Local Government and Communities Committee

Planning (Scotland) Bill

Submission from the Equality and Human Rights Commission

The Equality and Human Rights Commission (EHRC) is the National Equality Body (NEB) for Scotland, England and Wales. We work to eliminate discrimination and promote equality across the nine protected grounds set out in the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We are an “A Status” National Human Rights Institution (NHRI) and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC).

Scope of this submission

At this stage of analysis the EHRC has not identified any significant equality issues of concern in the Bill. We are however very concerned that the Bill fails to address to pressing issues of public policy – housing for disabled people and the housing for Scottish Gypsy/Travellers.

This submission will therefore set out the current situation for both groups, suggest how the Bill could assist two such these groups in the future, and concludes with some thoughts on what steps could be taken, either within or alongside the Planning Bill, to improve outcomes for these two groups.

The Bills positive proposals, and their disadvantages

Firstly we note these comments from the Scottish Governments own Equality Impact Assessment of the Planning Bill.

Recommendations and Conclusion

The evidence collected indicates that, in itself, the Planning (Scotland) Bill is not likely to have adverse impacts on those with protected characteristics. However, the EqIA has identified and summarised equality issues affecting communities and individuals which will need further consideration as both secondary legislation and policy are developed.

With regard to eliminating unlawful discrimination, harassment and victimisation, concern was expressed that in relation to their accommodation needs, gypsy / travellers are currently treated less favourably due to their protected characteristics. Similar issues were raised in relation to access to accessible housing for disabled people. Whilst the proposals in the Bill will not directly mitigate against these concerns, more engagement and robust evidence for the content of the local
development plan, linked with a more robust national development framework, will support local assessment of the need for such developments.

Disabled People & Housing in Scotland

1:5 of Scotland’s population has a disability of one kind or another. Disability increases with age as more people acquire visual, hearing and mobility impairments. Housing is a vital component in ensuring disabled people’s right to independent living. An accessible, barrier free house can assist a disabled person to live independently, to participate in the social and cultural life of their community. Accessible housing also provides disabled people with a stable base from which to participate in the economy. Accessible housing also contributes significantly to reducing costs in the NHS by enabling people to live in the community.

However, when disabled people are housed in inaccessible or inappropriate accommodation all of the above benefits can be lost. People can become trapped in their own houses, due to a lack of adaptations or reasonable adjustments. Basic issues like being able to share a bed with your partner or to engage in normal day to day life become problematic. Washing and bathing may become impossible.

The “I” newspaper recently published the results of an FOI request suggesting that over 100,000 disabled people in Scotland are currently on housing waiting lists. Earlier research by Horizon HA (2012) suggested that there are 17,000 wheelchair users in Scotland who have unmet housing needs.

The Commission believes that until disabled people are able to access housing designed around their needs, their ability to participate fully in Scotland’s cultural, civic and economic life will be constrained. Accessible housing is a key component in disabled people’s emancipation.

The Commission will publish the results of its Formal Inquiry into Disabled People Housing in mid-March.

Gypsy/Traveller Accommodation Needs in Scotland

The accommodation needs of Scotland’s Gypsy/Travelers are well known having been investigated by the EHRC Committee of the Scottish Parliament on 4 different occasions in the last 12 years.

There is no obligation for Scottish Local Authorities to provide official sites, although many do. However in some parts of Scotland (Aberdeen in particular) Planning Committees have been slow, reluctant, or fundamentally opposed to granting permission for any type of Gypsy/Traveller site, whether it be managed privately, by a Housing Association or Local Authority. These problems occur in permanent sites and in the planning of temporary or transit sites. The quality of those existing sites
has also been criticised, although the Scottish Housing Regulator now requires that all sites comply with Tolerable Standards by the middle of 2018.

The EHRC believes that until the community are able to access decent and affordable accommodation, which meets their needs, prejudice against the community is unlikely to decrease. The rancour which can often accompany seeking planning consent is, we believe, rooted in prejudice against the community and this prejudice affects all parts of the community’s life. However by developing a network of sites across Scotland the Commission believes that we can reduce the tension associated with current applications.

The Commission has published a number of research and policy papers on Gypsy/Traveller issues in Scotland including a guide to Establishing Gypsy/ Traveller Sites.

The Planning Problem

Currently Local Authorities in Scotland are required to research and profile different kinds of housing need in their 5 yearly Housing Demand Needs Assessments (HNDA). Scottish Government guidance stresses that these documents needs to be inclusive of Gypsy/ Traveller accommodation needs.

A recent partial, unpublished, assessment conducted by the Commission into the quality of Housing Plans identified that:

- Out of the 32 Local Authorities we could only find 20 Equality Impact Assessments (EIA) published along with Local Housing Strategies.
- The quality of the EIAs we looked at was extremely poor, with many of them felt to be non-compliant with the Equality Duty.
- 15 out of 32 had established targets for accessible housing
- Only 7 LAs had published an EIA for their SHIPs, again many of these were assessed as being of poor quality.
- Only 4 HNDAs had EIAs that we could identify
- Whilst HNDAs did generally mention disabled people and Gypsy / Travellers the quality of the information was often partial and out of date

For example, the Glasgow & Clyde Valley HNDA (March 2016) notes and expected shortfall of 5,600 to 5,900 wheelchair accessible units.

At the time of its writing the HNDA there were 3 operational Gypsy/ Traveller sites across the 8 partner local authorities accommodating 149 of the estimated 1, 410 Gypsy Travellers living in the area at the time of the 2011 census.

The problem with the current planning system in Scotland is that if need or demand is not expressed in the HNDA and translated into the Local Plan then Planning Committees can rightfully reject applications on the basis that they fall outside of
planned need. However as we have shown above there appear to be weaknesses in the approach to planning which may result in either underestimates of the true demand or inaccuracies in demand due to the use of old data.

The proposed system

On paper the new approach to planning set out in the Bill is to be welcomed as it offers the potential for previously overlooked groups to have their needs prioritised in the National Planning Framework and Scottish Planning Policy. Under the new regime Local Development Plans which are based on poorly researched data, or ones which respond poorly to evident need can be sent back to the Local Authority for further examination. They have the potential for central government to essentially adjust local plans which do not set out plans to deliver Gypsy/Traveller sites, or have lower than expected projections of the need for adapted and accessible housing. In principle the Commission strongly supports this move to greater national planning as we believe that both accessible housing and site provision are elements of national infrastructure essential if we are to meet the challenges set out above.

However, having considered the likely timescale for the introduction and implementation of the Bill into law, we do not expect this Bill to result in any new sites being established before 2024. The picture is less clear for disabled people but we are concerned by recent Scottish Government announcements about negotiating and establishing targets with Local Authorities. The Commission believes that only by adopting a system of quotas for new build housing, similar to that in place in London, will make any meaningful impact on provision in Scotland.

Conclusion

Whilst the Planning Bill has the potential to have a positive impact on the provision of housing and accommodation for Scotland’s disabled people and Gypsy/Travellers the very long lead into times to achieving such provision are disappointing.

With the Committee we would like to explore how temporary planning rules and quotas could be introduced which could speed the development of newer provision. We are particularly interested in looking at how the Governments affordable housing programme, in tandem with the City Deal investment programme could be used to seed developments which accommodate both communities appropriately.

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