Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Friends of Craighouse

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?

No. Without Community Right of Appeal, this bill cannot achieve this.

The only things that will make a real difference are:

A) Strict time limits on planning consents or else those consents are invalid.

This is the only way of “speeding up” the planning system – by forcing developers to deliver and not play land-banking games.

B) Equal Right of Appeal for Communities.

This is the only way of ensuring that views of communities are taken into account.

If the latter cannot be considered then the developers’ Right of Appeal should be taken away from developers to even up the system. At the moment, communities can be ignored, have their time wasted or even be legally threatened, and because they have no legal rights in the system.

Developers and lobbyists have far more access than communities and can achieve very high-access in some cases, again, not afforded to communities.

Our experience is that the system presently is designed to waste a lot of community time whilst minimizing their actual impact.

It is well known that it is not the planners that delay but developers, who if they don’t get their way come back and back – sometimes creating deliberately worse plans in order to then put in the ones close to their originals. This is a massive waste of everyone’s time and money.

The fact that communities have no ultimate legal recourse in the form of Equal/Community Right of Appeal leads to a situation where the planning system cares less about upholding its processes and policies and more about developers’ legal threats or the fear of decisions being overturned by government reporters and the resultant monetary penalty for Councils. So there is no incentive for Councils to uphold the planning system, policies, processes or listen to communities when the pressure on them is so one-sided.

Community Right of Appeal works well in other countries. It is disappointing that the Scottish Government is not leading the way with this fair and progressive measure.
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?

It is a myth that it is the planners or the planning system that slow the system. In fact, our experience is that it is often developers themselves that cause – in our case years of - delays. This delay is caused by developers either holding out for more profit, reducing standards or pushing for unacceptable consents on protected spaces not designated for development. Often, even after a consent is granted, more time is wasted in trying to substantially change those consents – or in changing plans, architects, materials or adding unacceptable element– leading to yet more delay.

Landbanking is one of the biggest planning problems of our time. Developers buy and sell portfolios of land-banked sites with no incentive to build as they are assets on a bank balance.

The crucial thing that would make a difference is a fixed time limit to build out the consent, otherwise the consent is invalidated. Compulsory purchase should be considered for some landbanked sites.

House targets should not be about allowing historic and important sites to be built over for investment purposes. More of the wrong sort of housing and wrong sort of consents will not result in “trickle down” housing, but in a stagnant investment-bound top-end that is unrelated to the other end of the market, where there is a real shortage of houses for young people. The reason the housing crisis is a crisis is due to the lack of affordable housing.

Council housing should be built directly by Councils according to need. And truly affordable housing is needed on sites designated for development.

A land value tax and strict time limits would encourage building where there are already consents.

It is not in developers interests to build the amount of housing the government is targeting because that would reduce the value of their houses. There needs to be clear benefits and incentives to developers to build the kind of housing on the development sites that communities would like to see built on rather than building limited high-end housing on protected sites where huge land value increases can be achieved by overturning protections. Along with this there should be clear disincentives to speculative applications on sites not designated for housing or for the type of housing that is not targeted.

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?

Regional planning can be improved by Community Right of Appeal - not because planning should be done through appeal processes but because it will give Communities a proper statutory place in a system where presently the developer has
legal rights and the community none. The only way planners and developers will listen to communities is for them to have Community Right of Appeal. Just by bringing it in, it will be less likely to need to be used.

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?

No. It will fail to deliver the important affordable housing needed in the right strategic areas and will not meet the priorities and needs of either government targets or communities. Delivery needs to be specific and make sense.

As we’ve said before, the only things that will make a real difference are

A) Use it or lose it on planning consents.

This is the only way of “speeding up” the planning system – by forcing developers to deliver and not play land-banking games.

B) Equal Right of Appeal for Communities.

This is the only way of ensuring that views of communities are taken into account.

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

It is unclear how these would safeguard community and environmental interests. If this is to allow planning to take a particularly proactive role in certain cases, it is important that the planners are not therefore in a position where they have to accept bad proposals or schemes.

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 involvement other questions 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?

The Bill does not provide more effective avenues for community involvement. Community involvement without Equal Right of Appeal is meaningless and easily ignored, leading to communities feeling disempowered and frustrated. The fact that the Bill does not suggest Community Right of Appeal makes it clear that it is not interested in meaningful community involvement.

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?
Enforcement is paramount. The public sees that developers are presently making a mockery of the planning system and it leads to feelings of bitterness and powerlessness for local people in the community. The trouble is that a lot of larger developers will easily take a fine for knocking down inconvenient trees or not complying with planning control. So there needs to be stronger penalties to be effective.

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?

This is surely another reason why stopping developers building on protected or historic sites and encouraging development where it makes sense for local environments, communities and infrastructure makes sense.

The planning system needs to tighten up and stop allowing the wrong sorts of consents if they want to get the right sorts of consents built.

Our experience is that section 75 just becomes a bargaining chip for developers that in the end results in very little. Maybe a more upfront generalized system would reduce section 75 being used as political bargaining.

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?

Absolutely. Our community have been shocked at the ignorance and lack of understanding shown and lack of policy knowledge by some members of the planning committee. Councillors can also be confused due to lack of knowledge and understanding- particularly when it comes to legal ramifications and what they can and can’t say. Transparency, clarity and proper training would help everyone.

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

There seems to be something of a myth that it is the planning system that slows everything down and prevents housing targets being met. Our experience is that it is the developers themselves who hold up the system not the planners or the planning system. As we have already shown, it is not in the interests of developers to meet targets on housing for reasons of controlling house prices and the bigger profits that can be made on luxury houses on protected sites (where the land value can be massively increased with a consent) rather than affordable housing on designated sites.
The only things that will deliver more affordable housing in the right places and improve performance are:

- Land value tax
- Strict time limits on consents
- Enforcement of policies and plans to encourage development of a range of affordable housing on designated sites, not investment luxury housing on protected sites
- Compulsory purchases if necessary
- Community Right of Appeal

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?

There needs to be better retention of highly trained staff.

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

Community Right of Appeal. (Think about it.)

Rosy Barnes
Chair