

Submission by the Construction Employers Federation to the NI Assembly Environment Committee on the Planning Bill 2013 [NIA 17/11-15]

Introduction

The Construction Employers Federation (CEF) is the main trade association and employers organisation for the construction industry in Northern Ireland. The CEF represents over 1000 companies who between them carry out approximately 75% of the total turnover of the industry in both the public and private sectors. This makes the construction industry one of the largest and most important industrial sectors in Northern Ireland.

If our economy is to recover quickly from the current recession it is imperative that we have an efficient planning system that is fit for purpose, properly resourced and that can deliver a speedy and efficient service. This will give certainty to the process and attract inward investment and stimulate economic growth.

The construction industry contributes significantly to the multiplier effect in the local economy and therefore the CEF supports and welcomes the opportunity to submit written evidence on the draft Planning Bill 2013. We would also welcome an opportunity to appear before the Environment Committee to support the comments made in this submission if this was considered appropriate.

As requested, our comments are structured to address specific clauses of the Bill.

Clause 1 Statement of Community Involvement

This is a general requirement for the Department to establish a policy on involving the community in its functions. CEF has already been in discussions with DOE Planning about how to develop best practice guidance on community involvement on major planning applications.

Clause 2 General functions of the Department and Planning Appeals Commission

CEF supports this clause as it is consistent with the general proposition that development and construction activity is wholly beneficial to the Northern Ireland economy. We particularly welcome the provision in this clause to give consideration to the promotion of economic development when considering planning applications.

Clause 3 Meaning of development

No comments.

Clause 4 Publicity in relation to applications

No comments.

Clause 5 Pre application community consultation

As already stated the CEF has been in discussions with DOE Planning on the joint production of best practice guidance on community consultations. Secondary legislation has yet to determine the specific type of applications where community consultations will be required but this should be a measured requirement for only major applications. It would be totally out of context and unreasonable to apply this requirement to intermediate or minor applications.

Joint DOE/CEF guidance will be welcome by the industry.

With regard to the requirements and desires of the community, these should always only be considered in the context of planning policy and should not become a 'wish list' that can be used as a means to delay development or impose additional cost burdens on development.

Clause 6 Determination of applications

This is consistent with Clause 2 as it confirms that material considerations in the determining of planning applications includes the economic advantages (and disadvantages) likely to result in granting or refusing a planning application.

Again we welcome this as the construction industry can deliver key economic benefits to the local economy. The multiplier effect of the construction industry into the local economy has been well documented. Inward investment by new incoming businesses will provide long term economic benefits to Northern Ireland as a whole. They will however require some certainty in the process knowing that it is not going to take years to get a decision on a planning application.

Clause 7 Power to decline to determine subsequent applications

This should not prevent subsequent applications from being determined if they are clearly distinguishable proposals from those previously submitted.

Clause 8 Power to decline to determine overlapping applications

No comments.

Clause 9 Aftercare conditions for ecological purposes on minerals permissions

No comments.

Clause 10 Public Inquiries: Major Applications

This provision allows the Department to appoint persons other than the PAC to conduct enquiries. This provision may be useful when the PAC is under resource pressure but the type of individual appointed to undertake such inquiries must have an appropriate background and knowledge of planning matters.

Clause 11 Appeals; time limits

Most developers will know within four months whether they wish to appeal or not.

Clause 12 Matters which may be raised in appeal

This is a significant change in appeal practice. It will require applicants to ensure full information is submitted with planning applications. There may however be practical difficulties in obtaining full information before an appeal is scheduled for hearing. This could end up delaying an application until all information is available.

Clause 13 Power to make non material changes to planning applications

This provides for the Department to make minor changes to planning applications and is giving a legislative basis to what we are advised is already an established practice.

Clause 14 Aftercare conditions on revocations/modifications of minerals permissions

No comments

Clause 15 Planning Agreements: payments to Department

No comments.

Clause 16 Increase in certain penalties

Our only comment is that any the penalty that is applied should be commensurate with the scale of the breach of the legislation.

Clause 17 Conservation Areas

No comments.

Clause 18 Control of demolition in conservation areas

No comments.

Clause 19 Tree preservation orders: dying trees

No comments.

Clause 20 Fixed penalties

No comments.

Clause 21 Power of the PAC to award costs

This is welcome as it should help reduce the likelihood of vexatious or frivolous delaying tactics.

Clause 22 Grants

No comments.

Clause 23**Duty to Respond**

This is probably the most important provision in this Bill. It requires consultees to respond within a prescribed period. The industry is suffering from protracted negotiations in the planning process. It is not unusual at present for a planning application to take two years or more to complete. Much of that time delay is caused by the failure of consultees to respond in a timely manner.

The statutory time period has not yet been established. CEF welcomes this clause and we would recommend that the time period in which to respond should be no more than 21 days. In stating this however, we must emphasise that the consultees must give a substantive response within this time period and not hold off until the last day and then submit a holding reply only to take another two years before the matter is dealt with. That would be totally unacceptable. We believe that if that is the case then there should be the right to ask the Department to intervene to require the consultees to give a substantive response within the prescribed time scale and to take enforcement action if this does not happen.

Clauses 24 to 28

No comments.