Local Government and Communities Committee

Planning (Scotland) Bill

Submission from the Grassmarket Residents’ Association

The Grassmarket is in the heart of Edinburgh Old Town, an area which in recent years has come under increasing pressure from tourism related activities and other commercial developments. The Grassmarket Residents’ Association (GRASS) was set up in 2009 when local people sought better representation following a major refurbishment of the Grassmarket’s public realm. In the years since then, members of GRASS have participated in several planning consultations, responded to numerous planning and licensing applications, and since 2015, dealt with two major planning applications for hotel and student accommodation developments.

Members of the Grassmarket Residents’ Association are very familiar with the way the current planning system operates and very aware of its shortcomings. The Association is very concerned to see appropriate changes to the current planning system that will lead to a higher quality of development and more beneficial use of the scarce development opportunities in our area and elsewhere in Scotland.

There needs to be a recognition by planning authorities that there is a lot of local experience and knowledge that can make a real contribution to the planning process and good development. This needs to be tapped into, rather than always looking to the world beyond for ideas and resources.

We would like to see the following key measures reflected in the new Planning Bill. We have requested other changes in our answers to the questions.

Greater scope for community involvement in the planning system at all stages with a realistic expectation that the views expressed will be respected and given greater weight in the decision-making process. This includes the integration of the Local Place Plan, where the community prepares one, into the planning system, such that it has be taken into account in decision-making.

An Equal Right of Appeal against a planning decision where it is contrary to the Local Development Plan, is in breach of Council planning policies and/or is overwhelmingly contentious to local residents.

All planning applications where the Council has a financial interest in granting planning permission should be called in by the Scottish Government and scrutinised in an appropriate way before a decision is confirmed.

Responses

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

It is difficult to find in this draft bill any amendments that would significantly improve the current system. It still favours the developer over local people and the general public. The continuing belief that a ‘front-loaded’ system will allow community views to be properly represented, flies in the face of the responses received during the earlier public consultation and the level of public dissatisfaction with the present system.

We are very aware of the failures in the current planning system, in particular, the focus on economic development to the exclusion of other benefits, also the lack of scrutiny after planning consents are granted to see that the promised benefits have been secured. In our view, the outcome is often poor-quality design, inappropriate use of land and property, wasted development opportunities, far fewer jobs than promised and very little local benefit. There needs to be real improvements, not just tinkering at the edges.

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 not clear why the present system deters the building of new houses. Other factors are at play: lack of development and mortgage funding, other more lucrative development opportunities, a fundamentally flawed method of procuring housing, which depends almost entirely on the volume builders, lack of suitable sites, lack of infrastructure, etc.

In the centre of Edinburgh there is fierce competition for sites and an increasing lack of affordable housing. We have sought during the development of the LDP to have sites designated for housing but the Council continues to allocate development sites for ‘mixed use’. These lose out to hotels and student housing, the current favourites for investment. We believe in a good housing mix to support a sustainable community but we have been informed land values are too high to attract social housing. House prices have also significantly increased because of demand from property investors for short term lets which excludes first time buyers and many others from the market.

The failure to promote house-building in the city centre and similar pressured areas, also the reliance on volume builders for housing development, is leading the displacement of people to the outskirts where there may be no transport infrastructure and few facilities, and to the erosion of the greenbelt.

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?

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?

It is very difficult for local community organisations to have a meaningful input into the LDP under the present system of consultation. But the proposal to extend the planning period from 5 years to 10 and remove the Main Issues Report is going to do nothing to rectify this situation so is very unwelcome.

If the Planning system in Scotland is to be a ‘Plan-Led’ one as is claimed by the Government, local communities need to be able to contribute from the start and throughout the various stages of adoption and implementation of the LDP. Extending the period to 10 years and also removing the need for community consultation during any revisions of the Plan will only reduce the role of local communities, especially in rapidly changing areas like central Edinburgh.

We would like to see more scope for community participation in the development of LDPs and this needs to be built into the system (see 6. for our comments on LPPs)

We would also like to see the LDP and the Council’s Planning Policies much more strictly adhered to by the planning authority. We have found the planners only too ready to ignore the designation in the LDP as well as their own planning policies in order to approve applications. This is particularly the case when the Council has a financial interest in the granting of the planning permission. This leads to poor development and also undermines the whole planning system, deterring people from getting involved in what is they regard as a flawed system.

We support any move that puts more focus on delivery of the LDPs.

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

NO. Our experience of dealing with developers is that their interest is short-lived and likely to end when they sell on and move out of the area. We object to any measure that will reduce public scrutiny of development proposals in some ill-conceived desire to make things easier for developers. Communities and the environment have to live with the consequences of the development, the developers don’t.

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?

It is clear that without the threat of challenge at the end of the process by the local community – the people who will be most affected by the development – the developer has no interest in producing proposals that are likely to be acceptable to them. Our experience of dealing with Major Development Applications is that the
Pre-Application Consultations are a huge waste of community time and effort. Any changes to the proposals on the part of the developers have been token and designed to demonstrate to the planning authority that they have undertaken the required consultations. Equally, the planners appear to have ignored the extensive responses by local community organisations at this stage and only accepted responses made after the planning applications were submitted.

Public participation in the preparation of Local Development Plans is limited and difficult to achieve, provisions within the LDP and the Council’s own planning policies are ignored or overridden at the planning stage and decisions by the planning authority cannot be challenged by those who are affected by the decision, only the applicant. The result is very often not just disaffected communities but also missed opportunities, inappropriate land use and poor quality design.

We seek greater opportunities for community participation on Development Planning with real powers to influence local development to the long-term benefit of the area, not the short-term gain of transient developers.

This may include the preparation of ‘Local Place Plans’ but these need to have a formal status within the planning framework and appropriate funding assistance needs to be available. The proposals as described are very unclear. The statement on the flow chart of the Future Process indicates that the role of the LPP has not been thought through: ‘Local Place Plans may be prepared at any time and may be a material consideration in planning decisions. The planning authority must have regard to any LPPs when updating the LDP’. That gives no assurance to any community organisation about to prepare a LPP that their efforts will have any impact on the LDP on planning decisions in their area. This is unacceptable and needs to be given much more thought.

To be very clear, my organisation and others in Edinburgh Old Town have very good ideas about the way our area and the wider city could be developed and are devastated by the many poor planning decisions that have been made in the past few years. We would be very pleased to put our energies into preparing an Old Town Local Place Plan but we are not going to do that without being assured of its status within the local planning system.

We also endorse the need to provide funding assistance to community groups that wish to prepare LPPs, particularly in areas where resources are limited. In England where there is a system of Neighbourhood Plans and local involvement already in place, there is support in the form of grants and a dedicated website. The experience of that system could be a useful model from which to learn and should be studied.

We also wish to see a Development Management System that recognises the role of local community members in responding to planning applications and gives them scope for influencing the outcome of these. The belief that a ‘front-loaded’ system will result in community impact on the developments that subsequently seek approval is just not borne out in practice.
Finally, we believe that there needs to be an Equal Right of Appeal after the planning application has been decided in order to encourage developers to listen to the wishes and the needs of the local people affected by their plans and as a backstop to the decision-making process. In our experience, that cannot be left to the planning authority.

The drafters of this Bill and the politicians who debate it must recognise that there needs to be greater scope for public participation in the developing local plans, not less as there appears in this draft, a greater role in commenting on and influencing the outcome of planning applications and an equal right of appeal at the end of the planning process.

It has to be borne in mind that community groups are volunteers with varied amounts of expertise and that time and adequate resources should be allowed for their responses.

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?

We welcome measures that improve the rate of enforcement of planning conditions. It has always been frustrating to notice the blatant violations that go unchecked. If increasing the level of fines and expenses can fund the staff time and other expenses incurred, that should in theory lead to greater enforcement. It should also lead to fewer violations in the future.

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?

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?

We strongly support the training of all councillors who are involved in planning decision making. Our own experience has often been that, apart from a core of councillors who have clearly studied the planning application under consideration and take part in scrutinising it, a number have appeared to have little interest in proceedings and only there to vote at the end. Training may have been an issue in such instances, but only one of them. It may also have been the level of commitment of the councillor or the politicising of the planning committee decisions. This not supposed to happen but it does.

10. Will the proposals in the Bill aimed at monitoring and improving the performance of planning authorities help drive performance improvements?
Scrubinising the way planning authorities fulfill their planning functions would be welcome but the criteria for good performance need to be debated and agreed before this can happen. Functions such as the planning reporting by officials and the way the decision is arrived at during the planning meeting should be scrutinised.

Our own experience has been that the report by the planning official is sometimes inadequate or biased in favour of the applicant, positively promoting the development when it breaches planning policies and is clearly unacceptable in other ways. The voting at the end can sometimes be almost casual and fail to reflect the importance of the decisions being made. Monitoring needs to be well resourced however, otherwise it may simply be a box ticking about numbers of applications processed and the time taken.

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?

Planning fees should be set in a way that discourages developers from constantly submitting revisions to their original plans.

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

12.1 Conflicts of interest where the planning authority has a financial interest in the granting of planning permission for a particular development.

There is almost no mention of this very serious issue in the Bill. In Edinburgh the Major Planning Applications we have been dealing both involved land that was in Council ownership and which it was being disposed of as part of its ‘Edinburgh 12’ initiative. For the local community this meant that it was very difficult to stop the proposals on the sites.

The idea that the Planning function of the council is separate from the Economic Development one, though true in theory, was very evidently not so in practice. Further, the sales were negotiated behind closed doors and reported to the Council committee under what is called a B agenda, supposedly to protect ‘commercial confidentiality’ so there was no way of knowing the terms of the deals.

This is a very serious issue that needs to be addressed. We are calling for a system that automatically requires planning applications to be scrutinised where the planning authority has a financial interest in the outcome of the application. This used to happen where there was two-tier local government but was lost when the regions were abolished.

12.2 Update of the Use Classes Order to reflect new uses such as apart-hotels and backpackers hostels
At present these all come under the same Use Class but are very different uses with different impacts on local neighbourhoods. This allows a developer to change the plans very late in the day without having to seek revised planning consent.

12.3 A much more rigorous approach to the PAC process

There should be a requirement that applicants demonstrate how they have addressed community concerns during the PAN process. Where this has not happened or the developer has made major alterations to the plans without consultation, they should be required to make revisions to the plans before submitting the planning application.

This requires the involvement of planning officials at this stage of the planning process. At present they only want to know that the developer has held a meeting with the local community and the consultation is just a tick the box exercise. In our experience, any representation made by community organisations or individuals at this stage appear to be ignored by the planning authority.

12.4 Planning ‘creep’

A developer should not be permitted to make multiple alterations to the plans following the initial approval without resubmitting the whole scheme. It is very difficult to deal with a number of small changes and assess the overall impact on the scheme without this provision.

12.5 Planning applications: independent assessments of applicant’s data

In sensitive areas such as World Heritage sites, and when asked for by local communities, independent assessments must be undertaken in order to establish the veracity of applicant’s data, which is often selective in order to favour planning applications.

12.6 The relationship between planning and licensing

We have great concern about the way the planning system often facilitates the obtaining of alcohol licences. From our experience, we have found that once planning consent is granted for change of use to a bar or restaurant, or for a new development with bar or restaurant facilities, it is easy for the applicant to obtain an alcohol licence. This happens even in our area, which is designated as one of ‘over provision’ and where new licences should not be granted.