Local Government and Communities Committee
Planning (Scotland) Bill
Submission from Roslin and Bilston Community Council

Responses to Question 12

Third Party Rights of Appeal

“Places, People and Planning” published in January 2017 included that following:

Proposal 9: Keeping decisions local – rights of appeal

2.40 There have been calls for planning reform to introduce a third party right of appeal, also referred to as an ‘equal’ or ‘balanced’ right of appeal. We believe that this would work against early, worthwhile and continuous engagement that empowers communities by encouraging people to intervene only at the end of the process rather than the beginning where most value can be added. This would also ignore the important role of elected members in representing communities in planning decisions and community involvement in the development plan process, whilst delaying and undermining much needed development. Nationally, it would be a disincentive to investment in Scotland, compared to other administrations and, moreover, mean that more decisions are made by central government, without such a right necessarily being representative of the wider community. We support the view of the independent panel on this issue and do not propose a new right of appeal for third parties to challenge development decisions.

This explains why the Government is not including a third-party right of appeal in the Planning (Scotland) Bill.

Paragraph 2.40 deals with a third-party right of appeal that would apply across the board. It fails to consider a third party right of appeal that is restricted to decisions to grant planning permission contrary to the development plan.

Paragraph 2.40 suggests that a third-party right of appeal would “work against early, worthwhile and continuous engagement”. There is no evidence to support this speculation. Anyone interested in a particular proposal is not likely to delay involvement to a final stage and so reduce their chance of influencing the outcome. This would certainly be the case with Roslin and Bilston Community Council. The Council would want to be engaged from the earliest stage.

Paragraph 2.40 says that a third-party right of appeal “would be a disincentive to investment in Scotland”. Other countries with a third-party right of appeal do not appear to have suffered economically.
Preparing development plans and getting them to the stage of being brought into force is a process that usually gives a lot of opportunity for interested people to submit their views. Roslin and Bilston Community Council has expended a great deal of effort in submitting its views on proposed plans. Submissions can be made to the planning authority and then to the plan examination. A planning authority that approves a planning application for development that is in conflict with the development plan is in effect brushing aside all the consultation processes that were gone through when the plan was being prepared and examined. The Government says that the planning system should be “plan-led” (Scottish Planning Policy, paragraph 4). This all points to the necessity of having an appropriate third-party right of appeal. The Bill should be amended to include a third-party right of appeal in situations where planning permission is granted for development that conflicts with the development plan.

Public Transport

Many new housing estates are built before public transport is agreed and made available – resulting in potential new residents assuming that they need cars.

See below extracts from Scottish Planning Policy:

• Easy to Move Around and Beyond

46. This is development that considers place and the needs of people before the movement of motor vehicles. It could include using higher densities and a mix of uses that enhance accessibility by reducing reliance on private cars and prioritising sustainable and active travel choices, such as walking, cycling and public transport. It would include paths and routes which connect places directly and which are well-connected with the wider environment beyond the site boundary. This may include providing facilities that link different means of travel.

79. Plans should set out a spatial strategy which:

• addresses the resource implications of the proposed pattern of development, including facilitating access to local community services and support for public transport;

101. Local development plans should allocate a range of sites for business, taking account of their accessibility to transport networks by walking, cycling and public transport

Promoting Sustainable Transport and Active Travel

Policy Principles

270. The planning system should support patterns of development which:

• reduce the need to travel;
• provide safe and convenient opportunities for walking and cycling for both active travel and recreation, and facilitate travel by public transport;
273. The spatial strategies set out in plans should support development in locations that allow walkable access to local amenities and are also accessible by cycling and public transport. Plans should identify active travel networks and promote opportunities for travel by more sustainable modes in the following order of priority: walking, cycling, public transport, cars. The aim is to promote development which maximises the extent to which its travel demands are met first through walking, then cycling, then public transport and finally through use of private cars. …..

275. Development plans should identify any required new transport infrastructure or public transport services, including cycle and pedestrian routes, trunk road and rail infrastructure. The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies. …..

276. Where public transport services required to serve a new development cannot be provided commercially, a contribution from the developer towards an agreed level of service may be appropriate. The development plan action programme should set out how this will be delivered ………… In rural areas the plan should be realistic about the likely viability of public transport services and innovative solutions such as demand-responsive public transport and small-scale park and ride facilities at nodes on rural bus corridors should be considered.

279. Significant travel-generating uses should be sited at locations which are well served by public transport, subject to parking restraint policies, and supported by measures to promote the availability of high-quality public transport services. ……..

287. Planning permission should not be granted for significant travel-generating uses at locations which would increase reliance on the car and where:

- direct links to local facilities via walking and cycling networks are not available or cannot be made available;
- access to local facilities via public transport networks would involve walking more than 400m; ……..

The above extracts demonstrate the importance of having developments of all kinds that are well-served by public transport. It is the experience of Roslin and Bilston Community Council that new developments are not served by adequate public transport. It is clear that the good intentions in Scottish Planning Policy are not resulting in a reduction of car usage. Scottish Planning Policy must be reinforced by a statutory requirement. The Planning Bill should include:

“It shall be the duty of the Scottish Ministers and the Planning Authority to ensure that in granting planning permission for any development, adequate provision regarding public transport is made.”

Margaret Littlewood (Secretary)
Roslin & Bilston Community Council