Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Kirkton Community and Safety Partnership

The Kirkton Community and Safety Partnership (KCSP) is a ‘Neighbourhood Representative Structure’ which Dundee City Council regards as equivalent to a Community Council. We have been asking for years if any organisation outside of Dundee holds us in the same regard and eventually we learnt that no-one else does.

*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?*

The bill is one-dimensional and is focussed almost wholly on building new houses. The KCSP’s experience of the planning system has been appalling and we see nothing in this bill which will improve matters. It has taken repeated requests to get the council to even inform us of planning applications in the area we are responsible for despite us being a statutory consultee. We were not informed at all about a new site for housing being included in the proposed Local Development Plan, despite this site never featuring in the Main Issues Report, Call for Sites or any other plan.

We asked our Councillors about this and the response we got back from just one of them was, after saying ‘Don't shoot the messenger’, that the planning department didn’t need to let us know, they only did the bare minimum in terms of neighbour notification of those living within 20m of the site boundary. This is the typical response we get from our Councillors in regards to anything to do with planning EVEN when it is not covered by ‘quasi-judicial’ and we have explained to them in detail the relevant clause in the Councillor’s Code of Conduct.

The bill does nothing to protect the existing built or natural environment. We live in an area with a garden city design with purpose built green spaces in the community. The council seem determined to build on every single greenspace. They will happily ignore problems such as flooding and pay no regard to biodiversity (they don’t even have the legally required biodiversity duty document). Development is barely planned with piecemeal developments scattered throughout with no thought to infrastructure. The LDP2 Housing Background document for the LDP2 details what proportion of houses are built on planned areas and what proportion on 'windfall' sites. In 2014, every new house in Dundee was built on windfall sites. The KCSP seems to be the only group finding out which local services are over-burdened such as the capacity for the local surgery to take on new patients, and which classes at the local primary have waiting lists.

There is not even scope for discussing an Equal Right of Appeal, so no, we do not feel like we are being taken seriously.
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?

As the bill is currently written, it looks like it will lead to lots of land being bought for housing, but nothing to ensure that quality housing comes forward.

For a community such as ours, which is largely now built out, the language of the bill is about building new housing; why is a community not empowered to say enough is enough when they have the evidence, justification and the agreed will of the community?

We have had to deal with the experience of Dundee City Council, developers (and the companies they employ to provide the supposed independent evidence for planning applications) providing conflicting and contradictory information which says whatever is needed to get past each hurdle in the planning process. What good is a whole load of flooded houses to anybody?

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?

Trying to keep on top of all the things hitting us at a local level meant that we never really were able to engage at a regional level. This comes back to the Council’s Planning Department seeing communities as a barrier or a nuisance rather than an integral part of creating the future. As a result, we get no support or help and have to plough through thousands of pages of turgid documents, fill in awkward documents to respond, and get dismissive and patronising responses to questions.

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?

The bill is doing away with supplementary guidance. There can be important supplementary guidance, such as the Green Networks document in Dundee. It’s difficult enough to get the Council to place any credence on this document despite it actually saying it is a material consideration (planners insist it’s not). That said, we have concerns about some supplementary guidance as Dundee City Council have used it as a backdoor to circumvent the LDP process and bring forward sites for major development (i.e. >50 houses) without transparency to the impact on the community, e.g. environmental impacts like flooding. We have contacted the Chief Planner about this, but not even had an acknowledgement.

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

We have concerns that the Council will not do sufficient upfront work to put in the safeguard for community and environment based on our experience of Dundee City
Council who ignore evidence from statutory bodies such as SEPA and SportScotland.

Communities under the present structure are ignored and engagement is tokenistic. What guarantees would this bill put in place that the community empowerment act and engagement of communities does not continue to be very much council led.

**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?**

Planners are to take ‘regard’ of Local Place Plans. To us, this means that if they don’t agree with our Local Place Plan they will just ignore it.

As a volunteer body, simply responding to the current gamut of planning documents is hard enough. How are we going to cope with creating a Local Place Plan given not only the total lack of support from our planners, but also the total lack of trust the community has in our planners?

At least our area has a community organisation doing this, not all areas of Dundee are covered by either a Community Council or a Neighbourhood Representative Structure. In addition, some of the groups may not even qualify as community groups under the Community Empowerment and this Planning Bill.

We need an independent body to provide guaranteed support on creating Local Place Plans, not the Council’s planners. As the Council’s planners will be the ones taking ‘regard’ of the Local Place Plans, this creates an unacceptable conflict of interest, not least because we have not agreed with their ‘interpretation’ of past representations we have made on planning matters.

When groups or individuals manage to familiarise themselves with the planning process, they are treated as the enemy by some of the council planners – how is this going to be changed. If we ask for clarification on points, we receive sarky replies. The Community Learning Officers supposed to ‘support’ us have no knowledge of, or training in planning. Very often we have to try to explain to them – and they are put in an uncomfortable position as we are questioning the professionalism of their colleagues from City Development.

It would be difficult for us to create place plans as just about every green space is being built on.

**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 in the hands of the Local Authority. We have reported developers to the authority when they have breached conditions in the approval of the Planning
Application. We have had an example where a planner has given the go ahead to ignore a condition for nest sites not to be disturbed despite a councillor directly asking a question about as he was concerned. We have reported others to the Wildlife Crimes Officer at Police Scotland, but as the developers had quickly removed all the evidence, no action was taken.

Dundee City Council has no baseline biodiversity information. It has no Biodiversity Duty document. You think they will enforce anything?

Ultimately, the penalties need to be larger than the profit being made for cutting corners. Councils need to record and report on what checks they have made, what reports have been made by the public and what actions have been taken. We recognise this is an additional burden, but we do not have confidence in the Council’s planning department to act in support of communities rather than developers.

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?

We believe it will be an improvement on the current system – as long as it is actually enforced, and there are no get-out clauses, like splitting a development into smaller sections. In our proposed local development site, the housebuilder wants a reduced number of larger houses (and came out with waffle about these being needed in the area – it’s actually the standard local house type) It was co-incidence that this was just under the threshold where they would have had to pay towards infrastructure.

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?

What are ‘planning matters’? At the moment, the councillors get briefed by the planners on a whole variety of topics – including biodiversity and community consultation. City Development seem to think they are the experts on everything. Some of us witnessed the City Architect ‘explain an ecology report’ to us at a public meeting. It would have been hilarious if it wasn’t so dreadful. If planning has an impact on another area, shouldn’t advocated for that subject brief councillors?

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

Who judges performance? What criteria will be used to show improvement? From this Bill, it would appear that quantity of houses is the be-all-and-end-all. So will a local authority be seen as doing well purely by the number of houses which get built – or will there be measures of quality. How will consideration for the environment;
sustainable transport links; creation of ‘place; integration with existing communities be judged?

**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?**

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

We understand, from talking to community groups from other areas, that we are particularly unfortunate in the dictatorial manner of City Development. We were hopeful that a new Planning Bill would give us some power to have a say against these bulldozing tactics, but are very disappointed in the weakness of the proposed bill. It reads as ‘more of the same’- but probably gives us even less time to respond.

We regard ERA as necessary to stop damage being done to our communities by plans being shoved through for unsuitable sites. We have evidence of flood risk information being withheld and Environmental Impact Assessment screenings and Flood Risk Assessments containing false information. Is anyone interested?

Luckily SEPA took us seriously. The Scottish Government Ministers wouldn’t even agree to give a second opinion.

People who actually live and know the area are quite horrified at this. They don’t trust the council planners. We can’t rely on the Scottish Government as they don’t seem to be bothered about a planning authority putting down factually incorrect information on an EIA screening document.

Why should Community groups put effort into Place Plans? Will they be treated the same way as our submission to the Local Development Plan 2? Dismissed and stuck into a ‘Schedule 4 ‘with all the other representations and punted to the Reporter. How transparent is that? Is that going to encourage people to be engaged?

**Kirkton Community and Safety Partnership**