Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Willie Oswald

I am going to answer the twelve questions you have asked. I am also adding some additional comments that do not fit in with the predetermined questions.

1. 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?

A1. No. What has been drafted is heavily weighted towards the desires of developers and against the needs of communities and equality. One measure that would help to provide some balance would be to change the current privileged Right of Appeal afforded to developers to an Equal Right of Appeal to all who had contributed to the initial stages of the planning process. That would produce a real and sustainable balance.

Also there seems to be a lot of referrals to Scottish Ministers in circumstances where the justification seems to be “to reduce the pressures on the parliament”. This will lead to more opaque decisions and less transparency.

I cite some recent examples of opaque decisions.

Just why does a ‘BIG SHED’ to house a film studio need to be located in the green belt? Is it just to increase the value of the site for the landowner? Why not site it in an industrial estate next to other big sheds? How is that “in the National Interest”?

Why is the location of a tennis academy a few miles from the Scottish National Tennis Centre in Stirling University deemed to be “in the National Interest”? Again where is the transparency?

Another issue is the Edinburgh Central Library, an early Carnegie library opened in 1890 and A listed. Scottish Ministers have deemed that its future is NOT a matter of National Interest. Why? Edinburgh City Council ditched long term plans for an upgrade and expansion for a quick buck selling the earmarked site and adjacent buildings for yet another hotel.
It is surely an affront to democracy that these decisions can be taken behind closed doors without any scrutiny? The only justification seems to be that it is deemed to be “in the National Interest”, or not. Surely there needs to be more transparency?

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?

A2. Not sure. I am unhappy with this narrow view of just increasing house building. I think that the number and location of new homes and the associated infrastructure has to be led by communities and their local authority. Developers are and have been the wrong driver for where new homes are built. Their objectives are quite simple, to build houses on ground they own or can buy. That is quite different from that of communities and Local Authorities who we hope would have a more holistic and sustainable overview of how a locality should be developed.

3. Do the proposals in Bill create a sufficiently robust structure to maintain planning at a regional level following the ending of Strategic Development Plans and, if not, what needs to be done to improve regional planning?

A3. No comment.

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?

A4. Maybe, however as stated earlier communities have needs. Community contribution to LDPs must be considered with the same weight as the desires of developers. I am very wary of the introduction of the “Gate Check” process into the development of the LDP and how communities might become excluded and/or bypassed. Ministerial directed alterations without explanation and justification also comes to mind as an area of potential concern.

5. Would Simplified Development Zones balance the need to enable development with enough safeguards for community and environmental interests?

A5. Absolutely no it would significantly unbalance an already unbalanced process. In my view, this is merely a mechanism to limit or avoid community scrutiny. That planning authorities would be required to justify why they have not created any and the prospect of appeals direct to Scottish Ministers is an affront to democracy.

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? If not, what more needs to be done?

A6. Yes, there is considerable potential for communities to determine long term agreed plans with the planning authority. However, any Local Place Plan (LPP) will be driven by volunteers from the community. There is bureaucratic stringency suggested in the Bill that does not appear to be in place for other than LPPs. This will need a scheme for arranging the secondment of professionals to assist the community. In the vast majority of occasions this will be the Community Council. Without seconded assistance, many communities will struggle to be able to achieve even a rudimentary LPP.

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?

A7. I hope this would be the case.

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?

A8. No comment.

9. 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?

A9. I very much support this proposal. I would go further and suggest that a councillor should not be permitted to sit on a planning panel unless and until they had undergone appropriate training in planning matters. In the circumstances of a matter that is referred to a full council meeting, then untrained councillors should be considered as having a “declared interest” and not participate.

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

A10. Who knows? What should have a positive impact on the performance of planning authorities would be a minimum standard of drawings and the information that would avoid planning officers having to “get back” to developers. Something else might be to double or triple the fees to consider any proposal that does not agree with the agreed Local Plan.
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?

A11. No knowledge of the fee structure and how this may impact on the service provided.

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

A12. Yes. I have a number of additional comments.

A12.1 The appeal process is heavily weighted in favour of the developer. There is a strong need for there to be an Equal Right of Appeal (ERA). Without such an ERA communities will be reluctant to engage with the crucial early stages of involvement in the Local Place Plans and the Local Development Plan. Too often in the past, for many, the very recent past, communities have seen their comments and needs over-ridden when developers appeal. Sometimes on a Reporters decision and often by “Scottish Ministers”. The Scottish Government has given no valid rationale for excluding ERA. ERA does not conflict with the requirement for parties to put in full details of their objections up front.

A12.2 The practice of submitting serial applications with minor changes for the same site needs to be curbed. One re-submission that clearly incorporates comments from the planning authority could be acceptable. More than that should attract a punitive fee.

A12.3 Why has the Bill not considered the issue of Scottish Food Security and Self Sufficiency? Should there not be special measures that require to be met before Prime Food Producing agricultural land is meekly given over to developers to satisfy their greed?

A12.4 The planning process should require that any material alterations to the approved plans that are submitted to the planning authority by the developer should require comments from all statutory consultees. Material alterations to an application that has started the consultation process should not be accepted by the Planning Authority. This circumstance should require a withdrawal and re-submission.

A12.5 Scottish Ministers are required to confirm or reject the recommendations of Reporters views on planning appeals. If they confirm the findings, they are in effect endorsing the Reporters comments. Where they reject the Reporters recommendations, it appears that the justification is that “it is in the National Interest”. This is not good enough. Ministers should be required to justify their decision in parliament.
A12.6 The conditions set by a Reporter in their recommendations following an appeal hearing, should carry forward and apply to any subsequent serial application for that site. It is preferable that this is for all time, failing that, for at least the life of the LDP.

A12.7 There is one other aspect that could improve the Bill. That is the “Agent of Change Principle”. This would protect long term use activities from predatory “gentrifiers” and speculators who ignore the existence of a music venue, a sewerage works or even a flood plane and try and induce civic bodies to intervene to “cure” the noise or smell or flooding issue.

I would like to comment on the generality of this bill and the process. As the Scottish Parliament matures, it seems to mirror Westminster more and not less. We consider that for the Government to engage properly with the citizenry, things will have to change.

Why is the actual “new” Bill a series of alterations to the “old” Act that requires the two to be read in parallel? This is the centuries old ‘Westminster’ model.

In my view, the “new” Bill should be capable of being read and the meaning understood. This could have been easily achieved by a little lateral thinking and being less enthralled to Westminster protocols. Perhaps the drafters of legislation should be required to meet the “crystal” mark standard?

Finally, I commend to the committee the submission of Planning Democracy whose vision for the planning system would have a real and positive contribution to our society in Scotland.

W M Oswald