Local Government and Communities Committee

Planning (Scotland) Bill

Submission from the Confederation of St Andrews Residents Associations (CSARA)

CSARA routinely comments on planning applications which impact on the amenity or social fabric of the community. The impression gained of the current planning system as a result of this engagement, has not been positive. Rather than simply objecting to applications, we hope to influence them to be more sensitive to the community’s needs, but find that consultations, whether on the development plan or on individual applications, can only be categorised as “going through the motions”.

Unless a representation to a planning application is classified as an objection, it seems to carry little or no weight at all, increasing the view that the planning is an adversarial process, with all the negative connotations this brings.

We have looked at the provisions of the Planning Bill to see if there is any prospect of this dysfunctional system being improved, but find little to be optimistic about. We have in particular, looked at what is missing in the proposals and tried to identify opportunities for improvement, which have been included, but have been disappointed on both counts. We detail our conclusions below:-

1. Individuals and communities are still regarded as impediments to the efficient operation of the planning system. We identify some of issues related to this as follows:

2. At present, obstacles are put in the way of meaningful participation in planning decisions.

3. For instance, some Council’s allow representations to be made by applicants, members of the public and NGOs at planning decision-making meetings, some do not. There should be a universal right of audience, guaranteed by legislation.

4. Planning Departments are increasingly being combined with local authority Economic Development functions, with an instant loss of independence and consequently public confidence in their objectivity. Ian example is that there is an official policy in our local authority that a developer wishing to speak to a planning officer will be put straight through, a member of the public will be offered a telephone appointment many days ahead.

5. Reports once regarded as independent assessments of a proposal by specialist officers - for instance, transportation, built heritage etc, previously available to the public have been suppressed on the grounds that these are “internal” documents.

6. Councillors on planning committees have been warned not to deviate from the officer’s recommendation because the council could be liable for legal fees in a judicial review.

7. Development Plan policies are ignored in order to approve applications that meet the drive for development. The impression given is that the criteria for sustainable development is rarely met and replaced by a philosophy of “development at any cost”.

8. We note that there is a proposal for more delegation of planning decisions.
This in effect means less democratic involvement. While democratic decision-making by elected members is not without fault, to quote a well worn comment, “it is better than all alternatives”

9. However, Local Review Bodies are not the answer. Experience of these, by both applicants and objectors is universally negative. Presentations by planning officers from the same department does not encourage confidence and a glass wall is erected between the parties who have submitted representations, applicants, and the embers of the “Body” preventing any contribution to the discussion, or even correcting obvious misinformation.

10. If any local reviews were necessary for delegated decisions, it would be logical to return any appeal to the delegating committee for decision, and allow representations to be made by each of the parties.

11. The most serious omission in the Bill as presently drafted is the right of appeal, by objectors in certain defined situations. The current arrangements where every applicant has a right of appeal at no cost, effectively giving them two opportunities to make their case, is contrasted with the situation where objectors have no right of appeal at all, unless they take the extremely costly and time consuming route of initiating a judicial review, which would not be determined on the merits of the case, but only if proper procedure was ignored.

12. The present arrangements are against natural justice, arguably non compliant with human rights and do not meet the provisions of the Aarhus Convention for affordable access to justice in relation to environmental cases. To ignore these important principles would ensure that the Planning System could never gain the confidence of the public.

13. Providing a limited right of appeal for both applicants and objectors could rectify this. For applicants an appeal (to the DPEA) could be permitted when a proposal, supported by the Development Plan was refused and for objectors, when an application against Development Plan policy was granted. This would even the playing field, and we believe, improve the performance of planning officers, who could no longer make decisions to approve applications, which did not meet policy, safe in the knowledge that it would be most unlikely that the decision world be reviewed by an independent body.

14. We consider that the Planning Bill provides an opportunity to rectify all these important flaws and injustices in the present arrangements. If this cannot be achieved, we would predict that the planning system would lose further credibility in the eyes of the public who would have even less reason to be engaged in planning processes.

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Chair