Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Pagoda Porter Novelli

Pagoda Porter Novelli specialises in community engagement throughout Scotland. We:

- organise community consultation programmes for housing, renewable and commercial developers
- have a strong track record in helping to deliver approval for planning applications
- have worked in most of Scotland’s local authorities in the past 10 years
- recently (January 2018) carried out an online survey of councillors on Planning and Regulatory Committees across Scotland, in association with COSLA. We are including the results of the survey with our submission and believe that they provide a comprehensive snapshot of attitudes towards planning reform from local Scottish government.

This submission does not answer all the questions in the call for evidence; we have concentrated on those areas where we believe our experience best enables us to make a contribution.

Q1. Do you think the Bill, taken as a whole, will produce 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?

It would be naive to expect that legislation alone can balance appropriate development with the views of local communities. There will always be differing views at community and council level as to the necessity for development and conflict is often inevitable. The development of Local Place Plans (LPPs) may help local communities better appreciate and understand the need, for example, for more housing or wind farms, but LPPs will not necessarily mean that communities will accept the need for more development in their community. (See answer to Q6)

We support the statement in “Places, people and planning” (Para 2.29) that “Developments where the existing community have been fully involved from the start can often have a smoother journey through the planning process”.

Our experience suggests that meaningful community consultation can help bridge the gap between the community, the developer and – through the Local Development Plan (LDP) – the local council. By meaningful consultation we refer not to one-off events where a predetermined plan is placed before the community for them to accept, without question. Meaningful community consultation will typically be an interactive process, involving a series of exhibitions and meetings with key stakeholders such as community councils and other community groups, where the views of local people are properly considered and plans are amended to take account of these views. Exhibitions and meetings should also be supported by a website with a ‘comment’ facility, e or printed newsletters and, where resources allow
it, a Facebook page (which can help facilitate real-time engagement). Developers of major projects – such as S36 windfarms or major housing developments – may consider setting up a formal Community Liaison Group (CLG) made up of representatives from the local community and chaired by someone recognised by all parties as being neutral. Should development be approved, the CLG should remain in place to deal with any issues that may arise during the construction of the development.

We share the view expressed in “Places, people and planning” (Para 2.32) that “Alongside this, we also want to see high quality and innovative training of the development sector in community involvement as a further priority”. Many developers, many more than prior to the Planning (Scotland) Act 2006, carry out extensive community engagement but some could improve their offer, particularly in the use of social media.

Q6. **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? If not, what more needs to be done?**

While the intent is to ensure that “local place plans are used to promote appropriate development rather than as a vehicle to prevent it”, it should be recognised that experience in England, following the introduction of the 2011 Localism Act, is that the majority of place plans produced thus far have been shown to be broadly “anti-development”.

The underlying issue in relation to LPPs is how local communities can understand and align their priorities with the priorities identified at local council level. More often than not, communities may accept the need for more housing; however they may not accept that some of that new housing should be built in their area. In that context, a “bottom up” approach will do little to satisfy the needs of the wider community and will do little to help construct a Local Development Plan.

The scale of the task of producing place plans for Scotland is immense. In a city such as Edinburgh there may well be upwards of 30 recognisable and self-identifying communities.

If LPP’s are to be developed there will be a need to provide support to many communities. As with the community right to buy policy, largely middle-class areas (e.g. Portobello/Bellfield Church and Marchmont Sciennes/The Royal Sick Kids Hospital) will tend to have motivated and well informed individuals in their communities and the resources to enable them to produce effective proposals.

However in more working class communities, where that expertise and resource will not necessarily exist, support will have to be made available. At a time of ongoing reductions in local government finance and staff reductions in planning departments, resource – both human and financial – will need to be provided via other sources, e.g. the Scottish Government or through charities or third sector bodies.
Finally, the development of LPPs may act as a curb on the speedy development of LDPs. While the intention of the Independent Planning Review and the Planning Bill is to make development planning more efficient, effective and timeous, there must be a danger that the effort in developing LPPs will – ironically – delay the process.

Nearly half of our survey respondents (49%) thought it was a good idea that local communities should prepare their own ‘place plans’ but nearly 4 in 10 (39%) thought they lacked the capacity to develop them.

Q9. Do you support the requirement for local government councillors to be trained in planning matters prior to becoming involved in planning decision making? If not, why not?

Councillors should undertake appropriate training prior to becoming involved in making decisions on planning applications and being involved in developing LDPs. Both communities and developers will have invested significant time and, in the case of developers, significant resource, before an application comes in front of a Development Management or Regulatory Committee. For example a wind farm developer may have committed upwards of £4m to a proposed development, prior to the application appearing before committee. It is only right and proper that full consideration should be given to every application by councillors who understand development economics and have a clear understanding of the application process, the developers’ efforts to engage with the community and the need in their area for housing or retail or employment. Thankfully the days of councillors opening their committee papers for the first time at committee itself are long gone, but more comprehensive training packages need to be put in place to ensure ongoing improvement. And it would be appropriate that some of the training input would be provided by developers’ representatives so that their perspective can be understood.

Nine in 10 (91%) of respondents to the online survey agreed with the suggestion in the Planning Bill that training should be mandatory for councillors on committees making decisions on planning matters. Eight in ten respondents said they had received training in planning issues before taking up their place on the committee, mostly from council officers (82%). Nearly one in 10 had received ‘some’ or ‘no’ training. There appeared to be no input at all from the development industry into this training and more than one in three respondents (34%) said they ‘never’ or ‘rarely’ (1-3 times a year) conducted a site visit in advance of determining an application.

Q10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?

Improvements can always be made. However in the current context of reductions in local government expenditure, the loss of planning staff may undermine the Bill’s good intentions. Reductions in council expenditure often lead to the loss of the most experienced local council planners who choose to take early retirement. The loss of institutional knowledge - and the increase in newly qualified and less experienced staff – can result in the application process taking longer.

Q12. Are there any other comments you would like to make about the Bill?
A Third Party Right of Appeal was not included in the Planning (Scotland) Act 2006 and is not included on the face of the draft Bill. However we are aware of proposals for an “Equal” or “Community” Right of Appeal.

Arguments in favour of “equalisation” are superficially attractive. Nearly half of our survey respondents (49%) thought a Third Party Right of Appeal should be introduced (some 28% said it should not and 16% were not sure).

We suggest that the introduction of an Equal Right of Appeal would have negative consequences for development, in particular because:

- a developer may be reluctant to invest in Scotland if an Equal Right of Appeal was in place here, but not in other parts of the UK leading to a loss of investment and much needed employment
- 10 years after the crash, Scotland is still not building enough homes; achieving the number of homes built before the crash would be further delayed
- it would inevitably extend the development process even further
- it would make many small developments unviable
- it would likely increase the cost of new homes to first time buyers
- more planning officers would be required to deal with the appeal process, at a time when headcount is being reduced

It is important to remember that the Planning Bill is not solely focussed on housing development. An Equal Right of Appeal would also apply to wind farm applications. And our experience, having been involved in wind farm consultation exercises throughout Scotland, suggests that there would be significant use of the Right of Appeal, to stop onshore wind developments – with the knock-on impact on Scotland’s ability to meet the targets set out in the Climate Change (Scotland) 2009 Act. And an Equal Right of Appeal would also apply to retail and commercial development proposals.

Besides, there would need to be very detailed guidelines around the conditions for triggering an appeal. For example, could an appeal be lodged by:

- anyone whom objected and was unhappy at approval being given?
- a percentage of those who objected?
- a local community council or community group?
- a percentage of the population within a certain distance of the proposed development?

And perhaps of greater importance, who would stand up for those families looking for a suitable home? How would their voice be heard?

Furthermore, our survey raised two other areas that might be of interest to the Committee. We asked respondents about barriers to engagement in planning and how to better engage young people:
What do you think are the main barriers to engagement in planning, by a wider range of people?

There were 61 separate answers but they can be summarised as follows:

- jargon, too much technical language, planning is complex
- apathy/complacency/consultation fatigue/belief that their views will make no difference – it’s all a ‘done deal’ or alternatively that someone else will do it
- lack of interest/knowledge – unless they are immediately affected
- lack of understanding about the process of planning, that is a quasi-judicial process
- lack of understanding about development and developers

Scottish Government intends to bring forward targeted changes to the existing requirements for engagement, to ensure that children and young people are specifically encouraged to get more involved in planning matters. What do you think would encourage more young people to engage?

Again we had 61 separate answers but the general themes that emerge can be summarised as:

- they need confidence that their views are important to decision makers and will be listened to/will make a difference
- less jargon, plain English
- direct engagement e.g. Awareness sessions in school, via the curriculum
- more use of online platforms/social media
- nothing (would make any difference)

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