NI Assembly Environment Committee request for views on NI Planning Bill 2013

Response from J H Anderson March 2013

- **Statement of Community Involvement**

Considerable care will be needed in the defining of Community Involvement and particularly relating to the concept of Community Planning.

In general, whilst a Community will express an opinion on what it does, or does not, want, often with a strong emotional weight of feeling, it is less usual for this to be expressed in a structured manner with reference to Planning Policy statements. Sometimes a Community opinion or input may actually be, in effect, a political or developer lobby, and indeed may have been created specifically for such purpose.

Clearly, it is sound sense to encourage genuine Community involvement in the Planning Process, but it would be a serious mistake to elevate the concept to a status equal to, or above that, of professional Planning Staff and their operation of established policy.

As has happened from time to time in the past, it should be accepted good practice to both assess Community input for the influence of vested interests and to ensure that Communities have impartial guidance available to translate their aspirations into formal and relevant contribution to the planning process.

Clauses 2 & 6 (promoting economic development etc)

It is apparent that Clauses 2&6 as read were not in the paper presented to the Assembly for debate but are a later addition constructed within the Executive.

It is natural to assume that this is a further attempt to embed into the planning process an element of economic gain carrying significant weight, following the failure at Judicial Review of the previous Ministerial inserts.

Considerable risk to proper process would result from the adoption of such ill defined and open ended requirements especially in the light of an apparent wish to bypass the necessary public consultation.

Existing process clearly allows for sustainable economic benefit for the greater good, or disbenefit against the same, to be a material consideration in determining an application. This is quite proper and might apply, for instance, to the construction or expansion of an industrial plant or to certain infrastructure projects.

However, clauses 2&6, lacking definition as they do, will enable and encourage almost every applicant to cite, if they wish, economic development

and the associated wellbeing of the applicant as carrying considerable weight in favour of approval.

This will place considerable onus on planners and subsequently local councillors to assess applicants' economic claims with independent Economic Appraisals (EAs) using bought in expertise. These often commissioned from a core of consultants who will also derive considerable income from preparing EAs for applicants. It also opens the floodgates for a rash of Appeals, JRs and the setting of damaging bad planning precedent in localities where public apathy is prevalent.

It should be remembered that the 'Gold Rush' for planning approvals experienced over the past 10 years, where any development of land was seen primarily as a instrument of economic boom, enabled us to build our way into a double recession. Hardly a recipe for sustainable economic development and well-being?

Clauses 7&8 Power to decline subsequent or overlapping applications

These clauses appear to duplicate legislation already in place since the introduction of the Planning Reform Order (NI) 2006 Article 9 which amended the 1991 Order

The intention is to outlaw the 'twin tracking' of applications. This is a 'tactic' sometimes used by applicants to put planners and the system under severe stress with the aim of 'forcing through' approvals.

As an illustration, the long running Larne Marina Article 31 Application, recently discussed on several occasions by the Environment Committee was allowed to be 'twin tracked' in 2007 (when the 2006 Order was already well established) The ramifications of this have yet to be explored and should also be looked at in respect of the efficacy of the 2013 Bill.

Clause 10 Power of Department to Appoint…

It is unacceptable for the Department to appoint persons to adjudicate on Public Inquiries and Major Planning Applications. It is pointless to invite suggestions that the Department is 'Judge and Jury' and such appointments should be left to the PAC.

Clause 11 Appeals…. time limits for notification

These time limits should be matched by additional limits whereby applicants must submit all relevant material and additional information within a defined and reasonable time. Failure to comply should consistently result in a refusal by default.
Again the example of the Larne Marina Article 31 arises, where the application has been strung out for 13 years at enormous cost to the system in time and resource. Deadline after deadline has been missed by the applicant with the Department apparently powerless to define an end point.

Clause 20 Fixed Penalties

A dangerous lack of clarity in this clause gives the impression that payment of a fixed penalty will (similarly to that issued for a minor traffic offence) draw a line under the offence, leaving the Department unable to either further enforce or to prosecute. This must be clarified or the consequence will be the obvious flaw being exposed in court to the disadvantage of the Department and the public interest.

John Anderson via email