



The Community Council represents the views of local residents

From : Richard Price / Stephen Hajducki
New Town & Broughton Community Council
Bellevue Terrace
Edinburgh
EH7 4DU

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The New Town & Broughton Community Council submitted comments to the initial consultation and have now reviewed the comprehensive document issued by the Scottish Government on this issue and submit further comments on Places, People and Planning.

Comments on the Scottish Government's Consultation of the Future of the Planning System Places People & Planning

The Consultation Document follows from an independent review of the Scottish planning system in May 2016, "Empowering Planning to Deliver Great Places". The document identifies 20 proposals, grouped into four key areas of change, and this response follows that structure.

Key Change 1: Making Plans for the Future

Proposal 1: Aligning Community Planning and Spatial Planning

A "statutory link between the development plan and community planning" is proposed, to ensure that Development Plans take account of the work of "Community Planning Partnerships". It is not clear who would have responsibility for a Community Plan – the example given of a Community Planning Partnership is of a grouping of a local Council's Economy and Skills section, the Police and a Health and Social Care "partnership", a self-selected group which does not appear to have any direct community involvement and cannot be taken as speaking for the community. Community planning must be inclusive, taking account of both groups such as Community Councils who comment on a wide range of topics including transport, economic and environmental initiatives which all impact on each other as well as on planning; and also local campaigns which are often single-issue focused (e.g. provision of schools, protection of green belt). There is an opportunity for examining the role of Community Councils' status within the formal planning process.

Proposal 2 : Regional Partnership Working



This already happens to a degree in the Edinburgh area but is not very effective. Although the government identified (in *Scotland's Cities: Delivering for Scotland 2011*) the key role of cities as the economic drivers of their regions (and, particularly in the case of Edinburgh, of the Scottish economy as a whole), in practice short-sighted local considerations and attitudes tend to inhibit useful corporate decisions. The city-region remains the critical scale for planning delivery, but currently neighbouring authorities benefit from facilities provided within the city but make no contribution to them. Through City-Deals and other measures, the Scottish cities must be placed firmly in control of their hinterland, with a strong say (not just a consultee role as at present) in major decisions which impact on the city itself.

Proposal 3 : Improving National Spatial Planning and Policy

Currently a comprehensive economic policy for Scotland is notable by its absence. The government must establish realistic and deliverable economic and employment objectives which address the continuing job losses through the advance of digital technology, the rising demands of the service and care sectors, and reclaiming our manufacturing base from the Far East. These then can translate into targets and investment for each region – worked out with local and community input to take account of local circumstances - not a “one size fits all” approach. However, the proposal to replace strategic development plans with government-selected regional development policies – and therefore more centralisation and less local autonomy – is contrary to the people-oriented approach suggested elsewhere in the document, albeit in line with current governmental aspirations.

Proposal 4 : Stronger Local Development Plans

The Development Plan should be the primary document in setting out the city's aspirations for how it sees its future physical environment. We therefore agree with this proposal, providing that the Plans are genuine blueprints setting out a path for future development, rather than the present stitched-together summaries of current and proposed developments, a handful of anodyne policies and no sense of inspired vision; for instance, failing to address a “Smart City” strategy. The Development Plans could be simplified, with greater use of specific subordinate plans (e.g. subject plans, design and conservation guidance, area plans etc.) which give more detail and can more easily accommodate newer thinking. However, a Plan which is purely zoning would not produce good outcomes, especially in an established area – how development is done is as important as conforming to a specified land use. Edinburgh, as one of the few high-performing areas in Scotland, needs more than elsewhere to ensure that economic promotion is balanced by the safeguarding and protection of its physical and social assets. The current system seems biased in favour of developers, and suggests that the government (and local authorities, following their guidance) do not always appreciate this in their single-minded pursuit of development.

Proposal 5 : Making plans that deliver



The 2006 Planning Act states that planning should be an enabler of sustainable development, rather than a regulator. However, plans only deliver if they are accompanied by resources. Are the government intending to back up their aspirations with finance? Current investment decisions depend on perception of local demand, the economic climate and entrepreneurial flair, and government cannot force developers to invest, although local authorities can ease the path. In the absence of funding, the most that local authorities can do is to ensure that local planning works closely with other related areas which affect the physical and social fabric of the city such as economic development, transport, and environment, and also specialist inputs such as health and education infrastructure and utility providers. It also needs to be sufficiently flexible to take account of the special circumstances which prevail in different areas, and to provide the council and the community with stronger tools to regulate and resist unsuitable proposals, and to then effectively enforce those decisions against those who contravene. That will rely on strong leadership – see comments under Proposal 16.

There also needs to be clarification of what is meant by “delivery” – i.e. genuine on-the-ground outcomes and not the current local authority perception that producing manifestos / mission statements / strategies / talking-shop “partnerships” is “delivery”.

Key Change 2 : People Make the System Work

This section is probably the most important of all the key changes from the viewpoint of local democracy. However, the expressed aspiration implies a degree of local control and autonomy of decision-making which runs counter to the present administration’s penchant for ever-greater centralised control.

Proposal 6 : Giving People an Opportunity to Plan their Own Place

While welcome, this proposal contradicts indications elsewhere in the document that major decisions should be taken higher up or otherwise passed outside local control (e.g. that a “professional mediation” group – i.e. an unelected non-accountable quango - could decide local land allocations), so all that remains for local input is tinkering at edges. The Community Council have unfortunate experiences of supposed “consultations” that turn out to be merely communication exercises. It is imperative that the planning system recognises what locals want for their area, without dismissing it, as this document does, as nimbyism or “unreasonable protectionism”.

Planning tends to be predicated on an assumption of change, but many established communities are happy with their present environment and all that is required may be minor adjustments.

A major failing of this document is that, although “Place” appears as the first term in its title, there is almost no mention of the role of planning in achieving high quality place making, urban design, landscape and architecture. The aims must be rewritten to include protection and enhancement of our distinctive places and high quality environment; ensuring that changes are in keeping with and



of comparable quality with the established townscape (too much new development relies on undigested international architectural trends which do not take account of a city's special character); an understanding that land ownership does not give any absolute right to develop and that there may be cases where it must be constrained (e.g. in height, scale etc.) or should simply not happen at all.

Pre-application consultations are rarely worth commenting on – the documents are often minimal and give little indication. There are responsible developers who take time to arrange exhibitions and address local groups, but this is voluntary and the outcome of the consultation is written up by the developers themselves, with obvious bias and selectivity in interpreting public comments – the local authority should take involvement here. The threshold for “major” developments – e.g. 50 houses, 10,000m² floor space or sites over 2 hectares – needs to be lowered, especially in established areas – in a tight urban townscape developments of half this size can still have a huge impact. The time limit for submission of an application following consultation should also be set, e.g. to 6 months, otherwise the information has become stale.

Proposal 7 : Getting More People Involved in Planning

This is a very welcome concept but how would it be delivered? While there are groups who take a strong interest in planning (e.g. Civic Trusts, Community Councils) many members of public do not have the skills to find their way through the process, nor perhaps the motivation unless there is an issue which directly affects them. This is not a criticism but reality. We would welcome a greater role for the Community Council and public involvement but there is a real issue of resources and funding – most community groups operate on minimal budgets and, unlike developers, cannot afford to engage specialist consultancy and legal skills to assist their case. Developers will take a chance knowing that their proposals will be profitable if they succeed, whereas even if community activists and the Community Council win, there is no way of recovering their expenditure. The review should consider how this might be ameliorated, e.g. by disbursing part of the increased charges for major applications.

Plan preparation procedures need to be much more accessible, public-friendly, inviting, and take up much less time. The examination process is too complex and long winded. Too often involvement is a tick-box exercise, e.g. getting school children to do a few paintings or holding a “charette” complete with post-it notes, then commissioning consultants to do a scheme anyway, with public input coming only through carefully managed “consultations”. Children and young people are important as the citizens of tomorrow, but shouldn't be a substitute for overall public consultation – the focus there should be on civic education rather than knee-jerk polls. For genuine citizen involvement, the plans should be devised from the outset in conjunction with and informed by community input, both with the many organisations within the city and with individuals.

Proposal 8 : Improving Public Trust



When people do try to get involved, their trust in the planning system can be undermined by various factors. These include:

- questionable decisions at appeals – see comments on Proposal 9 below
- a lack of transparency in decision making; there is a need to encourage individual accountability, e.g. by publishing councillor voting patterns or naming responsible officials
- minimal or no reasons given when the planning authority decide to grant consent in the face of local opposition; fully detailed reasons should be made available which address the objections
- resubmissions of almost identical proposals designed to wear down local opposition; we agree that resubmissions should be charged at much higher rate (encouraging developers to get it right first time) and even then only accepted if they are materially different in a way that genuinely addresses the reasons for previous refusal
- applications contrary to the development plan; the correct path should be for the developer to make representations at the development plan preparation stage to have the plan amended and only then make a planning submission. See Proposal 9 below.
- ignoring or setting aside s.75 agreements imposed on a consent; these should be treated as a full new application
- retrospective consents; agree that there should be punitive fees, but also a requirement that the application should be treated as a blank canvas and not be influenced by what has been done.
- lack of enforcement; powers exist but many local authorities are too timid to exercise them. We note that some English authorities include bulldozers in their enforcement equipment. In extreme cases, e.g. the demolition of listed buildings, the local authority should step in to undertake remediation at the offender's expense
- developments where the local authority is also party to the development; e.g. selling off public assets such as open space or brownfield sites. A completely independent decision making process is required here, with a third-party right of appeal

Proposal 9 : Keeping Decisions Local – Rights of Appeal

Currently, local residents, planners and councillors can all agree that a development proposal is unacceptable – and then a government reporter, with no knowledge of the area or the background of local issues, can make a brief visit and overturn the decision. Occasionally this may be justified if local opinion has become too parochial, but it seems to be an increasing problem which has major impacts on the locality. Perhaps the Reporter should be replaced by a panel of, say, three to reduce the dominance of individual whims.

If a proposal is contrary to the development plan and its supplementary guidance (in zoning, massing, impact on townscape or infrastructure, quality of design or whatever) then it should simply not be entertained in the first place. Instead a developer should seek to get the Development Plan



revised first, and only then, if successful, submit an application. If this does not happen, as developers can currently appeal, then there can be no excuse not to extend that right of appeal to objectors also. This might also apply to cases where the committee approve proposals in the face of widespread public opposition; where the decision reached by a committee was on a split vote with less than (for example) a 75% majority; where the local authority has a financial or other interest; or where, as in several recent instances, a number of major applications have been approved contrary to the officials' recommendations and indeed to the council's own adopted policies, with no satisfactory explanation or justification for the decisions.

Changes made after consent is granted are rarely advertised or neighbour-notified, even if they may have a major impact on the scale, appearance or function of the building, especially as the purpose of such variations is often to save money by cheapening materials and design details. A more prescriptive definition of "non-material variation" is required to avoid individual planners and authorities taking an over-liberal view to ease workloads. In a heritage area such variations will almost always have a material impact, and should be treated as new applications.

The current system has no effective mechanism for reversing or invalidating an application where erroneous or incomplete information has been supplied. The same is true where demolitions, tree felling etc. are carried out (often at weekends or public holidays) to try and force the local authority to approve a less satisfactory scheme. The system should contain meaningful and punitive penalties of sufficient level to negate any benefits to the developer from such activity. While the powers granted under the enforcement regulations may well be adequate, we are concerned at the general reluctance to apply the full extent of the rules and regulations, often instead seeking a weak compromise. The perceived inability of a Council to enforce its planning decisions adequately, through proper enforcement on developers who appear to flout the rules or worse, demonstrates contempt for the planning system. The government must make it clear that the Council will be expected to exercise its enforcement powers without fear or favour.

Key Change 3 : Building More Homes and Delivering Infrastructure

Although housing improvement, particularly slum clearance and replacement, was one of the drivers of the original planning system, we would question whether this is still such an overriding objective that it is given its own preferential treatment in the review of the planning system. We no longer have widespread slums as such, and many issues of poor housing could be more effectively dealt with by education or social intervention rather than by expensive demolition and construction. It is more important to achieve a stable and prosperous economy and educated populace first, as suggested in proposal 3 response. Prosperity and education creates employment, which underpins the ability to rent or buy a house – or indeed to make use of any of the other facilities (e.g. shopping, leisure, transport, social) which the planning system facilitates.

Proposal 10 : Being Clear about How Much Housing Land is Required



Currently figures are prepared at national level but no clear explanation or justification of reasons is provided. Overall targets are rather irrelevant in many urban areas, as there are only so many sites physically available. The document mentions the emphasis on creating good places to live (with which we agree) but over-ambitious targets result in overcrowding, a concentration on small homes and no family provision (because single-person houses are cheaper and less space-hungry, making it to easier to meet targets) with poor quality environments and inadequate open space.

Redevelopment pressure puts older buildings, which give an area its character, at risk.

There is still a gulf between affordable provision and demand. New innovative ways of meeting it must be explored, but this document doesn't suggest any. Perhaps it is anticipating a drop in housing demand (and therefore prices) caused by continuing political uncertainty. Examples of innovation might include communal ownership blocks; setting targets for type rather than numbers of dwellings for Registered Social Landlords and others who use public funds; and encouraging rather than criminalising the private rented sector.

Proposal 11 : Closing the Gap between Planning Consent and Delivery of Homes

This may be a worthy aspiration but there is absolutely no way of delivering housing through the planning system – it can only facilitate and encourage. Perhaps a vacant land tax based on what the development plan would allow, rather than on the current vacant use, might persuade developers. A Local Authority can use Compulsory Purchase powers if a developer is land-banking, but they might be holding back for sound reasons. Ultimately builders, whether commercial, housing associations, or public authorities will only provide housing if the demand is there and the economics are right.

Simplified planning zones are mentioned in the document but it is not clear how they would help – there would presumably still be some compulsory standards for space, construction, hygiene etc. to ensure that buildings are adequate. In design terms such areas could be chaotic and ugly.

Proposal 12 : Releasing More 'Development Ready' Land

Presumably this refers not just to the immediate estate roads, drainage and transport, but also to social infrastructure such as schools and hospitals. But who will undertake it? It is unlikely to be the government in the present climate of economic and political uncertainty. Local authorities with strong leadership and drive might build, and then recoup their outgoings by selling off serviced plots to developers; some have done so, but most do not have the requisite vision. Land merely zoned for a particular use in a development plan is not development ready.

Proposal 13 : Embedding an Infrastructure First Approach

We agree that there is a need for a co-ordinated approach, as long as developers don't just offer to build infrastructure to try and force the issue of permission where it would have otherwise been turned down. If an infrastructure levy is introduced (see comment on Proposal 14), it must be seen



to be related to specific developments – current demands under s.75 agreements in some authorities are not always used for the purposes intended. See also our comments on proposed regional partnerships at Proposal 2 above.

Proposal 14 : A More Transparent Approach to Funding Infrastructure

The 1974 Community Land Act tried taxing betterment resulting from increased value after development of a site. The document refers to a local infrastructure levy but current experience suggests that central government would simply reduce its core funding to local authorities by the same amount, making it valueless. Local Authorities already have powers to acquire land under compulsory purchase “if the authority think that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land” but they are usually too timid to use them. Planners could proactively co-ordinate development with infrastructure delivery at the city-region scale if this was strengthened (see proposal 2).

Proposal 15 : Innovative Infrastructure Planning

We agree with an emphasis on provision of proven low carbon / digital infrastructure, providing the targets are realistic and deliverable (current central government ones are not). But the funding of infrastructure, whether innovative or traditional, is the main hurdle. Infrastructure delivery needs clear leadership, which is lacking in most Scottish authorities. If it is inept or indecisive, it will not deliver. Edinburgh examples include the missed opportunity to acquire Leith Docks; full completion of tram system; the airport hinterland including delivery of an arena; the continued uncoordinated inappropriate development and neglect of public realm which mar the World Heritage city centre.

Key Change 4 : Stronger leadership and smarter resourcing

Proposal 16 : Developing Skills to Deliver Outcomes

Theoretically, the Planning service has the potential to become a leader and innovator, guiding and co-ordinating other agencies and initiatives. To do so, particularly at local authority level, it must move away from a focus on inconsequential processes which add little value, and to concentrate instead on practical outcomes which deliver a high-quality environment. However, this will require planners with vision, and experience of turning round delivering projects, not local authority bureaucrats with planning degrees who hide behind procedures. There is a pressing need for new blood at the top, to allow staff skills to come through.

Proposal 17 : Investing in a Better Service

The document suggests increasing fees for larger developments to reflect the time and effort required taken on them. This is fully acceptable, as other service fees (e.g. Building Standards) are



already much higher; but note that in turn developers will expect a better more dedicated service in return. This must not be at the expense of other parts of the service, which could be seen as conflicting with public interest. See also comment at proposal 7 on resourcing local groups.

Proposal 18 : A New Approach to Improving Performance

Monitoring and speeding up application processing, suggested in the document, is not the way forward – that already happens in resource-strapped authorities and results in mistakes, applications being accepted which are incomplete, basic issues being missed, hasty not-thought-through reports, dubious and unenforceable conditions. It should not need objectors and community councils to pick up fundamental errors. Planning requires better, not faster, performance. To do this it needs to be adequately resourced, which in turn requires it to raise its profile within the local authority structure.

Proposal 19 : Making Better Use of Resources – Efficient Decision Making

The document suggests widening the scope of permitted development. Potential could be changes of use and domestic property extensions. However, within an established area, such relaxations could have a bad effect on neighbouring properties. Simplifying should not be an excuse for saving money on staff – the only way to deliver good planning is to ensure that the service is properly trained and resourced.

Proposal 20 : Innovation, Designing for the Future and the Digital Transformation of the Planning Service

Increasing digitisation is inevitable as long as people can still also access the service in the traditional way.

General Comments

Overall, this is a disappointing document. Planning can provide a long-term perspective, tackling important issues such as development delivery, health, inclusion, environmental quality and climate change. But this paper is too vague, with an over-concentration on aspirations and sloganeering and too little on practical detailed action. The importance of creating place is barely touched on. Despite statements about increasing “people” involvement, too many of the suggestions imply drawing control into the centre. Considerably more work is required to redress these issues.

Yours,

Richard Price



New Town and Broughton Community Council

On behalf of the New Town & Broughton Community Council