Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Leith Links Community Council

To whom it may concern,

My view is that the Planning Bill is not fit for its intended purpose as currently formulated. How long have we got to rejig it?

At the heart of its deficiency is the absence of any version of an Equal Right of Appeal (ERA), without which all other measures – many of them positive and theoretically helpful – will be rendered of marginal relevance and at risk of paling into insignificance.

Some kind of ERA would transform the system in terms of fairness, perceived and actual, reassuring justifiably concerned citizens that their voices are heard, their local knowledge is respected, their insights are valued, and that under certain circumstances, they have further recourse to a wider airing.

An ERA would also improve the quality of planning decisions – forcing developers to be more socially and environmentally conscientious with their projects, and encouraging planning authorities to be more demanding as well as more nuanced in their application of the letter of the law, taking a broader cognisance of a specific space and its interconnectedness with its wider world, i.e. joined-up thinking.

It would also be a clear indication that the Scottish Government is earnest in its stated intention of extending and deepening community engagement in local planning matters, for which – given the widespread and long-standing dissatisfaction with the planning system status quo – there is such a strong groundswell of support.

How you devise such a fairer formula, I can't advise on. But it must not be beyond the bounds of the boffins to come up with a well-calibrated system. Say you need 50, 100, 250 names to reach a quorum from which you are entitled to appeal? Or maybe 500 Facebook unlikes? What is it for the petitions, at 10,000 signatures you're guaranteed a response from the UK government?

So maybe not an exactly equal right of appeal, but a right more equal than it is now would be good.

How you fund such a fairer scheme is again one for the policy smarts – perhaps developers of a certain scale should build into their project budget a contingency fund for if they get appealed against, to cover a potential community appellant's costs? If money wants to talk, let it pay for the right to do so.

Of course no-one is against development per se – we need more and better housing! And the more affordable the better! – but much of it needs to be more imaginatively conceived, more sympathetically introduced, and more sensitively communicated to
those it chiefly affects, in the first instance the local community, which should be
granted a more central role in its progression.

Nor is there much wrong on paper with the current system’s “presumption in favour
of sustainable economic development” – bring it on! Particularly on the brownfield
sites! – but what counts as “sustainable” in this context is often hard to define and
wide open to varying interpretation.

Much more joined-up thinking could be done on this by and between all layers of
government – Westminster, Holyrood, councils. But for the time being, at a local
level, the feeling is that developers and planners should not be presumed to be in
the right, as a default. For they are often not, even if they do everything by the book.

And the onus to facilitate a mutually agreeable joint occupation of any location –
urban, rural, or out at sea – should rest with the incoming developer and not with the
indigenous occupants of the site, be they man or beast.

The opportunity for greater community participation is welcome but it needs to be
supported with resources to enable that participation. Elected representatives and
community councillors should certainly be given more than a rudimentary
introduction to what is often a labyrinthine set of laws and regulations, which maze is
familiar only to the developers (and the professionals they pay), and the planning
officers themselves.

And it would surely be helpful if there was a concomitant requirement for developers
to become better trained in environmental, social, cultural and community matters
before putting in major planning applications.

Place planning should certainly involve a greater level of community engagement,
with local communities being empowered to play a prominent role at an early stage
in the process and remain in the loop all the way through it. Local Place Plans sound
great, particularly if community bodies are given adequate financial and technical
support to give their input value, meaning and clout.

But again, all hangs on the sense of enfranchisement those community bodies
should be granted in order to operate on a more level playing field, which only
something like an Equal Right of Appeal could provide.

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I would also like to add my name and number to the many others who are urging the
Scottish Government to adopt the Agent of Change principle and enshrine it in our
legislation, as is made possible by the Planning Bill.

Sensibly already in place and in action in England and Wales, it acts as a basic and
vital safeguard against development that is unsympathetic to an environment it
intends to disrupt. Notably, for instance, in situations where existing infrastructure
includes places of leisure and entertainment where live or recorded music is
habitually played.
It is absurd that we are behind our southern cousins in offering this bare minimum of protection to the purveyors and enablers of our musical culture, operating often at its tender grass roots.

The onus to smooth the way for a mutually acceptable joint occupation of a location must surely rest chiefly with the incoming developer and not - to the extent that it currently does - with the established venue on or adjacent to the site.

This shift of emphasis might be seen as vital in a country where the opportunity to play and see live music – such a crucial element of Scotland's cultural offering and indeed identity – should not be exposed to the whim of developers and the arbitrary bite of market forces, at risk of random and piecemeal reduction, in the way that it presently is.

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On Section 75/developer contributions. Enforce them, collect them and use them properly – on local infrastructure and amenities and not to rescue indebted councils from their own financial mistakes, or to plug gaps left by underfunding from and constraints imposed by national government.

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One last bugbear: the length of time available for making responses to planning applications. This is three weeks in Edinburgh – and presumably the same everywhere else in Scotland – and is a ridiculously brief window for folk on the ground (often busy people with a limited grasp of the arcane chicanery of planning law and process) to form a full view of a contentious project, particularly if it is large-scale, and co-ordinate a well-considered response.

In conclusion, we share the concern expressed elsewhere in the evidence before the committee that, if enacted without modification, this Bill would lead to an undesirable centralisation of development planning and a potential reduction of opportunity for communities and individuals to truly influence and challenge the direction of regional and local plans – as well as particular applications in their immediate area. Which would be a retrograde step.

Amend the Bill to include a more balanced weighting of the right to appeal, and something closer to a mutually sustainable parity might be achieved. With benefits all round, not least in the rebuilding of battered public confidence in the planning system as a whole!

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(Planning and licensing sub-group chair)