Local Government and Communities Committee
Planning (Scotland) Bill
Submission from Stephen Cragg

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?

The new Planning Bill does absolutely nothing for communities which are in a situation where the Planning Authority deliberately excludes and ignores them from the planning system. The Planning Bill claims that involving communities from the start will solve the current problems with the system. For example, members of the Kirkton Community and Safety Partnership (KCSP) have been involved from the start (2003) in relation to a local site; the former Kingspark School on Gillburn Road and have seen community wishes constantly ignored. This experience is not a ‘one-off’; look at the recent furore over the new development at the Dundee Waterfront. The Councillors have every right to make planning decisions which the citizens of Dundee do not like, but a lot of the anger about that decision was that many folk did not even know about what was happening until after the event when it's too late.

I appeared at Dundee City Council’s City Development Committee on Monday 22 January 2018 in respect of the submission of the Schedule 4’s for Dundee’s second Local Development Plan on behalf of two local community groups. Despite explaining to the Councillors that the DPEA notes “Feedback from some authorities, who agreed their summary of the representations with the respondents prior to submission for examination found it a useful task and commended this practice.” When I asked for this opportunity, Dundee City Council’s Director of City Development told the committee that this would only apply in exceptional circumstances and rolling this in with other representations who asked for modifications that it would delay the whole process by 6 to 9 months.

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?

‘Increased house building’ is assumed as a ‘given’. At what point did communities lose the right to say “actually, we like the size our community already is”? This is not empowering communities at all.

Is the Scottish Government going to take responsibility when homes (particularly existing homes) get flooded? Our situation has seen the deliberate withholding of flood risk evidence by both the Council planners and the developer. When the completion of the EIA Screening which says ‘no flood risk’ was queried, the Scottish Ministers say this is no problem. What are the Scottish Ministers going to say to people whose homes are flooded?
Developers want to build houses and give as little in return as possible. When these returns are such as can only be lost permanently like open space, biodiversity, play areas which cannot be replaced with a few saplings or some green space 2 miles away, this question betrays the government’s priorities that building new houses take precedence. In our community, the Council is trying to cram houses in everywhere.

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?**

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?**

Local Place Plans – not all areas are covered by groups who can deliver this? Whilst in principle a good idea, until the capacity is there to create these for ALL areas and the legislation to back up the concept this will increase inequality between areas and very probably down the lines of those who can afford to and those who cannot afford to.

Again, the question here betrays the government’s views on the role of communities where they will only get what they would like only so long as it agrees with what planners and developers want. Empowered developers – Yes. Empowered communities – No!

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

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?**

In Dundee, at least, I have no confidence that the planners are impartial and they certainly do not inspire any confidence in me that they will actively work to support communities in planning. The consultation on LDP2 was very ‘hands off’ with simply an offer to talk to communities WITHOUT an explanation of why communities should be involved. Planning Aid Scotland are OK, but they are voluntary, slow to respond and help has been limited.

At the risk of over-loading communities officers, they need training, not in the specifics of planning, but in communicating the importance of planning to the community groups they support.
I would also welcome a more open dialogue with the DPEA (Reporters) office. The abandonment of Inquiries for Examinations skews the process to disproportionately benefit those who are ‘skilled’ in knowing the planning process – i.e. developers and ‘rich’ neighbourhoods. Examinations MUST NOT rely upon the ‘word’ of the Council’s officers (at least in Dundee).

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 needs to be catalogued and monitored at a national level. I would like to see fines incrementally rising for developers who continue to ‘flout’ the rules. This could lead to many ‘spin-off’ companies by the more unscrupulous developers though to avoid the fines and that would need to be tackled somehow.

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 supported in principle. Relying upon developers to provide the services needed to make communities (schools, shops, medical facilities, community centres, electricity sub-stations, sewage treatment plants etc.) is a terrible approach. Many facilities are ‘step change’ where you can’t simply add incrementally to what’s there (e.g. 1/3 of a community centre or 1/4 of a bus does not make sense).

This does however, put an onus on the infrastructure / service suppliers who are not simply just the Local Authority but will include many government agencies and the private sector.

Many of these services are not bound to Local Authority boundaries either; by that I mean development in Angus may require action in Dundee or Aberdeen.

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?

Planning is horrendously complex and this bill doesn’t appear to simply things. Councillors not only need to be trained; I would go beyond that and recommend that the Scottish Government appoints someone from the DPEA to support the COUNCILLORS in every planning authority at planning meetings. It is my opinion that Council Officers, whilst supposedly independent, are often far too embedded in the process, particularly when the planning applicant is the local authority. In Dundee, committee meetings are not recorded, nor is there any formal written record of what advice Council Officers provide to Councillors; this means that I cannot provide evidence to this Bill about what I have personally witnessed happen at Council Meetings as this would be hearsay and as such could be considered as defamatory. This lack of transparency and thus accountability, significantly

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undermines trust in the whole system and means that Parliament cannot act on the
full knowledge of what problems the public have with Planning..

Not only training for Councillors, but for Community Officers too, importantly NOT
provided by the Local Authority Planners but by an independent body such as the
DPEA or PAS.

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

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?

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

There are three parties involved in planning:

- Communities
- Planning Authority (in this case Dundee City Council)
- Developers (who may also be Dundee City Council)

It's not a surprise that developers are out to get maximum profit and thus do the bare
minimum expected of them and in many cases will also cut corners and wilfully
ignore conditions put on them. Search for Persimmon on the internet and it's very
easy to find many examples both locally and across the UK of their disgraceful
attitude to communities and planning conditions set on them.

Thus, you would expect that the Planning Authority would be strongly supporting
Communities especially when the decisions made by the Planning Authority come
from our locally elected Councillors. The Kirkton Community and Safety Partnership
have received virtually no support. It would be interesting to know how well
supported other Community Councils and Neighbourhood Representative Structures
feel about this?

Unfortunately, in Dundee it's the case that the Planning Department and Councillors
simply do the bare minimum to support communities in planning. The planning
department simply say that they are following the absolute bare minimum stipulated
in law and in the case of the site of the former Kingspark School have ignored
recommendations from SEPA in relation to flood risk and did not even notify the NRS
of their intention to zone much of the site for housing. Nearly all Councillors hide
behind the 'quasi-judicial' nature of planning even when their own Code of Conduct
clearly explains that this is not all en-compassing.

This is one reason that the Kirkton Community and Safety Partnership are
supporting Planning Democracy's proposal for an Equal Right of Appeal. Developers have the right to object to a refusal for planning and decision can be
over-turned if they can demonstrate to the Reporter hearing the appeal that there is
a substantive reason that the original decision was wrong. Over the last 5 years, 18 of the 39 appeals made by developers against a refusal for planning permission made by Dundee City Council were over-turned [Table 31, Appeals to Scottish Ministers, 2016/17 Annual Planning Performance Statistics, Scottish Government]. If the Council can get it wrong so many times for refusing planning permission, how can it be fair that Communities cannot appeal against the Council for approving planning permission?

A concern I’ve heard about ERA is that every contentious approval will get bogged down in appeal. Given the experience of being at Development Management (now Planning) committee and seeing the way they are conducted with opponents to a Planning Application not being given a fair opportunity to be heard, this is a possibility. People need to know that they have been given a fair opportunity to put forward their views both for and against a Planning Application; would an independent 3\textsuperscript{rd} party advisor to all parties help – analogy would be similar to court where the judge [3\textsuperscript{rd} party advisor] is there to ensure that the prosecution [planning application] and defence [opponent to planning application] both act honestly so that the jury [Councillors] can make a fair decision.

Notification limited to 20m of the site boundary … how on earth was that distance arrived at? It might be OK for something small, such as the addition of a conservatory, but if you’re talking about building 100 houses, this is ridiculous.

Representation at Council. In Dundee it’s 7 minutes and no opportunity to share anything without if having been ‘interpreted’ by a Council planner.

\textbf{Stephen Cragg}