

COMMUNITY ENGAGEMENT WORKING GROUP – DISCUSSION

8 OCTOBER 2020

Organisations Represented
A Place in Childhood
Homes for Scotland
Improvement Service
Kevin Murray Associates
PAS
RTPI
Scottish Communities Alliance
Scottish Community Development Centre
Scottish Government
Scottish Mediation
Scottish Property Federation
Scottish Young Planners Network

Item 1 – PAC

SG provided an overview of the consultation paper on Pre-Application Consultation and invited questions / comments

Discussion

Q/point: Changes are welcome but consultation looking at procedure rather than need for change. You Said – We did / didn't format. 2nd event to do this. Encourage a meaningful response in second event, not just tick box. This causes frustration with communities and members – if no follow up from points previously raised.

SG: There is a limit to what we would put in legislation. The specifics regarding feedback may be more of an issue for SG for guidance (not to duplicate good practice guidance, but look at expectations around the legislative requirement). As well as the legislative proposals, there is a question in consultation about what should be in guidance. This is where should be an expectation second event will be about feedback

Q/Point: Second event – have experience with online events and whilst initially sceptical not successful as get better range of people attending. Online is longer, can do from home and getting a better cross section of people involved in the application. First should be physical but second event should be at the discretion of applicant. When dealing with feedback, is easier to do online than responding to same point to different people.

SG: Note these views. The proposals do not include provision for online public events (though includes requirement to provide information in electronic format), as we have not had an opportunity to assess the impact of the current COVID-19 arrangements using online engagement. The consultation does ask about people's experiences with the COVID-19 arrangements.

Q/Point: Inconsistency between authorities on what they accept in PANs – some accept TBA of details when others don't.

SG: The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Regulation 6: “A proposal of application notice must, in addition to those matters required by section 35B(4) of the Act, also contain an account of what consultation the applicant intends to undertake, when such consultation is to take place, with whom and what form it will take”. The consultation does not include a proposed change in this regard.

Q/Point: Name on application and PAN – no need to be the same as situation may change over time.

SG: the requirement in the primary legislation is for the applicant to have carried out the PAC. That can of course include someone acting on their behalf.

Q/Point: Agree that PAC needs to be meaningful, not tick box, legislation clear that not just about information giving but about influence. Be clear about need for comments to also be made at application stage. Give PA confidence to send back PAC papers if don't have needed info.

SG: the intentions of the legislative requirements for an event on feedback are a matter for guidance. We will need to consider how to deal with guidance on PAC – currently contained in the Development Management Procedure Circular 3/2013 – to help highlight issues such as the need to follow proposals to the application stage. The extent of the planning authority's powers to refuse to deal with an application due to failure to comply with PAC requirements is set out in primary legislation. With the increased legal specification around for example PAC reports we will have to look at guidance on any implications as regards refusing to accept PAC reports.

Q/Point: Exemption and applicants names – sites do change ownership in course of PAC being submitted. If proposing exemptions for this, could this be opportunity to change.

SG: Would have to look at this in light of responses to the consultation as regards exemptions, bearing in mind the primary legislation specifies the applicant has to have carried out the PAC.)

Q/Point: PACs sometimes submitted voluntarily for local developments for various reasons. Is there scope within the guidance, although no statutory footing, to specify that such voluntary PAC reports should adhere to the same requirements?

SG: That could be considered for inclusion in guidance as desirable, but it would not affect the validity of the application if a voluntary PAC report did not match the requirements relating to statutorily required PAC reports.)

Q/Point: Digital events – been surge in digital consultations but is a wide variation, from formal websites with info provided that would have been at an event to using social media – where that happens, can get 100s if not 1000s of people commenting. Different role – raise awareness, feedback (meaningful engage) etc.

SG: chimes with other feedback we have had. The consultation asks about people's experience of the online engagement being used in PAC during COVID-19. The proposed requirements for providing information electronically at this stage are fairly limited, so perhaps for guidance rather than regulations)

Q/Point: Aberdeenshire proposed plan advocating SPEED principles in assessing PAC reports – could be something for best practice.

Item 2 – Mediation Guidance

SG provided an overview of proposals for guidance on mediation

Discussion

Q/Point: Concept of mediation is about dialogue and collaboration – what SG promoting – also giving planners an understanding of what mediation is so they have confidence to use it. Have guidance that is left on shelf – need something to happen this time. Work PAS did emphasised mediation at any stage in process (not just development management) can be beneficial – up to enforcement. Important that NPF4 – has hook / name check to mediation otherwise will be discussing it again in the future

SG: comments were noted

Q/Point: What circumstances see mediation happening in PAC?

SG: Regarding PAC, highlighted is not just the use of mediation formally as a dispute resolution tool, but also using the techniques in other contexts. So, may need to test where the value might be. Timescales have made this hard to explore so far.

Q/Point: If mediation service to be established, needs to be neutral.

SG: due to timeframe, not yet fully looked into the role of a mediation service.

Q/Point: will there be a formal consultation on mediation?

SG: Yes, there is a requirement for it in legislation.

Item 3 – Local Place Plans

SG provided an overview of proposals for regulations on Local Place Plans

Discussion

Q/Point: Evidence base for LPP concerning – LDPs have to do a lot in section 15(5) of the amended 1997 Act. If LPPs not evidence led then how challenge LDPs. Should be addressed in guidance if not in legislation.

SG: reference in primary legislation for setting out reasons for changing LDP.

Q/Point: Evidence of engagement with landowners is important, they can be overlooked – need evidence process that gone through to try to engage with landowner. Need some form of gatecheck. Landowners not just consulted but tried to come to an agreement. Landowner views to be recognised if possible.

SG: may be scope to this perhaps being for guidance

Q/Point: Taking on views of councillors – important recognise impartiality aspect to take into account / code of conduct (i.e. where councillors may also be sitting in judgement on planning applications) – recognition of transparent and fair process is involved in promoting proposals in LPP

Q/Point: Delivery mechanisms – important guidance sets out that LPP not just aspirational but need consideration to funding, partners, timescales etc.

Q/Point: Need post events to cover how it will be taken forward as not all of it will go through statutory planning system. Helping think through realities of delivery would be an important part of the LPP preparation process.

Q/Point: If LPP to narrowly around land use and development, people will come forward on wider issues (health, active travel, low carbon) and many not translate directly into land use. Lot of ideas very nuanced and easy to say that's not planning. Not being too rigid at the outset so can

manage expectations and make connections to other areas. An open approach even if some of the ideas in the LPP are not for the land use planning system and have to be pursued elsewhere.

Q/Point: Relationship between LPP and LDP – to “have regard to” language in legislation – what happens if LPP comes forward and registered that not aligned with adopted LDP (example of what if the LPP is not in line with a strategic housing review).

SG: element of guidance will be to support communities with what ‘have regard to’ means in practice.

Q/Point: Whole point of LPP is for communities to have more power in planning system and so need to avoid having too high a bar on duties on community bodies that limits their ability to produce a LPP. PA to have duty to provide info and make links across other departments. Want to support communities to use this tool. Communities need opportunities not hurdles.

Q/Point: LPPs were really to enhance front loading – give communities more traction in system, therefore need be owned by community and evidence local aspiration. Seems can contradict ‘have regard to’ LDP. How do LPPs sit alongside plethora of other plans that been developed for years (Is the LPP just a micro version of Local Outcome Improvement Plans?) – community planning processes. Cost? Communities need to be resourced to deliver it.

SG: locality plans focus on public sector provision, not view of a local body. How do views of communities and aspirations get into the statutory system – LPPs are the bridge? Cost has not stopped communities previously

Q/Point: Need in legislation for engagement process to be recognised. Important that Government makes it clear that is a thorough process to go through (though recognise it cannot be too onerous). If do, good engagement then helps further down the line.

Q/Point: Children and young people to be involved in LPPs – this is the scale that younger groups will relate to more. Can be easily pushed out as not part of the general electorate.

Q/Point: National standards for community engagement. Would expect all communities to adhere to these in preparing LPPs. Role for planners to have an input to an emerging plan – need be aware of LDP but potential for support for community groups.

Q/Point: On planners becoming involved: whole thread is resourcing of planning system. Key to standard of engagement, need to evidence that has been meaningful engagement. Want range of people involved.

Item 4 – Engagement Strategy

Questions from SG seeking appropriate methods of engaging

Planning & Architecture Division
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