Local Government and Communities Committee

Planning (Scotland) Bill

Submission from James Matheson

The decision to review and update the Planning (Scotland) Bill has to be welcomed. However, in terms of empowering local communities through involvement in planning decisions that have a long term aesthetic and physical affect in the communities people live, work and raise families, the updated Planning (Scotland) Bill will fall short if an amendment allowing an Equal Rights of Appeal (ERA) is excluded.

As part of the elected administrations research before publishing the updated Planning (Scotland) Bill, the ‘Barriers to Engagement’ study clearly shows that there is widespread support for an ERA to be included in a new Planning (Scotland) Bill.

Indeed, research carried out by Non-Governmental Organisations (NGOs) highlights the desire of local businesses, community councils, individual members of communities and other NGOs to include an ERA within the Planning (Scotland) Bill. In addition, on previous occasions the inclusion of an ERA within planning legislation gathered support throughout civic society, with 85% of consultees supporting in 2005 the introduction of what was then called a third party right of appeal.

There are many benefits to communities through the inclusion of an ERA in an updated Planning (Scotland) Bill. Inclusion of an ERA will provide communities with an opportunity to appeal planning approvals, or individuals within communities most affected by a planning proposal to appeal a decision. Inclusion of an ERA would also remove inequalities in planning legislation that has no place in a modern society. In communities were individuals spend the greater part of their adult lives an ERA would allow those who take an active part in their communities to present constructive proposals into planning developments in their communities. Developments which can either aid or restrict cultural and social development, both of which are effected by physical structures.

Furthermore, the inclusion of an ERA will allow challenges to planning decisions at odds with a development plan, therefore providing incentives for property developers to submit development proposals in line with a development plan. An ERA would also aid ‘frontloading’ as an ERA would prevent speculative development, ensure details in a development plan suit both community and property developer and prevent ‘discretionary decision-making’, a loophole in planning legislation that is open to abuse. Moreover, including an ERA within an updated Planning (Scotland) Bill will ensure the idea of a Local Place Plan is built upon a solid foundation and prevent the abuse of the Local Place Plan through, as mentioned previously, speculative development and discretionary decision-making.
As a previous member of Mount Florida Community Council, I have had experience of frontloading when plans were submitted to develop the Victoria Infirmary in Glasgow’s southside. Given that community councils are predominantly local volunteers with little or no experience in planning applications, a particularly complicated planning application was submitted with the property developer having at their disposal large legal and planning teams; the time scale allowed for surrounding community councils to submit objections was limited, financially prohibitive and complex. An ERA included in the Planning (Scotland) Bill would even the ground between property developer and communities.

It may be argued that including an ERA within the Planning (Scotland) Bill will slow developments and lead to frivolous objections. However, evidence from other countries were Equal Rights of Appeal (ERA) is part of the planning process does not suggest that this is the case. Indeed, evidence suggests that including ERA within planning legislation actually improves development. This speedy increase in residential and industrial developments can only be seen as an added benefit for property developer, community, employees, and as a consequence the local and national economy.

Furthermore, allowing political representatives, MSPs, to debate appeal rights for communities at Stage 1 of the Planning Bill evidence sessions would show constituents the length and breadth of Scotland that the executive of the elected administration has ensured that a transparent and democratic process has took place throughout the Planning (Scotland) Bill.

Yours Sincerely,

Mr. James Matheson