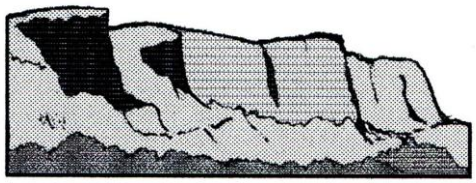

BELFAST METROPOLITAN RESIDENTS GROUP

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Northern Ireland Environment Committee
Call for evidence on proposed 2013 Planning Bill

THE Belfast Metropolitan Residents' Group (BMRG) is an association of community groups drawn from across Belfast and the Greater Belfast region. The BMRG was founded in 1999 to make a community input into strategic planning issues in Northern Ireland, and has since then taken part in numerous public consultations and inquiries, seen Ministers and made presentations to Assembly Committees on a wide range of planning matters.

While we welcome aspects of the Bill, we are extremely concerned about the *adverse* impact certain of its clauses are likely to have both on the construction sector and the wider Northern Irish economy. We are also worried about the damage that the Bill could do to the Regional Development Strategy's (RDS's) prime objective of promoting Sustainable Development. This Bill has interdepartmental implications. If policy is to be coherent we feel that the Ministry for Regional Development and the Regional Development Committee should also perhaps be formally involved.

We regret that the Bill has been introduced without public consultation, and are grateful to the Environment Committee for giving the public an opportunity to make their views known.

Clause 1. Publication of a Statement of Community Involvement

We welcome the timed intention to publish this statement and stress the importance of the Department preparing this statement not in an ivory tower, but in partnership with *bona fide* community groups in order to produce a document that communities can genuinely 'buy into'.

Clause 2. Amendment of the general functions of the Department of the Environment & Planning Appeals Commission to include 'promoting economic development'.

This clause (in conjunction with Clause 6 below), seeks to re-introduce the discredited PPS 24 by the back door. PPS 24 went to consultation at the height of the recession and was rejected by 77% of respondents. Its rejection today would, if anything, be more emphatic.

It also smacks of desperation. Do we really want NI's already permissive planning regime to go the way of those of Portugal, Spain and the Irish Republic? Are these our new role models? Is the Department also determinedly pretending that the recession never happened? Is it aware that this clause lays the groundwork for another round of boom and bust? Can the Department not see that, had these clauses been in place ten years ago, Northern Ireland too would have had ghost estates in every town and city, and five or six times the number of bankruptcies that we have actually experienced?

Giving the industry what it wants is not the answer. The industry's best security lies in strong regulation, that is to say regulation that will save it from its own excesses. This is what enabled the construction sector in NI to get away relatively lightly compared to its equivalent down south, where the regulatory system was bent out of shape by an overly-powerful housebuilding sector and its political allies. This is why England, where the planning regime is more robust again, did not experience anything like the same wave of bankruptcies.

The objectives of sustainable development and improving well-being represent what is best in the NI system. They are our system's intellectual capital. They have served NI better and represent a much more valuable asset than the clause proposed, which sends the industry the wrong message, and will encourage what is worst and most dangerous in it. What is important now is to show vision, and to rebuild the industry on sustainable lines, creating a sector that is both profitable and socially beneficial. 'Giving the industry its head' is the old, failed formula revisited. The Department must rethink this.

To state the obvious, planning is or should be about land use, not about 'promoting economic development', though that may be an indirect spin-off from good planning decisions. Conversely, bad planning decisions can blight an area and deter economic development so planners should be mindful of their responsibilities in that regard. However to emphasise 'economic development' as an end in itself which Planning should promote is to invite planners to compromise the overriding principle of the Regional Development Strategy, the promotion of *sustainable development*.

This Bill asks planners to both uphold sustainable development (i.e. to balance social, economic and environmental objectives) and also give economic development some undefined but separate weight, with a strong hint that it is somehow more equal than others. This is an impossible and contradictory task.

This leads on to the issue of mandate. The RDS was the subject of the most extensive and detailed programme of public consultation ever undertaken in Northern Ireland. This award-winning consultation extended over years, saw large scale community involvement, through hundreds of workshops at a cost of hundreds of thousands of pounds. The ideas derived from this consultation were then evaluated by an independent panel and subsequently modified by the Environment Committee, the Assembly and Executive.

The contents of this Bill, by comparison, have no basis in public consent and not even the flimsiest of consultative mandates. All the proposed amendments should be dropped, bar the introduction of an emphasis on good design, which is not however appropriate to this clause, and should be introduced in less aspirational form elsewhere. The wording of the 2011 Act and the 1991 Order should remain unchanged.

Clause 4. Publicity, etc., in relation to applications

We would like the Department to consider banning applicants from issuing public notice of planning applications during the months of July and December, as publication over and during the run up to the Christmas and July holidays is often in effect pseudo-publication, out of which limited public awareness frequently ensues.

Clause 5. Pre-application community consultation

We are not sure to which class(es) of development this refers, so it is difficult to comment, but our view is that this could potentially be a major legitimising aspect of the Bill, so our hope is that it will apply to a wide category of applications, and that it is being seen by the Department not as an additional piece of box ticking, but as a way of potentially detoxifying the whole process for

applicants and third parties alike. It will not do this however if it is the *applicant* who prepares the pre-application community consultation report. This will undo any good that might be done as reports produced in this way will not enjoy public confidence (the potential for misrepresentation is too great). It is imperative that the Department prepares this report.

Clause 6. Material considerations to include economic advantage/disadvantage.

This clause compounds the confusion created by clause 2.

Economic considerations can already legitimately be recognised as a material consideration in determining an application, but under the overriding principle of *sustainable* development, i.e. development which does not damage the environment or the ability of future generations to meet their own needs.

How though to determine economic advantage/disadvantage? Economists have a poor record in forecasting the economic effects of development, witness the assumption almost universal among those commenting on the housing market that the property boom of c.2000-07 was a permanent phenomenon. They were advocating the release of more greenfield land to meet the alleged 'burgeoning demand' for houses and apartments right up to within weeks of the bubble bursting.

How could the Planning Service hope to assess the advantages/disadvantages of any application from an economic aspect if professional economists are so discredited, and rarely agree among themselves anyway? The scope for prolonging the whole planning process while economic claim and counter-claim is argued on appeal runs contrary to the objective of speeding the process.

More particularly, the Bill makes no provision for any economic claims made in support of a successful application to be subject to subsequent checking, let alone to any means of punishing the applicant if he or she fails to achieve the claimed economic benefit with the development. This would encourage wild unverifiable claims by applicants in support of their application, coupled with extravagant counter claims by objectors about economic disadvantages they would suffer. As the Knock Golf Course planning application revealed clearly, the Department's ability to tell fact from fiction cannot always be relied on.

In this respect the proposed clause is fundamentally at odds with all other aspects of planning policy, where sanctions can be imposed on applicants who fail to observe conditions or fail to build in accordance with the plans which were approved.

Clause 10. Appointment of non-PAC Personnel to oversee Public Inquiries.

Though BMRG members have sometimes been disappointed by PAC decisions, the PAC's independence, impartiality and integrity has never been in doubt. If one MLA's intervention in the Assembly debate on the Second Reading is correct, the PAC already has the power to appoint independent Commissioners in the event of a business overload.

If that is so, then this clause is not needed. If it is not so, then giving powers to the PAC to do so would be highly preferable to the proposal in this clause.

Public confidence in the Planning System is fragile, and for the DoE itself to appoint persons to oversee inquiries would encourage those who view it with cynicism.

Clause 11. Appeals: time limits.

We support the proposed amendment of appeal lodgement times from six to four months.

Clause 13. Power to make non-material changes to planning permission

We are unhappy with clause 37A. 3 (b), 'the power to remove or alter existing (planning) conditions' upon application. These conditions can involve significant elements of the proposal, such as, for example, the number of dwellings appropriate to a site. When set by the PAC, they are worked out in common view of all contributing parties to an Inquiry. They are generally rescinded however in something akin to a vacuum, as any publicity relating to the revision of conditions is generally missed by the exhausted community, which thinks it's all over, with only Department and applicant party to the decision, and Third parties nowhere to be seen.

This is a major source of public disenchantment. It gives the impression of shady deals done behind closed doors. It is also bad in principle, for such decisions should not be made outwith the Inquiry or separately from the holistic consideration of all aspects of the application. *At the very least* there should be an onus on the Department to write to all parties who have made representation regarding the application, inviting their comment.

Clause 19. Tree preservation orders.

We support the proposed amendments to Article 65 of the 1991 Planning Order, and section 125 of the 2011 Act suggested here.

Clause 20. Enforcement.

Planning Service's failure to enforce planning conditions and punish other flouting of Planning Law have been a perennial cause of complaint amongst our members and we welcome some of the provisions of the Bill in that regard.

However we object to the proposal of an amnesty for further breaches of planning requirements once a fixed penalty has been paid. This would perpetuate the current situation where certain developers regard breaking planning conditions and the (not very strong) possibility of being fined, as a small price to pay for the savings accrued by continuing to flout them.

Proposal for an additional clause

A clause to this effect may already be in the Bill, if so, our apologies for having missed it.

We would like to see the Department given the power, indeed being obliged to reject applications for which all the required material is not submitted, even after the Department has requested the additional, missing information. Too often, applicants fail to submit material which is necessary for the Department to make a determination. At present, things sit and sit, with the Department often unfairly then being criticised for failing to make a timely decision. This state of affairs is completely unsatisfactory. If the applicant does not submit all sought or relevant materials within two months of tendering his /her initial application, the application should be automatically rejected and the fee retained. This class of rejections should not be eligible for referral to the PAC.

We trust the Committee will take notice of these views, and wish it well in its deliberations.

Yours sincerely,

Peter Carr

Chairman

Belfast Metropolitan Residents Group