Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Lynn Watson

This is my revised version.

I was told I needed to corroborate the quotes I’d made in my original version. I’m satisfied that I had quoted fairly – but as I have the only record of who said what at Dundee City Council Committee meetings that I’ve attended, then that is impossible.

I find it interesting that being able to provide evidence for my personal submission seems to be deemed more important than a council providing evidence of what its senior officers advised the elected members…!

I was also asked to comment on the content of the Bill rather than the conduct of a local authority – and ironically that really highlights the problem – no-one’s interested in the real examples. We’re supposed to talk in generic terms about possibilities rather than get a chance to try & explain the years of frustration & hitting our heads off a brick wall. Actually, these stories are very relevant. When the new Bill says community plans should be ‘regarded’ – try & imagine just how much regard some of the characters mentioned will have for anything produced by a community!

We seem to be in a bit of a time warp in Dundee - the council doesn’t seem to have caught up with the supposed ethos of the current planning system - never mind getting ready for a new one!

I’m not going to just answer the questions, as I think there have been some excellent answers given by others. I’ve been very involved in the planning system for the last few years, so I’ll give some examples of my experience. I’m not a planner. I don’t even like planning – but it seems to be a necessary evil that someone has to try & get their head round.

This Planning Bill was supposed to bring benefits to communities. Place Plans – how exactly are we supposed to get all this knowledge and support? What actually happens when members of community groups familiarise themselves with the planning system and read up on good practice? I can answer that one - you are treated like the enemy by council officers (though I’m heartened to hear other local authorities are more welcoming - so you might not have to rely on FOI requests & official complaints to get anywhere).

So, what’s the system here? We are dictated to. Our elected representatives pass questions to the planners, then come back with, ‘I understand that you’ll be
disappointed’ ‘I tried, what can I do’ Recently we’ve had ‘They say it's the old clunky planning system, but it's ok, there will be a new one soon’ This is it. I’ve heard the phrase ‘The tail wags the dog in this city’ so many times. I would love to say that I was hopeful for change with this bill, but truthfully? I don’t think so. Why? It’s still going to be the same people in charge here. With the same attitudes. We’ve found that unless something is written in stone, it doesn’t count.

I (foolishly!) thought that if you looked up what the regulations / guidance/ good practice was on planning matters, then that would be a good place to start. That was a can of worms!

I’m sure you think I’m just bitter & moaning. Or I ‘don’t like change’ – heard them all. I went to the Academy of Urbanism ‘There Goes the Neighbourhood’ conference in Dundee a few months ago. It was such an eye opener. You get to see the potential way that things can be done – with communities involved, designing areas for people to thrive... and then you get back to an announcement that the council planners are going to dump something else on us.

We keep plugging on. More people are getting involved & we’re going to talks and workshops about community engagement and planning. We’re applying for funding for projects – but every time we feel we’re getting somewhere, that brick wall appears. What is going to be done to actually give us some proper standing? Not just to satisfy a tick-box exercise?

A planner at the AofU conference summed up our experience – that we were obviously regarded as ‘low hanging fruit’ – I think that’s very true. It would be interesting to hear what our councillors & other elected members think of that? Our community group is trying to improve things – but we’ve really had no help so far. We need things written in stone.

The proposed new Bill does not safeguard the environment – if anything it streamlines the process by which it can be bulldozed.

We’ve really struggled to ‘work with’ the council. I don’t believe that the proposed centralisation is the way to go through. I’d much rather see communities given the tools and power to question the planning authority, and have the right to receive a civilised response. I’m not talking about differences of opinion, but when the Planning Authority appears to be doing something that really does not match up with what planning documents say should be done.

There are cases where there appears to be a need for some kind of expert explanation for why ‘members of the public’ see things one way and the Planning Authority view it as something completely different.
If a document says on it that it is a material planning consideration, but the planners insist it is not – who is going to settle that?

Or if a Planning Authority insists that something is not contrary to the LDP, but it exists on the LDP as a park & they want to build on it – how does that work?

**Case Study 1. Kingspark (17/00765/FULM)**

This was a site promised to our community by the council when it wanted to get planning permission to build a school on our 5 playing fields (RC school, so caters for half the city).

The playing fields were ‘replaced’ 3 miles away.

We asked what consultation there was with the community before these pitches were taken away?

Apparently there was no need to consult.

The council announced it was going to sell the land for housing.

This process was started by preparing a Site Planning Brief.

All our objections were dismissed. Our whole community felt very unhappy and betrayed.

This is how good ‘frontloading’ is – you just get ignored for longer! I continued gathering information & distributing it. With all the stories of drainage problems, I started asking questions… The council denied that there were any drainage problems on the adjoining site where they had built the school, and responded to my FOI request with ‘no surface water lying’ Hmmmm…

I contacted SEPA. Who sent me a copy of the letter they sent to the council back in 2014, stating their concerns about the flood risk and asking for a clear change of wording in the Planning Brief. That information seemed to have got lost. The site was sold to a developer. They told us they would ‘leaflet the area’, then didn’t. I handed them the SEPA letter.

I send evidence to SEPA – they object.

Developer has another attempt – SEPA still object. But that seems to sum up the planning system – it’s all weighted in the developer’s favour. They get multiple attempts. We get nothing. If I hadn’t contacted SEPA with additional evidence, how closely would they have looked at that Flood Risk Assessment?

We’ve put in a complaint about DCC’s planners. Do you think this community trusts them? We requested a second EIA opinion from the Scottish Government – they refused. Why would we trust this new Planning Bill – we have evidence the proposed set-up doesn’t work!

We are not NIMBYs - apologies, ‘communities with unrealistic expectations’ is the new phrase, isn’t it?

We live in a block, surrounded by busy roads. The local college has expanded. The gymnastics centre has expanded. SoccerWorld was built. A huge RC secondary was built. Now we’re going to have 62 houses dumped on the green space we were promised. We’re going to be left with an area below the guidelines for 1000 people. What was audited as our green space included various buildings & car parks...

**A bit of an analogy** – just to illustrate how members of the public are ‘engaged’ in the formation of the Local Development Plan.

If they’re lucky, they stumble across this...

![Book cover](image1)

![Book cover](image2)

Even full size it’s pretty unreadable – a text readability tool rates it ‘E’ and reckons you’d need an average of 18.8 years of schooling to understand it.
It’s the public consultation for Dundee’s LDP2…

So here’s my version. I’d like your thoughts on this, it’s a very important subject and everyone should be ‘engaged’.

Your submissions should all be sent electronically. Each one requires a new form, with all your details re-entered. You will not be sent copies of your representations.

Indicate section, or page number, what change you would like to make, with justification.

I’ll decide if your comments are relevant or not – and my decision is final.

Here is some background reading that may be vital – or a complete waste of your time. You won’t know until you’ve read it, will you?

You get the idea?

I won’t actually tell you what will happen to these forms that you put your time & effort into – because you won’t fill them in if you know they’re all going to be dismissed and sent to the Reporter. Saves me time – I’ll just do the minimum I need to.

No, it’s not pointless, it bumps up my statistics. Makes it look like I’m consulting people. Yes, I do claim that this engages the local community. Everybody has a chance to respond. It’s a partnership…

That is basically what people were faced with in Dundee City Council’s ‘public consultation’. Even the language of the initial email (if someone managed to find it)
was inaccessible to the vast majority of people. Is that fair? (see Ref 1) Doesn’t this put people off? I’d told a woman, who was unhappy with a development, that the council was consulting on the LDP2 & sent her a link. Her response? “I can’t find the questions”

This process excludes people and is opaque. I find that really insulting. I used to be a teacher, then a learning support assistant. If I’d treated anybody like that, I’d have (quite rightly) been hauled over the coals.

My experience of consultation is not ‘meaningful’ or any of these other buzz words. It’s a tick box exercise. Every time less-than-perfect consultation is mentioned, we get the ‘We’ve gone above and beyond what was required’ speech. Our councillors sit & look sheepish.

And good luck to the Reporter, making sense of our comments. For a plan-led system – there seem to be developments that don’t even feature on any of the myriad LDP2 documents. Or they suddenly crop up.

**Case Study 2 RPCS – Caird Park (16/00577/FULM)**

A lot of the details of this have been covered in the local press, so I just want to mention the themes that illustrate problems with the current planning system – which don’t seem to have been improved in the new Bill.

I raised 2 complaints with Dundee City Council – that they were not following their legal biodiversity duty & did not have a current Biodiversity Duty document. Also that I did not consider the minimum standard for consultation had been met. These complaints were not investigated, so I contacted the Scottish Public Services Ombudsman. DCC told the SPSO it was a quasi-judicial planning matter, so they initially rejected it until I explained that it was not (complaint is still being investigated by the SPSO - CASE_201700130) (attachments included)

Active denial of ancient woodland. After consulting maps we discovered an area of ancient woodland in Caird Park. The council denied this as ‘not the right indicator species’ and ‘too small’. – see Ref 2.

SNH says these are not valid reasons & as we have confirmed that woodland is on Wade map, they consider it is ancient. I requested (FOI) the last vegetation survey of the woodland. This says that Dog’s Mercury (identifying ancient woodland 101!) is present.

The council officers had told the Woodland Trust that they were wrong to claim it was ancient woodland… (Ref 2).
What is going to be done to improve the accurate recording and reporting of habitats/species – and how they should be regarded in planning? I’ve witnessed several occasions where the presence of protected species has been dismissed as 'An ecologist did a walk-through and didn’t see (insert species name)' – giving the implication that it is not actually present in the area.

(Documents at 16/00577/FULM – some have been removed by DCC)

**Common Threads**

I do not believe the planning system is being followed in Dundee. The way it seems to go:

Councillor asks question at Planning committee – given assurance by a senior council officer.

If councillor gets a bit close to saying ‘I don’t think that’s how it should work’ then it is pointed out that councillors have already approved previous stage / related proposal, so it goes round in circles.

Transparency – there is no proper record of who said what at Planning meetings. I don’t know how long journalists keep their notes – so I may have the only record of some claims. Which is a bit worrying.

Should a council’s/ planning authority’s word be taken as gospel? The Scottish Government, SEPA and SNH (& I assume others I haven’t come across yet) seem to rely on information provided to them by the council. What if this information is not actually true? Where is the independent verification? This must impact at a regional level? Do neighbouring areas get treated this badly?

Who polices the planning authority? Did a developer comply with all the conditions?’ If the answer is no, but it’s going to get you some new houses, is that justification for not being too strict?

Does anyone check out positive-sounding initiatives to find out what they really are? Our council claims to have successful Local Community Planning Partnerships (LCPPs).

These seem to be council talking shops, with a few community reps thrown in. Do they discuss planning. No – apparently that’s ‘not appropriate as there’s a rep from City Development present.
What do they actually do? I’m still a bit vague about that – and I’ve been on ours for 18 months!

I give updates on the dog poo bin which has been on the Agenda since I started, as it was installed in the wrong place. (It still hasn’t been moved!) Why can’t we actually invite members of the public and let them set the Agenda – it’s all top-down, but is claimed to be the community’s opportunity to take an active part.

We’re doing our damnedest to improve our area – to make it better for the folk who live here. To let people lead healthier lives & get involved with activities in the community. That’s supposed to be the way things are done? Then why do we keep getting knocked back & let down and nobody will help? We’d love a shot at Place Plans – and have loads of things we want to do. We’ve ordered Richard Guise’s ‘Characterising Neighbourhoods: Exploring Local Assets of Community Significance’ and are ready to start mapping out our community – but at the rate we’re getting built on, we’ll be planning stuff on the grass on our roundabouts!

Yes, I know this sounds negative and moany. Yes, I know it’s focussed on one planning authority – but it has taken up a large chunk of my time & energy for the last few years. Why do I do it? Someone has to. I really want things to change – and if that means sticking in complaints until somebody notices, I’ll keep doing it. So, I’ve dragged myself all through the Planning Bill paperwork & submitted a response to the review & stood up & spoke to the city councillors (there was a glimmer...) and been promised empowerment and...

This is it?

Are you honestly telling me that I live in a country where the government is wringing its hands over even talking about allowing the folk who live here the right to put in an appeal against a development?

Our Government is perfectly happy to give these huge multi-million £ companies the right of appeal. But not us. Because that would be inefficient. Really?? We might slow down planning applications. Where’s the concern about developers screwing up communities?
References.

1. Copy of the consultation email for the LDP2 from Dundee City Council:

Putting the text through a readability score:

https://readable.io/

“A grade level of around 10-12 is roughly the reading level on completion of high school. Text to be read by the general public should aim for a grade level of around
Ref 2.

A letter in relation to the original plans received from the Woodland Trust determined that although Oak Ward Wood does not appear on the inventory, it falls under SNH’s ancient woodland classification. The loss of trees and damage to ancient woodland was raised as an objection to the original proposals. The Head of Environment has advised that as the wood does not support any ancient woodland indicator species, apart from the trees themselves, and does not have a typical woodland structure composed of native species which would be expected in an ancient woodland, that Oak Ward Wood is not an ancient woodland. The fact that it has had tree cover since 1860 does not mean it is an ancient woodland, but just that the site supports a number of old trees. Oak Ward Wood is not on the Scottish Natural Heritage ancient wood map as it does not meet the minimum 2 hectare size criteria. Oak Ward Wood is 0.54 hectares. The Council does however recognise the need to retain and protect old and ancient trees and will continue to do so. The proposals to extend Oak Ward Wood with native species are welcomed. The applicant has re-consulted with the Woodland Trust following the amended proposals and the Scottish Woodland Trust have stated that the revised plans are a significant improvement and do not object to the development in its revised form.

https://www.dundeecity.gov.uk/reports/plan_apps/16-00577-FULM.pdf

Email from SNH:

Hi Lynn,
Thanks for your enquiry, which has been passed to me as the woodland advisor responsible for providing guidance on ancient woodland in Scotland. The definition of ancient woodland in Scotland is “land that is currently wooded and has been continually wooded, at least since 1750”. There is no minimum size. Therefore if your site is on the Roy maps, and there is evidence that it has been wooded since, then it is ancient woodland. It is likely that the distinctiveness of ancient woodland breaks down at some lower size limit, although this will depend on the setting and the wood itself. We have never tried to specify a limit, because it wouldn’t be possible to come up with objective criteria that relate to all forms of woodland.

When the AWI was originally compiled, only woods which were larger than 2ha on the OS 1: 25,000 2nd Series (1956-1979) maps were included. This helped to limit the work involved in producing the AWI – which tended to be more closely linked to the number of sites rather than to their size. However, this is a limitation of the inventory, and not a necessary factor in defining ancient woodland. The AWI is not definitive and should be used with care – our recommendation is that woods not shown on the AWI, but present on the historic maps, are likely to be ancient and should be treated as such unless evidence is available to the contrary.

Further guidance is available on ancient woodland is available on our website at http://www.snh.gov.uk/docs/C283974.pdf, and on woodland more generally at http://www.snh.gov.uk/planning-and-development/advice-for-planners-and-developers/woodlands/.

I hope that helps – please let me know if you have further questions. I’ll be around until about 4.30pm today.

Scottish Natural Heritage
Great Glen House
Leachkin Road
Inverness
IV3 8NW

Info from survey obtained from Dundee City Council through FOI request: https://www.whatdotheyknow.com/request/request_for_vegetation_survey_of#incoming-1055114
Compartment 24: Plantation Broadleaved Woodland (A1.1.2)

This compartment is a belt of steep ground along the burn, mostly on its south side. The woodland is more open and has wetter soils towards the west. In this part, introduced shrubs (snowberry and cherry laurel) are prominent near the path. Further east, the woodland is denser with sycamore and lime, the most obvious canopy trees. Dog’s mercury (Mercurialis perennis), an indicator of long-established woodland, is found in this area; it was not recorded in any other compartment.

Compartment 25: Semi-improved Neutral Grassland (G2.1)