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CBI Northern Ireland submission to Committee for the Environment's Committee Stage of the Planning Bill

Introduction

CBI Northern Ireland is an independent, non-party political organisation funded entirely by its members in industry and commerce. Across the UK, the CBI speaks for some 240,000 businesses which together employ around a third of the private sector workforce. Our membership in Northern Ireland includes businesses from all sectors and of all sizes. It includes the majority of the top 100 companies, small and medium-sized enterprises (SMEs), social enterprises, manufacturers and sectoral associations.

Overview

CBI Northern Ireland welcomes the opportunity to comment on the Committee Stage of the Planning Bill. It will come as no surprise that the subject of planning is of significant interest to our diverse membership. It is vital that Northern Ireland has a planning system that is fit for purpose – both as a means to enable indigenous businesses to grow, and to indicate to those in the foreign direct investment community that Northern Ireland is open for business. Recent months have seen some improvement in the speed of processing of planning applications; however it is vital that we do not rest on our laurels, particularly as we close in on the key dates linked to the establishment of the new local councils and the transfer of the majority of planning power functions to them as well as the Programme for Government target of ensuring 90% of large scale investment planning decisions are made within six months by 2015 and applications with job creation potential are given additional weight.

The reform of local government, one of the key remaining pillars of the Review of Public Administration, has been long in its gestation and CBI Northern Ireland welcomes that we are now approaching its implementation. However, it is paramount that, with the transfer of planning functions, it is both seen and felt to be a seamless process and, for this to be the case, the Northern Ireland Executive and those with leadership positions in local government must ensure that the reform programme goes without any unforeseen hitches or delays.

With the transfer of powers, the development of a Single Planning Policy Statement and the need to maintain an efficient planning system between now and the spring of 2015, officials in the Department of the Environment are under understandable pressure to



David Fry Senior Policy Adviser

DL: 028 9010 1102 **E:** david.fry@cbi.org.uk

deliver. Their work must not be put in jeopardy by an Executive which has, in recent months, lost some momentum on reform and we would strongly urge that Ministers, on this and other areas of public service reform, seek to deliver collective solutions to pressing problems sooner rather than later.

The introduction of this specific Bill is a welcome step given that it seeks to both further deliver on the reform agenda of the current Minister, as well as accelerate many of the reforms contained in the 2011 Planning Act ahead of the transfer of most planning powers to the new local councils in 2015. Our support for the Bill is therefore two-fold: support for the acceleration of reform such as the duty in Clause 22 for statutory consultees to respond within a new statutory period, expected to be 21 days and; support for accelerating reforms that were due to be brought in in 2015 so that, from our point of view, councils, planners and the business community are already familiar with and have confidence in the new system in advance of the transfer itself.

We would also like to take this opportunity to state our view of the critical importance that must be attached to the new council cluster groups working in voluntary, and soon statutory, transition committees to develop and enhance their capacity to deal with the new powers, specifically in relation to planning, that will be at their disposal. Regardless of the issues that remain around the financing of local government reform, each new council should, by way of its cluster, seek to come to terms with its new powers and responsibilities long before the new councils take up their role fully in 2015.

Commentary on Clauses of the Bill

Clause 22: The introduction of a prescribed period for responses from statutory consultees for certain applications is to be strongly welcomed. CBI Northern Ireland members have long held frustrations with the position of the statutory consultees vis-a-vis the perceived holding up of economic development. The introduction of an expected 21-day deadline, unless otherwise agreed with the Department, is an important step forward.

Clauses 1 and 5: While we accept the need for community involvement in the development of most major planning applications as this is best practice, we do have some concern that applicants will now have to give twelve weeks' notice of an application before submitting. In our response to the Planning Reform consultation in October 2009 we also gave our view that such consultations should be voluntary on the part of the developers. However, there is also an argument to suggest that, by having an extended period and subsequent community consultation, developers should further endeavour to submit sound applications which require minimal alteration. On balance however we do believe that, given the separate new addition in the Bill that addresses the promotion of economic development, this is an acceptable clause when viewed in the context of the full Bill.

Clauses 10 and 11: We welcome the reduction in the time limit for submitting appeals to the Planning Appeals Commission from six to four months given that this should enable developments to be commenced at an earlier stage. We also note, and welcome, the additional powers for the Commission in terms of being able to award costs where there is deemed to be unreasonable behaviour of one party in terms of introducing new material at the appeal stage. We however continue to take the view that the Planning Appeals Commission should have continuing flexibility to refuse new evidence if a party is using

delaying tactics and should be able to award costs for unreasonable behaviour. We also believe the appeal can provide an opportunity for parties to engage in dialogue to reach a resolution on issues. We therefore disagree that parties should not be allowed to introduce new material at appeal.

Clauses 15, 19 and 23: In respect of those clauses that deal with costs for various offences, we believe that, as far as is practicable, lengthy legal proceedings should be avoided and it is to be hoped that the consequence of having such penalties in place will encourage developers to both submit sound applications and have due regard to the law throughout. Anyone who deliberately sets out to abuse the system should be penalised by heavy fines commensurate with the breach.

New measures relating to the promotion of good design and the promotion of economic development: As these are new measures that were not contained in the 2011 Act, nor have they been consulted on with stakeholders, it is vitally important that they are of sound intention, especially in the context of the planning reform programme in which they fit. We strongly believe that, where an economic case for development has been clearly put, then that development should take place as long as it fits within existing planning policy. Therefore, we welcome the inclusion in the Bill of the measures to promote economic development. We acknowledge that previous attempts in Northern Ireland to underpin the role of planning in promoting economic development have met with difficulty, and have ultimately been dropped and, while there is undoubtedly a potential that their inclusion in this Bill could lead to protracted debate, we would strongly urge the Committee to reflect on the economic climate with which we are currently faced. That is of course not to say that developers should not have due regard to good design and environmental impacts, but it is to say that a balance that comes out in favour of development is needed. As the Environment Minister indicated in the Second Stage debate of the Bill on 22nd January 2013:

“There is a presumption of development in law. Some people do not like that, but there is a presumption of development in law. The purpose of the planning system is, working from that principle, to then mould planning policy and decisions that take into account all the other factors that properly and reasonably should be taken into account.”

This is a sentiment with which we strongly agree.

Concluding remarks

CBI Northern Ireland therefore broadly supports the introduction of this Bill noting specific areas of policy support such as the statutory period in which statutory consultees will have to respond. We also support the introduction of the Bill as an understandable and sensible means by which the new system can bed in in advance of the transfer of the majority of planning functions to the local councils in 2015. However, we have also been clear that the reform of local government is not an area on which the Northern Ireland Executive can afford to fail. Delivery, and indeed timely delivery, is vital and the business community will expect a seamless transition in the transfer of planning powers in 2015. Anything other than seamless will almost certainly have a degree of detrimental impact on the economy and this is something that Northern Ireland can ill afford.

Over the coming weeks and months CBI Northern Ireland looks forward to playing a role in the monitoring of the local government reform process, the development of the Single Planning Policy Statement and we will have a keen eye on the decision that will at some point be taken on what will constitute a regionally significant planning application, and what will not, in the reformed system.

CBI Northern Ireland

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