this decisions should be guided by the following policy principles:
- 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
 - to improve health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation

Key Documents

- Government Economic Strategy
- The Planning etc. (Scotland) Act 2006
- Planning Reform: Next Steps
- Land Use Strategy
- UK's shared framework for sustainable development

Delivery

Development Planning

8 The planning system in Scotland is plan-led. Development plans should be deliverable, up-to-date and set out a long-term spatial strategy, including policies and proposals, that provide greater clarity for stakeholders on how planning outcomes can be achieved. Development plans should reflect the presumption in favour of development that contributes to sustainable development, as set out in this SPP. Action programmes should be actively used to deliver planned developments: to align stakeholders, phasing, financing and infrastructure investment over the long term.

Development Management

9 Proposals that accord with the development plan should be considered acceptable in principle and the process should focus on the detailed matters arising. When conflicts between objectives arise, decisions should be made in line with local priorities as identified in the development plan. Where the plan is out-of-date or does not contain policy relevant to the proposal, then the policy presumption in favour of development that contributes to sustainable development will apply. This is subject to there being no adverse impacts which would clearly outweigh the benefits when assessed against the policies in the SPP taken as a whole or specific policies within the SPP indicate that development should not be permitted.

10 To support the efficient and transparent handling of planning applications by planning authorities and consultees, applicants should provide good quality and timely supporting information that describes the economic, environmental and social implications of the proposal. In the spirit of planning reform, this should be proportionate to the scale of the application and planning authorities should avoid asking for additional impact appraisals, unless necessary to enable a decision to be made. Clarity on the information needed and the timetable for determining proposals can be assisted by good communication and project management, for example processing agreements which cover planning obligations.

Definitions

Sustainable Development	Development that meets the needs of the present without compromising the ability of future generations to meet their own needs. <i>The Brundtland Definition. Our Common Future, The World Commission on Environment and Development, 1987.</i>
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. <i>Response to Parliamentary Question S4W-10994</i>

Consultation Question 1

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

Consultation Question 2

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

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.

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.

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.