Planning etc. (Scotland) Bill

Introduced on: 19 December 2005 [SP Bill 51]
Introduced by: Malcolm Chisholm MSP, Minister for Communities (Executive Bill)
Passed: 16 November 2006
Royal Assent: 20 December 2006

Passage of the Bill

The Planning etc. (Scotland) Bill [SP Bill 51] (‘the Bill’) was introduced in the Parliament on 19 December 2005. The Communities Committee was appointed as lead Committee with the Local Government and Transport Committee as a secondary committee. The Communities Committee published its Stage 1 Report on 10 May 2006. This was debated by Parliament on 17 May 2006. The general principles of the Bill were agreed by a vote in which 98 members voted for the Bill, 11 against and two abstained. The Committee then commenced Stage 2 of the Bill, which ran from 14 June 2006 until 4 October 2006. The Bill was passed following the Stage 3 debate which was held on 15 and 16 November 2006. The vote was: 104 for the Bill, 13 against and one abstention. The Bill received Royal Assent on 20 December 2006.

Purpose and objectives of the Bill

The main aim of the Bill was to streamline the operation of the Scottish planning system. It aimed to do this by creating a ‘hierarchy of developments’, allowing planning authority resources to be targeted where they were needed to ensure planning applications were dealt with as quickly as possible. The Bill also aimed to increase the involvement of local communities in the drafting of development plans and in decisions on planning applications. The Bill also intended to ensure that development plans were kept up to date and that compliance with planning legislation was improved through amendments to the enforcement system.

Key Provisions of the Bill

**National Planning Framework:** The National Planning Framework (NPF) is currently a non-statutory, Scotland-wide planning policy document first published by the Executive in 2004. The Bill would put the NPF on a statutory footing and subject it to a process of parliamentary scrutiny prior to its adoption. The next National Planning Framework (NPF2) is to be published in 2008. The Bill requires NPF2 to identify “…developments of national significance”, decisions on which would normally be made by Scottish Ministers. No objections to developments of national significance would be
allowed, on the basis that a development is not needed, once it was included in the NPF.

**Strategic Development Plans:** The Bill removed the requirement on planning authorities to produce structure plans and replaced this with a new requirement on authorities in the four main city regions, formed into Strategic Development Planning Authorities (SDPA), to produce strategic development plans. The Bill places each SDPA under a statutory duty to update its strategic development plan at least once every five years. SDPAs are required to publish, and update, a development plan scheme which outlines its programme for preparing and reviewing the strategic development plan. Each strategic development plan must be accompanied by an action programme, which must be updated at least once every two years.

**Local Development Plans:** The Bill also removed the requirement on planning authorities to produce local plans and replaced this with a requirement to produce local development plans. The Bill placed each planning authority under a statutory duty to update its local development plan(s) at least once every five years. In addition, planning authorities are required to publish, and update, a development plan scheme which outlines its programme for preparing and reviewing local development plans. Each local development plan must be accompanied by an action programme that must be updated at least once every two years.

**Development Management:** The Bill introduced a three tier ‘hierarchy of development’, i.e. national, major and local developments. Responsibility for notifying neighbours about proposed developments is passed from applicants to planning authorities.

The Bill established a formal system of pre-determination hearings, allowing applicants, objectors and supporters of certain types of development to appear in person before a planning authority prior to it making decisions on whether to grant planning permission. The Bill also required each planning authority to set up a formal scheme of delegated decision making, giving planning officers formal authority to make decisions on local developments. Decisions made under such a scheme would be open to review, under a scheme to be established by secondary legislation, as opposed to an appeal to Scottish Ministers.

The Bill reduced the normal duration of planning permission from five to three years and replaced the system of outline planning permission with a new category of ‘planning permission in principle’.

The Bill also replaced planning agreements with an expanded system of ‘planning obligations’, allowed developers to register unilateral planning obligations and allowed for the creation of ‘good neighbour agreements’ between developers and certain community organisations.

**Enforcement:** The Bill introduced a new temporary stop notice. It also required all planning authorities to publish, and keep under review,
‘Enforcement Charters’. In addition developers are required to notify the planning authority when they start and finish a development.

The Bill also updated the system for the designation and management of Tree Preservation Orders, allowed for the formation of Business Improvement Districts and established a statutory basis for National Scenic Areas.

**Parliamentary consideration**

Throughout the parliamentary consideration of the Bill there were two major issues, although not included in the Bill as introduced, that were the focus of much debate. These were the introduction of a ‘third party right of appeal’ against planning decisions and a requirement to hold a full public inquiry into the National Planning Framework prior to its adoption. These issues were strongly supported by some opposition members and environmental/community NGOs but opposed by the Executive, some opposition members and business NGOs. Amendments to introduce these measures were lodged at Stage 2 and Stage 3 but were rejected by the Communities Committee and the Parliament as a whole.

Amendments, which had not formed part of the original Bill proposals, were agreed at Stage 2. The principal being those amendments allowing the issue of a fixed penalty notice where an enforcement notice or breach of condition notice had been issued and not complied with, and those amendments related to the designation and management of National Scenic Areas.