Local Government and Communities Committee
Planning (Scotland) Bill
Submission from Canonbie & District Residents Association

Organisation: Canonbie & District Residents Association is a local community organisation, formed to represent community concerns in respect of a range of proposed local developments, and to engage with Planning and other systems.

We have previously engaged with a range of planning consultations, including SPP / NPF 3, participated in Barriers to Engagement workshop, and People, Planning and Places consultation, and consistently lobbied for an Equal Right of Appeal for communities, within a Plan-led system.

We believe that this draft Bill fails in its explicit policy objective to “enhance community engagement in development planning”, OR to “effectively empower communities...”

Key concerns about the Bill:

1. Fails to address a range of issues that currently create uncertainty for local communities
2. Lack of fairness/ a better balance between needs of developers and those of communities.
3. Provides right of appeal for developers, but not for objectors.
4. Bill is highly centralising, will reduce already limited opportunities for community engagement & is likely to further marginalise and disenfranchise local people.

Our recommendation:

Equal Right of Appeal for communities would redress a significant injustice.

We urge Members to include debate on ERA for communities in Stage 1 Evidence sessions.

QUESTIONS

1. A planning system for Scotland that balances the need to secure the appropriate development with the views of communities and protection of the built and natural environment? NO:

Community Engagement: Barriers to Engagement research confirmed that “community engagement exerts very little influence on planning outcomes” and flagged up “a serious lack of trust, respect and confidence in the system”.

Our own experiences entirely accord with these findings.

In spite of this, the draft Bill:
• Proposes further centralisation of policy-making away from local communities.
• Fails to balance “development needs” with the needs (in addition to “views”) of communities, and with environmental protection.
• Ignores widespread community demands for a more equitable system and enhanced scrutiny of decisions.

LPP: The status of Local Place Plans, and their capacity to influence planning policy and practice is uncertain. What is certain is that they do not redress the power imbalance for communities, and may be perceived with cynicism, as potentially meaningless. Indeed, poor levels of community engagement may result in even less consideration of local views in LDP and planning decisions.

LDP: Proposals to extend NPF and LDP cycle to 10 years / lose “Main Issues Report”/ unclear consultation requirements for Simplified Development Zones, will reduce public engagement.

It is unclear how communities will be consulted, or enabled keep track of Local Development Plans, or how proposals that are contrary to LDP will be treated.

*(Our local LDP made no reference to Onshore gas extraction (fracking), yet more than 20 separate applications were treated as “minor developments”, and approved! It would seem reasonable to make provision to automatically reject applications that run counter to LDP.

ERA: It is acknowledge that front-loading of the system does not work, and is unfair to communities.

For example, Community Council may not publicise applications, or understand their implications, and few communities will subscribe to Edinburgh Gazette!

We are aware of widespread community dissatisfaction with the planning system, yet communities, who bear the brunt of decisions, currently have no right of Appeal. In contrast, developers can submit repeated re-applications, and have automatic right of appeal, even where proposals breach LDP.

This is patently unfair.

Other countries that provide equal right of appeal, confirm that it does not create significant delays, generates more robust applications, and is perceived as more equitable.

Amending this Bill to include Equal Right of Appeal for communities would address this failing.

2. To what extent will the proposals in the Bill result in higher levels of new house building? If not, what changes could be made to help further increase house building?
NEW HOUSE BUILDING: We believe that planning system is NOT a significant barrier to new house building.

* (A local application for 85 homes, extending our village by more than 50%, was approved, although there is minimal local demand, and same developer has failed to build homes on an existing approved site).

System is currently exploited to provide disproportionate economic benefit to landowners, and land-bankers, skew land prices, and limit small-scale initiatives.

Development planning system should therefore be amended to address these and other issues, including:

- Consideration of local material issues such as local housing demand;
- Impact of developments on existing local environment/community.

INCREASE HOUSE BUILDING: The Bill should

- include a shift in focus away from high volume house-building;
- Increase support for smaller-scale more imaginative development;
- Promote & support initiatives that will deliver broader local benefit.

3 Sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans? If not, what needs to be done to improve regional planning? NO:

We do not support the inclusion of regional dimension in NPF, which should remain solely focussed as high-level national strategic plan.

Policy decisions about land use in and around communities should continue to be taken at a local level.

4. Will the changes in the Bill to the content and process for producing Local Development Plans achieve the aims of creating plans that are focussed on delivery, complement other local authority priorities and meet the needs of developers and communities? If not, what other changes would you like to see introduced? NO.

Extended timescales might create more certainty, but fail to meet needs of communities, and we have a range of concerns:

- Significant change of circumstances may require amendments to/review of plan
- Community engagement/consultation in LDP development is not well supported, so such a limited window of opportunity (whether 6 or 8 weeks) within a decade, is clearly inadequate.
- However, we do not support more detail within the LDP, already relatively dense and inaccessible.
*(We discovered that our Council had provided only a limited summary of LDP consultation responses via e-planning. Full submissions were only available on request, when we retrospectively discovered a proposal by the major landowner to redesignate a vast area of farmland (several sq.miles) into an “Energy Park” Local community was entirely ignorant of this proposal, which was subsequently rejected by Council & Reporter.)*

5. **Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests? NO:**

It is unclear who would designate such SDZs, and whether they would make a positive contribution to creating good “places”

6. **Does the Bill provide more effective avenues for community involvement in the development of plans and decisions that affect their area? Will the proposed Local Place Plans enable communities to influence local development plans and does the Bill ensure adequate financial and technical support for community bodies wishing to develop local place plans. NO:**

We see little benefit in the proposed Local Place Plans, and are concerned about their likely influence on LDP, but would welcome further opportunities for communities to influence LDP.

We have submitted representations to LDP and attended consultation events, but are not confident that this is effective in influencing local LDP, and would welcome further support & investment in ensuring that communities are consulted, but also that their views are taken fully into account.

**What more needs to be done?**

See above.

7. **Will the proposed changes to enforcement (such as increased level of fines and recovery of expenses) promote better compliance with planning control and, if not, how these could provisions be improved?**

Communities expect planning authority to deal effectively with breaches, but neither current nor proposed enforcement measures are sufficient.

*Our own community was appalled to learn that Planning officials were not pressing for reinstatement of a fracking site (field) as per Condition of Planning consent, as landowner indicated preference to retain hard standing. Only after significant community and political pressure was the agricultural land re-instated*

8. **Is the proposed Infrastructure Levy the best way to secure investment in new infrastructure from developers, how might it impact on levels of development? Are there any other ways (to the proposed Levy) that could raise funds for infrastructure provision in order to provide services and**
amenities to support land development? Are there lessons that can be learned from the Infrastructure Levy as it operates in England?

We are aware of instances where developers are able to evade/avoid infrastructure commitments, so would welcome action to address this. However, we do not believe that an Infrastructure Levy is an effective mechanism for addressing this national issue.

9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? YES:

However, Context/Content/Implications of training needs further consideration. Need to ensure that any training takes cognisance of local circumstances

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements? NO:

It is widely recognised that investment in increased monitoring and regulation does not necessarily correlate with improved performance.

Investment in increased resources is more likely to be effective at driving up standards.

11. Will the changes in the Bill to enable flexibility in the fees charged by councils and the Scottish Government (such as charging for or waiving fees for some services) provide enough funding for local authority planning departments to deliver the high–performing planning system the Scottish Government wants? If not, what needs to change?

While we recognise the need for proper funding of the planning system, we are concerned about the potential detrimental impact on communities, who are already significantly disadvantaged and excluded by a system that is biased towards wealthy developers.

*(Our community organisation utilised voluntary support, and funded independent Planning advice at considerable cost, and are aware of the huge costs that Concerned Communities of Falkirk required to meet in order to participate in a Judicial Review) Access to planning authorities should not be accessible only to the wealthy.

12. Are there any other comments you would like to make about the Bill?

- Front-loading of the Planning system simply does not work. It skews process unfairly in favour of developers, and limits/disadvantages legitimate objections
- Any system that does not provide Equal Right of Appeal, yet permits developers to Appeal decisions, and to resubmit applications, even when they do not accord with the LDP, is patently unfair.
• Given that Judicial Review is often inaccessible to communities, on grounds of costs, it is essential for planning system to provide fairness and balance.
• If it does nothing else, this Bill should be amended to offer protection for everyone, not only those who have limitless resources.
• As Statutory Consultees in planning process, Community Councils have a significant responsibility to ensure that local people are made aware of applications, and their views sought, in spite of fact that some areas have no (or plainly dysfunctional) CC representation.
• CCs are poorly funded, not subject to rigorous scrutiny, and not held to account about how they have engaged and consulted with those they are elected to represent. Given the importance of their role in planning processes, this requires urgent review.

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