

**REPORT TO: PLANNING AND TRANSPORTATION COMMITTEE -
12 SEPTEMBER 2005**

**REPORT ON: MODERNISING THE PLANNING SYSTEM - WHITE PAPER BY THE
SCOTTISH EXECUTIVE**

REPORT BY: DIRECTOR OF PLANNING AND TRANSPORTATION

REPORT NO: 504-2005

1 PURPOSE OF REPORT

- 1.1 To review the White Paper "Modernising the Planning System" and confirm this Council's response to the Scottish Executive.

2 RECOMMENDATION

- 2.1 It is recommended that the Committee agrees the comments it is proposed to forward to the Scottish Executive in response to its Consultation Document.

3 FINANCIAL IMPLICATION

- 3.1 There are no direct financial implications from this report.

4 LOCAL AGENDA 21 IMPLICATIONS

- 4.1 The Local Agenda 21 implications of this report cover a very wide range of key themes, in particular transportation implications for new developments, issues of sustainable development, the efficient use of resources and minimising of waste and access to facilities, services, goods and people is not achieved at the expense of the environment and are accessible to all.

5 EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 No equal opportunities are associated with this report.

6 BACKGROUND

- 6.1 The Committee will be aware that there have been a wide range of consultation papers over recent years from the Scottish Executive on the theme of updating and streamlining the planning process. This document is now the culmination of that process, putting together the many different aspects in a White Paper prior to the introduction of a new Planning Bill.
- 6.2 Previous documents have been reported to Committee and the Council is broadly in agreement with the principles and aims of the process particularly with regard to the management of the process and involvement of stakeholders.
- 6.3 The four key themes of the proposals set out in the White Paper are:
- a Fit for Purpose;
 - b Efficiency;

- c Widening Inclusion; and
 - d Sustainability.
- 6.4 The White Paper proposes major changes in both the Development Planning and Development Control processes. An indication of many of these has been given in previous consultations, however, the details have now been clarified and expanded. A comprehensive analysis of these is contained in Appendix 1 of this report. The main points, however, can be summarised as follows.
- 6.5 From previous consultations the main issues of concern to the Council are:
- a the formation of City Regions and the limitation of strategic planning to these areas.
 - b the issue of extending rights of appeal and the widening of stakeholder involvement in the planning process.
- 6.6 The White Paper confirms that Dundee will be one of four new 'city region' areas and will, along with Glasgow, Edinburgh and Aberdeen. Dundee City Council has supported the 'city region' concept throughout the consultation exercises, however, has expressed reservations with regard to the necessity for a dedicated full time team to prepare City Region Plans (CPRs).
- 6.7 The White Paper makes it clear, however, that the proposed Strategic Development Plan Authorities (SDPAs) would have equal representation from all constituent Local Authorities and would equally resource the necessary dedicated planning staff (P67).
- 6.8 As an alternative to the introduction of a formal Third Party Right of Appeal, the White Paper introduces a package of measures to enhance the inclusion of stakeholders in the planning process.
- 6.9 The White Paper indicates that it will be followed by the introduction of a Planning Bill 'when a suitable legislative opportunity arises, to take forward the proposals set out in this White Paper that require changes to primary legislation'. The length of this process, however, means that it is unlikely that any new system will be operational before 2007/08/
- 6.10 In the meantime it will be necessary for local authorities to continue to update their current development plan frameworks while anticipating future changes. In order to facilitate this process and to be able to 'hit the ground running' when the new system is introduced, it is anticipated that it may be necessary to initiate some form of 'shadow authority' capable of taking forward the proposed 'City Region' aspects of the White Paper proposals.

7 CONCLUSIONS

- 7.1 Dundee City Council has consistently supported changes to the current system of Strategic Planning in Scotland which it has held to be inappropriate and unsustainable.
- 7.2 The Council supports the majority of the proposed changes to the system as representing a more rational and workable alternative.

- 7.3 The Council supports the principle of equal representation on the proposed joint committee.
- 7.4 In relation to development control, the White Paper proposes a new approach in which the underlying objective should be to promote sustainable and high quality new development and to manage the process with this in mind. In other words to foster the right development in the right places - development "management" rather than development "control".
- 7.5 Dundee City Council has a track record of adopting precisely this positive and proactive approach and therefore the general thrust of the White Paper is to be welcomed.
- 7.6 Detailed responses to the questions posed in the consultation document are contained in the Appendix to this report.

8 CONSULTATIONS

- 8.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

9 BACKGROUND PAPERS

Rights of Appeal in Planning; A Consultation Paper, Scottish Executive, April 2004

Making Development Plans Deliver; A Consultation Paper, Scottish Executive, April 2004

Modernising the Planning System, Scottish Executive, June 2005

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PLANNING WHITE PAPER - "MODERNISING THE PLANNING SYSTEM"

	SUMMARY OF WHITE PAPER PROPOSAL	DUNDEE CITY COUNCIL RESPONSE
	Development Planning <u>Development Plan Process Improvements (P25-29)</u>	
1	Removal of the need for two tiers of development plan across most of Scotland, reducing the number of strategic development plans from 17 to 4.	<p>Dundee City Council has consistently supported changes to the current system of Strategic Planning in Scotland which it has held to be inappropriate and unsustainable.</p> <p>The proposed strengthening of the National Planning Framework is welcomed which together with the preparation of City Region Plans (CRPs) should provide adequate strategic guidance where it is required replacing the need for blanket coverage.</p>
2	Speeding up plan preparation by replacing the current two stages of draft and finalised plans with one proposed plan; and requiring the preparation of shorter and more focused local development plans that are fit-for-purpose.	Dundee City Council supports the removal of the Consultation Draft Plan stage and the principle of shorter more focused development plans.
3	Using model development plan policies and preparing supplementary guidance for certain topics to speed up further plan preparation.	<p>SUPPORTED IN PRINCIPLE</p> <p>Dundee City Council supports the principle of model policies where this can lead to greater consistency and robustness of decision making.</p> <p>It is noted that the Executive are piloting model policies in respect of the built and natural environment to increase consistency and reduce plan preparation times. DCC supports this proposal in principle on the assumption that model policies will provide a national framework with sufficient flexibility at the local level. There may be scope to consider extending the use of model policies to cover a wider range of policy issues beyond the natural and built environment, such as housing and economic development land supply; the design of new housing; funding of on and off site infrastructure provision; and encouraging sustainable travel, for example.</p>

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		The use of Supplementary Guidance is considered essential to keep local plans concise and focused but allow for more detailed examination of complex issues where appropriate. The status of supplementary guidance should be recognised by Reporters.
4	Strategic Environmental Assessment	QUALIFIED SUPPORT The Council supports the introduction of SEA in Development Plans to better integrate environmental considerations and improve openness and accountability. Integrating SEA into the process for drawing up the National Planning Framework is particularly supported, with early review of this document to have regard to the SEA (Scotland) Regulations. Whilst supporting the principles of SEA, the Council anticipates that, contrary to item 3 above, SEA will add considerably to the timescale for plan preparation and will have significant resource implications for Local Authorities in terms of increased workloads, possible specialist posts and additional training requirements, particularly if the SEA process is properly mainstreamed within development plan teams.
5	Approval in Principle (P29) Proposed to convey outline planning permission automatically with certain development plan allocations in local plans.	CONCERNS The Council doubts whether this will be effective. Outline planning permission is an effective way of the planning authority setting out its detailed "ground rules" for the future consideration of reserved matters applications by way of conditions and legal agreement. Applicants also welcome a certificate of outline planning permission as contractual documents facilitating valuation and land/ property transactions. It is doubtful if local development plan allocations, policies and reasoned justifications could ever be definitive enough to serve these purposes.
6	Culture Change (P31)	Dundee City Council supports the Culture of development plans setting a vision and enabling development to achieve it and the focused and efficient preparation of plans.

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	A NEW HIERARCHY FOR PLANNING	
7	<p>National Developments (P17, 19, 20, 64)</p> <p>Developments considered to be of national, strategic importance to be proposed and debated in context of the next National Planning Framework (see above) These are likely to include major transport, water and drainage, energy and waste infrastructure projects, major areas of urban regeneration or expansion and large strategic business or industrial investments. The need for these developments will be decided at national level by Scottish Ministers with the full involvement of Parliament.</p> <p>Relevant planning applications to be received and consulted on in the normal way but with Scottish Ministers being formally advised. Scottish Ministers may decide within a 28 day period to call in the application for determination by them or refer the application back to the local authority for determination with proposed conditions.</p> <p>There will be no appeal opportunity for this category of application although appeal to the courts on points of law will be retained (P16) (although on Page 65 it is indicated that "Ministers' decisions would be final, subject to statutory appeal or judicial review").</p>	<p>SUPPORTED IN PRINCIPLE</p> <p>It is noted that the next review of the National Planning Framework will be reviewed in 2008 and will be the subject of extensive consultation. However it would appear that there is no provision for an examination in public of the NPF. Confirmed NPF proposals are to be incorporated into development plans at the local level. It would appear that in considering National Developments identified in strategic/local development plans the principle of the development may not be questioned although there would be debate on matters of detail.</p> <p>It is noted that apparently conflicting information is contained in the White Paper concerning the statutory right of appeal.</p> <p>Clarification is sought as to whether the Executive considers these scrutiny arrangements to be adequate in the context of the general thrust of the White Paper.</p>
8	<p>Major Developments (P17, 21, 65)</p> <p>Large scale developments which are not of national importance but are significant in scale eg large scale housing or business/retail developments; will be "clearly defined and prioritised by planning authorities; processing agreements between the applicant and planning authority involving timetabling agreements and enhanced fees,. existing appeal arrangements to apply subject to reforms summarised below.</p>	<p>SUPPORTED IN PRINCIPLE WITH CONCERNS</p> <p>However, the Council would wish to be satisfied as to the following aspects of detail :</p> <ul style="list-style-type: none"> – the more precise definition of "major applications"; – the definition of how the local hearings system is to operate; – how essential and effective pre-application discussions and the engagement of consultees is to be ensured;

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	Appendix 4 of the White Paper outlines details of Processing Agreements.	<ul style="list-style-type: none"> – the implications on statutory application processing timescales where negotiations and consultations appear to be required within a 28 day period included within the statutory 2 month period and where the right of appeal against non determination is available to applicants. This is particularly important as it is proposed to invoke a refund of half the planning fee for successful non determination appeals; – no mention is made of sanctions on the applicant when it adjudged that they, as opposed to the planning authority, have defaulted on the agreement. A time related financial sanction on the applicant would appear appropriate; – the importance of the timeous and comprehensive involvement of statutory consultees will be important; – it is unclear as to whether pre-application engagement will be mandatory and how this will be enforced; – resourcing this process will be an issue for planning authorities.
9	<p>Local Developments (P17, 22-24)</p> <p>The White Paper proposes extensive delegation to officers for smaller scale developments which accord with adopted development plans with elected local members continuing to decide "controversial applications or those with a significant impact on the area"; for this category of application, rights of appeal would be as existing (ie to Scottish Ministers) ; delegation arrangements will be for local authority discretion; for delegated decisions the right of appeal would be not to Scottish Ministers but to a local review body (see below).</p>	<p>SUPPORTED IN PRINCIPLE WITH CONCERNS</p> <p>The Council already operates a Scheme of Delegation. However the implications of the content of the White Paper are that the Scheme will require to be reviewed to ensure the most effective and efficient discharge of decision making for this category of application. However to assist in this process it would be helpful if the SE were to prescribe the definition of terms which would allow Councils to take a uniformly consistent approach to drafting their Schemes of Delegation.</p>
10	<p>Local Appeals (P23)</p> <p>For applications that fall within the terms of the scheme of delegation, the White Paper proposes that appeals should now be determined by review bodies of locally elected members.</p>	<p>SUPPORTED IN PRINCIPLE WITH CONCERNS</p> <p>The Council supports strongly the principle that as many planning decisions should be determined locally and therefore welcome s the principle of this change. However it is disappointing to note</p>

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		<p>that the local review bodies decision can itself be the subject of appeal. The Council doubts the necessity for this but recognised the need for the opportunity for judicial review or an appeal to the Sheriff Court on matters of law.</p> <p>No indication is available in the White Paper as to how the local review body of elected members is to be constituted and advised in its independent review of the officer's determination. In the circumstances, it would not be appropriate for the body to be advised by its own planning officers.</p>
11	<p>Minor Developments (P19,24,25)</p> <p>Research will be commissioned to identify the scope for the review of the permitted development regime and the extent to which the process for this category of application might be simplified. The objective would be the potential removal of unnecessary controls in the householder category of application whilst ensuring that adequate controls exist where developments are likely to unduly affect the environment or amenity of the area. A handbook for householder developments is proposed. Any review of the use classes order will follow changes to the permitted development order.</p>	<p>SUPPORTED IN PRINCIPLE</p> <p>The Council agrees that the present Permitted development Order is over complex, easily misinterpreted by stakeholders and widely abused. A fundamental review is therefore welcomed subject to subsequent consultation.</p> <p>It is also agreed that there is scope for introducing greater freedoms from the need for planning permission in the domestic environment in particular. However the Council does not agree that the promotion of a rash of Article 4 Directions (setting out the scope of instances where pp is required in a given area) is appropriate. Local Development Orders (setting out the scope of instances where pp is not required in a given area) should be explored as an alternative. The challenge for Councils in consultation with local communities will be which categories of application should continue to require planning permission. The definition of localised or city-wide Design Codes (again subject to stakeholder consultation may be worthy of consideration.</p> <p>The publication of a handbook is supported.</p>
	Development Management	
12	Development Control - to be Development Management	SUPPORTED

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		Over ten years ago the Council was the first in Scotland to rename its development control function as "Development Quality" in recognition of its desire to promote a more positive aspect to its regulatory functions.
13	<p>Further Development of E-Planning (P31, 70)</p> <p>The Executive will continue to work with planning authorities to increase their use of new technology to improve service delivery, public access and involvement.</p>	<p>SUPPORTED</p> <p>The Council is committed to the E planning agenda and is engaged in a phased programme of service improvement in this field.</p>
14	<p>Planning Agreements and Obligations (P31, 70)</p> <p>The Executive proposes to improve the framework governing the use of agreements to make the practice more transparent and to reaffirm their permitted scope.</p> <p>The scope of the legislation will be increased to allow for the introduction of unilateral obligations by developers/applicants.</p>	<p>SUPPORTED</p> <p>The Council recognises that the valid and useful role of planning agreements in the planning system can be misunderstood and lead to misplaced accusations of impropriety. The commitment to section 75 of the Act is welcomed as is the intent to issue further guidance.</p> <p>This measure is welcomed in that it will bring Scottish legislation into line with that of England and Wales to allow a developer/applicant to offer a benefit to a planning authority in order to resolve a stalemate in negotiations which mostly arise at appeal inquiries or hearings.</p>
15	<p>Standard Application Forms (P31, 71)</p> <p>The Executive proposes to introduce a power requiring the use of standardised application forms written in plain English.</p>	<p>SUPPORTED IN PRINCIPLE</p> <p>Whilst supporting this measure as an aid to making the planning application process more user friendly, the Council would wish to see introduced an element of local flexibility as circumstances will vary from authority to authority. The commitment the reissuing of PAN 48 and to further consultation on this issue is welcomed. In addition it is recommended that the Procedure Order be comprehensively updated to include clear and unambiguous statements concerning the validity of applications.</p>

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16	<p>Appeal Period (P31, 71)</p> <p>To reduce the length of the period of uncertainty for planning authorities and objectors the Executive proposes to reduce the time period within which applicants can appeal decisions on applications from the current six months from the date of the decision to three months.</p>	<p>SUPPORTED</p> <p>Although the Council supports this proposal, it recognises that this change may result in an increase in the number of "precautionary" appeals lodged pending the negotiation of alternative proposals locally.</p>
17	<p>Power to decline to determine repeat applications within 2 years (P31, 71)</p> <p>It is proposed that planning authorities will be given the power to decline to determine applications where they have previously determined more than one "similar" application in the previous 2 years. This allows the applicant a degree of leeway in making a submission to improve upon a previous refusal.</p>	<p>SUPPORTED</p> <p>This measure will go some way to meeting the concerns of local communities who feel that applicants use repeat applications to wear down local opposition. Nevertheless the Council would welcome guidance as to the definition of "similar".</p>
18	<p>Statutory Duration of Planning Permissions (P32, 72)</p> <p>It is proposed that the standard condition imposed by Section 58 (1) (a) of the 1997 Act to be reduced to 3 years from the present 5 years.</p>	<p>SUPPORTED</p> <p>This measure will reduce the uncertainty in planning authorities and in local communities as to whether an approved development is likely to be implemented. Some developments are approved and simply lapse after a prolonged period. It would appear that planning authorities will retain the flexibility to set alternative periods as provided for by Section 58 (1) (b) will remain.</p>
19	<p>Publishing of Weekly Lists and Advertising Availability (P32, 72)</p> <p>In future planning authorities will be required to produce and publish a weekly list of planning applications and to advertise the availability of the list to be made mandatory.</p>	<p>SUPPORTED</p> <p>The Council already does this and uses the weekly list on its Web site as a means of consultation and public participation. A printed version of the Weekly List is also made available and on an informal basis the local newspaper frequently publishes the list.</p>
20	<p>Notified Applications Proposed (P32,73)</p> <p>It is proposed to give Scottish ministers for cases formally notified to them under the legislation, powers to "direct" planning</p>	<p>SUPPORTED IN PRINCIPLE</p> <p>The number of applications notified to Scottish Ministers by the Council is relatively small and the number of applications "called</p>

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	authorities to "consider" granting permission subject to conditions which Ministers would set out in their direction.	in" for determination by SMs is even less. The wording of the White Paper tends to suggest that planning authorities in receipt of a Direction will have the discretion whether or not to adopt the condition set out in the Direction. The Council would wish to see a dialogue taking place between the authority and SE following referral and prior to the issuing of any direction to ensure that any condition being suggested is fully understood and in particular capable of being enforced.
21	Mezzanine Floors (P32, 73) Some businesses (particularly retailers) increase the floorspace of their premises by the introduction of mezzanine floors which have no effect on the external appearance of their building. Unless provided for in a previous condition this activity does not require planning permission.	SUPPORTED The Council has recognised this loophole because such developments can create adverse impacts eg additional parking requirements. As a matter of routine therefore planning conditions restricting gross floorspace growth are routinely applied to new retail developments. The Council therefore welcomes this provision.
22	Historic Environment (P32,73) It is proposed to: <ul style="list-style-type: none"> – provide scope to reduce the need for Scottish Ministers involvement in certain listed consent applications "in certain authorities"; – tighten controls over demolition works in conservation areas; – end the practice of designating conservation areas as 'outstanding' for grant purposes; – modify minor technical and procedural aspects of the operation of the legislation; – update the regulations through which the listed building and conservation area consent regimes operate. 	SUPPORTED In particular the commitment by the Executive, through Historic Scotland, to examine the scope which there might be in future legislation to combine elements of the various consent regimes.
23	Tree Preservation Orders (P32, 74) A consultation exercise was undertaken in December 2004 and	SUPPORTED The Council supported many of the principal measures outlined

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	the proposals contained in the consultation paper received considerable support. It is now proposed to introduce a range of detailed measures into the Planning Bill.	in the consultation paper and therefore welcomes this proposal.
	Widening Inclusion	
24	Information Campaign (P35) The Executive intends to undertake a major information campaign within the next 12 months to publicise people's existing and future rights in planning and related legislation eg FOISA.	SUPPORTED
25	Appeals (P35) It is proposed to introduce a process of the early refusal of appeals which do not adequately address the reasons for refusal or do not comply with an up to date development plan. In addition the tendency for proposals at appeal to alter during the course of an appeal without proper reference to the local community.	SUPPORTED These measures are welcomed as an aid to the greater efficiency and effectiveness of the appeals system and should increase public confidence.
26	Pre-Application Consultations (P35-36) Applicants are to statutorily required to engage with local communities for certain major or complex applications and to submit a report of such to the authority with the application. The local planning authority will then "assess whether appropriate consultation has taken place".	SUPPORTED IN PRINCIPLE Whilst the principle of community engagement by applicants for major or contentious applications is accepted, the White Paper does not make it clear whether its assessment of the adequacy of the engagement will constitute a material consideration in determining the application.
27	Neighbour Notification (P36) This White Paper confirms the Scottish Executive's previous decisions, following consultation: <ul style="list-style-type: none"> – to transfer responsibility for NN to local authorities; – to increase application fees to reflect higher administration costs; – to increase the present 14 day period for NN responses to 	SUPPORTED IN PRINCIPLE These proposals were first suggested in the 2002 consultation "Getting Involved in Planning" and contained in the subsequent White Paper "Your Place, Your Plan" (2003). The Council's position has been to accept the principle of these changes subject to the financial implications for the Council being fully assessed and addressed by the Executive.

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	<p>be to 21 days;</p> <ul style="list-style-type: none"> – to introduce NN of enforcement appeals where the grounds of appeal include the contention that planning permission ought to be granted planning permission is granted. 	<p>The Executive has yet to indicate how these initiatives are to be resourced by Councils and the City Council will wish to ensure that the changes to the Fees Regulations do not leave it at a financial disadvantage compared to more rural authorities where lower levels of notification are involved. A comprehensive review of the Fees Regulations as required.</p> <p>Whilst the Council supports the general principle of the transfer of responsibility for neighbour notification, the Council it intends in consultation with Edinburgh, Glasgow and Aberdeen Councils (its Development Quality Benchmarking Partners) to assess the practical and financial implications of the proposals and as necessary to make further representations to the Executive.</p> <p>The other intended provisions are supported in principle.</p>
35	<p>Development Plan Neighbour Notification (P 36)</p> <p>The White Paper proposes that neighbour notification be extended to include owners, occupiers and neighbours of new site specific proposals in local development plans.</p>	<p>SUPPORTED IN PRINCIPLE</p> <p>Similar to 27 above, the Council would wish to ensure that the implementation of these proposals would not leave it a financial disadvantage.</p>
39	<p>Modernising Public Local Inquiries and the Greater use of Local and Appeal Hearings (P37 and Appendix 7)</p> <p>It is proposed (following consultation in 2003) to introduce a set of proposals to make the system more inclusive and less intimidating and to ensure that the views of local people are given greater and more consistent consideration in the future.</p> <p>Specifically, it is proposed</p> <ul style="list-style-type: none"> – to make it a statutory requirement for local hearings to take place as part of the decision making process in respect of applications attracting "significant objections", applications 	<p>SUPPORTED IN PRINCIPLE</p> <p>The Council already incorporates a procedure for allowing deputations to be heard as part of the Development Quality Committee's decision making procedures. The Council therefore</p>

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	<p>"significantly" contrary to the development plan, EIA applications and "larger scale" Bad Neighbour developments;</p> <ul style="list-style-type: none"> – to encourage the greater use of appeal hearings as opposed to more formal inquiries; – to introduce mandatory public examinations of development plans but in doing so to promote the greater use of hearings and round table discussions. 	<p>welcomes this proposal and will undertake a review of its current procedures in due course to make them fully compliant with the likely requirements of the emerging legislation.</p> <p>The Council supports these measures.</p>
41	<p>Community Engagement (P38)</p> <p>A best practice PAN is to be introduced to strengthen the involvement of local people in decision making. Planning authorities will be required to demonstrate compliance with new statutory requirements in development planning and compliance with best practice is to become a material consideration in Scottish Ministers' decisions on whether or not to call in applications for their determination.</p>	<p>SUPPORT IN PRINCIPLE</p> <p>However the Council recommends that the proposed PAN be issued in draft for consultation as its content will have fundamental implications for public participation in various aspects of the planning process.</p>
42	<p>Enhanced Scrutiny (P38)</p> <p>In support of a plan led system and the provisions of the development plan there is proposed to be an enhanced level of scrutiny of proposals which depart from its provisions. This process will relate to</p> <ul style="list-style-type: none"> – developments which are "significantly" contrary to the development plan; – EIA applications; – "larger scale" Bad Neighbour developments. <p>These applications would be subject to pre application consultation; mandatory hearings; decision making delegation to Committees removed; and notifications to Ministers.</p>	<p>QUALIFIED SUPPORT</p> <p>Whilst supporting the general thrust of these proposals, the Council requests that a clear legislative definition of the categories of application concerned is offered to avoid ambiguity.</p> <p>Also the Council queries whether it is legitimate for Scottish Ministers to become involved in how individual Councils operate their decision making at the local level and whether there is the necessity for all applications in these categories to be notified to Scottish Ministers.</p>

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43	<p>Reasons for Decisions (P39)</p> <p>Written reports on applications for planning permission are to be mandatory and decision notices must specify the reason for the decision.</p>	<p>SUPPORTED</p> <p>The Council prepares written reports on all the planning applications it determines. Depending on the content of secondary legislation and advice from the Executive all future decision notices may require to contain a reasoned justification for the decision in addition to the present reasons for the imposition of conditions or summary reasons for refusal.</p>
44	<p>Schedule of Land Ownerships (P40)</p> <p>It is proposed that local development plans should include a schedule of land ownerships which will identify land in local authority ownership. Also it is proposed to restrict the scope of Councils to depart from the Reporter's recommendations in respect of land in LA ownership.</p>	<p>QUALIFIED SUPPORT</p> <p>No problem in principle with identification of land in Local Authority ownership however unclear if this also includes land in private ownership.</p> <p>May add to the complexity and length of time for plan preparation and may be difficult to keep up to date.</p>
45	<p>Local Authority Interests (P40)</p> <p>The present "notice of intention to develop" procedure to be discontinued with all local authority interest cases to be the subject of planning applications which will be subject to pre application consultation in certain cases, enhanced scrutiny and hearings procedures.</p>	<p>SUPPORT IN PRINCIPLE</p> <p>The Council already requires planning applications in respect of proposals by itself on land in which it has an interest. However present procedures govern and to a certain extent restrict the scope for community involvement and scrutiny.</p> <p>The Council welcomes the proposals the streamlining of referrals to Scottish Ministers but requests clarification as to whether it is intended to make all local authority applications subject to the full range of scrutiny measures.</p>
46	<p>Planning Agreements (P40)</p> <p>All planning agreements are to be made available on the public register.</p>	<p>SUPPORTED</p>
47	<p>Good Neighbour Agreements (P40)</p> <p>Legislative provision to be made for engagement between</p>	<p>QUALIFIED SUPPORT</p> <p>This is a concept which is not present in the formal UK planning</p>

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	businesses and local communities. Such agreements could cover operational, information and environmental matters to be enforced by planning condition or Section 75 agreement	system. The role of the local planning authority in this process of community involvement is not clearly defined. For reference to be made to Good Neighbour Agreements in planning conditions or Section 75 agreements their status as material planning considerations requires clarification as would the status of signatories.
48	Inclusive Design (P40) Applicants for planning permission, in certain circumstances will be required to demonstrate access principles to aid the objective of delivering accessible buildings and environments; a Planning Advice Note is proposed.	SUPPORTED The Council welcomes this initiative to encourage architects and designers to consider the adequacy of access arrangements to buildings and land for all sections of the community.
49	Planning Aid for Scotland (P41) The White Paper recognises the valuable role which PAS plays in providing free advice for the public on how the planning system operates.	SUPPORTED The Council fully agrees with the valuable role that PAS undertakes and has consistently provided financial support to PAS for that reason.
50	Rewarding Good Practice (P41) A Community Involvement category to be added to the Scottish Awards for Quality in Planning.	SUPPORTED
51	Enforcement (P41-43) Although the basic principles of the current system are considered sound, the delivery of planning enforcement needs to be radically improved. In summary, proposals include: <ul style="list-style-type: none"> – fees for retrospective planning permission to be increased on a sliding scale; – making it an offence not to submit a retrospective planning application when required to do so; – introduction of temporary Stop Notices giving Councils 	STRONGLY SUPPORTED IN PRINCIPLE BUT WITH CONCERNS Nevertheless it is disappointing that the White Paper has not gone further in not prescribing more punitive sanctions against unambiguous and persistent breaches of planning control. For example certain unauthorised developments could be considered to be a criminal offence bringing the system into line with Building Standards. The public perception is often that "punishment" under the current regime does not necessarily "fit the crime". Taking enforcement action often does not necessarily result in a solution to a problem in planning terms.

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	<p>immediate powers to order the cessation of breaches of planning control pending the service of an Enforcement Notice and /or Stop Notice;</p> <ul style="list-style-type: none"> – the possible abandonment or curtailment of the rights of appeal against Enforcement Notices; – Start Notices to be considered as an aid to proactive enforcement viz. the effective discharge and enforcement of suspensive conditions and the monitoring of development as it progresses; – every authority to publish a Planning Enforcement Charter. 	<p>The review of the enforcement appeals is particularly welcome.</p>
54	<p>Rights of Appeal in Planning (P43-44)</p> <p>During 2004 the Executive consulted widely on whether the rights of appeal should be extended.</p> <p>The White Paper does not contain proposals for legislation to introduce a specific third party right of Appeal because</p> <ul style="list-style-type: none"> – the Cabinet wishes to strengthen the participation of local people at an earlier stage in the process; – new delays and unpredictability would be built into the system; – there would be the risk that local authority decision making would be undermined. <p>Instead the White Paper introduces a package of reforms which are intended to restore fairness and balance to the system and reduce the need for appeals to be submitted at the end of the decision making process.</p>	<p>STRONGLY SUPPORTED</p> <p>In response to the consultation paper the Council indicated that it did not support a wider right of appeal in the planning system. Rather it considered that the democratic decisions of Councils at the local level should not be subject to scrutiny by an unelected appeal body although Councils, applicants and third parties should have the right of access to the courts in order that decisions should have judicial scrutiny. In addition the Council was concerned at the resource implications of Third Party Rights of Appeal and the serious potential impacts on the business community resulting from the overburdening of the system.</p> <p>The current White Paper, although not removing the right of appeal to Scottish ministers by the applicant, does introduce a raft of measures to increase and improve upon community involvement in the planning process 'at the front end' prior to local decision making and as part of it. A revised system of hearings and in particular a locally based appeals mechanism for non major applications is proposed.</p> <p>Accordingly subject to the qualifications expressed earlier in this report the Council accepts the White Paper's reasoning.</p>

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	ADDITIONAL ISSUES	
55	<p>Sustainable Development (Section 6, pages 47-48)</p> <p>The White Paper seeks to increase the potential of the planning system to secure better outcomes and assist in the delivery of sustainable development. Securing the right development in the right place, of the right quality and at the right time demands a plan led system which provides clarity, certainty and transparency about future change, whilst considering long term consequences and short term effects. This will be achieved through a package of measures including:</p> <ul style="list-style-type: none"> – SEA of Development Plans; – Development Plans making provision for development required to meet wider international and EU obligations in respect of the environment, without placing a disproportionate burden of negative environmental impacts on any community – Strengthening Environmental Impact Assessment legislation to enhance public participation in respect of qualifying development proposals, and requiring developers to engage with local communities prior to submitting a planning application – Piloting Good Neighbour Agreements for EIA developments to allow communities an active role in planning for new development and ensuring it is carried out to agreed standards – Improving the integration between planning and environmental consenting regimes, including support for public involvement and environmental justice. 	<p>SUPPORTED IN PRINCIPLE</p> <p>DCC welcomes the Executive's intentions to strengthen the role of the planning system in delivering sustainable development via an enhanced plan led system that considers the long term consequences and short term effects of development. In particular, the Council shares the Executives desire to prevent the growth areas of today becoming the regeneration priorities of the future. The package of measures proposed should go some way to achieving this objective, but it is perhaps premature to predict whether such legislative changes will fully achieve the Executive's goals in this regard.</p> <p>Whilst in principle DCC supports the integration between planning and environmental regulation, the 2003 Environmental Resources Management Research Report which the White Paper refers to was not widely publicised and its recommendations are not widely known. Further dialogue with the Executive is required.</p>
56	<p>Financial Impacts (Section 7)</p> <p>The introduction of a hierarchical approach to development control and E Planning should lead to more effective use of</p>	<p>CONCERNS</p> <p>It is noted that a detailed financial assessment of the implications of the White Paper is not possible at this stage. However the</p>

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	<p>resources and fee scales will be set to take into account the costs of handling major applications.</p> <p>The precise impact of the changes on the national economy will be difficult to assess. The SE will monitor the impacts of the reforms and the economic consequences.</p> <p>This section of the White Paper lists efficiency gains and likely new costs likely to be experienced by planning authorities and the implications for central government resources.</p> <p>Discussions will take place with planning authorities on the financial impacts of the reforms as operational changes take place.</p>	<p>Council would encourage the Executive to commission such an assessment prior to the Bill being enacted and as a basis for a comprehensive review of the Fees Regulations and the resourcing of the development control function of Councils in particular.</p>
57	<p>Supporting Planning Authorities (Section 8)</p> <p>Modernising the planning system will require major commitments from a range of stakeholders and will raise expectations of those users of the system. Clear ambitious yet achievable targets will be necessary to "genuinely reflect a planning authority's performance". Existing targets relating to planning applications and appeals will be revised.</p> <p>The current SE auditing function is to be placed on a "statutory footing" to monitor performance and promote best practice.</p> <p>The Bill will allow Ministers to commission investigations into cases where persistent decision making patterns do not comply with development plan policies or officer recommendations based on such policies.</p> <p>Powers of intervention by Ministers in last resort cases will be retained.</p>	<p>QUALIFIED ACCEPTANCE</p> <p>Whilst it is accepted that a degree of performance monitoring by Scottish Ministers will be required the Council would request that monitoring criteria are realistic and reflect the additional responsibilities and procedures which the White paper places on local planning authorities, applicant's, local communities and other stakeholders.</p>

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	<p>The Executive will work in partnership with planning authorities to tackle human resource issues such as training, staff recruitment and retention and the promotion of specialist skills. A Planning Development Budget is available for this purpose.</p> <p>A mediation pilot project will be set up to examine whether formal mediation can be applied effectively to the planning system to support and encourage better engagement between planners and local people.</p>	
58	<p>The Next Steps (Section 9 and Appendix 8)</p> <p>The Planning Bill will be introduced "when a suitable legislative opportunity arises" to take forward the aspects of this White Paper requiring primary legislative change. A list of measures for inclusion in this Bill is outlined in Appendix 8 of the White Paper. Other changes not requiring primary legislative change are to be introduced "in the near future" (Page 58 of the White Paper).</p>	NOTED