



Planning Bill

Northern Ireland Assembly Environment Committee Call for Evidence

A response by the Royal Town Planning Institute Northern Ireland
March 2013

1.0 Introduction

This document has been prepared by the Royal Town Planning Institute Northern Ireland (RTPI NI) in reply to the Northern Ireland Assembly Environment Committee call for responses to the proposed Planning Bill for Northern Ireland. The submission will be structured to address the specific clauses of the Bill.

The Royal Town Planning Institute (RTPI) has around 23,000 members with over 560 members in Northern Ireland who work in the public, private, voluntary and education sectors and is the leading professional body for spatial planners in the UK and Ireland. RTPI is a charity whose purpose is to develop the art and science of town planning for the benefit of the public. The RTPI develops and shapes policy affecting the built and natural environment, works to raise professional standards and supports members through continuous education, practice advice, training and development.

The aim of RTPI NI is 'to provide a range of services to all RTPI members living, studying and working in NI and to take an active role in the developing planning agenda in Northern Ireland.'

RTPI NI offers this response from the point of view of a diverse and policy neutral professional body committed to supporting devolved government in Northern Ireland.

This response has been formed drawing together following internal discussions and debates amongst the Branch Executive Committee. In addition RTPI NI held a consultation event to promote to our members an understanding of the Planning Bill, encourage members to make individual responses and to encourage discussion and debate around the contents.

The event was held 26th February in the Planning Appeals Commission and was attended by around 30 delegates. Irene Kennedy, Bill Team Leader, Planning Policy Division, DoE addressed the delegates on the content of the Bill. A panel discussion followed, the panel consisted of Irene Kennedy, Peter Fleming Fleming Mounstephen Planning and Neil Dunlop Belfast City Council.

2.0 General Comments

As stated in previous submissions to the Environment Committee RTPI NI remains supportive to the principle of reforming the planning system in Northern Ireland and generally welcomes the proposals contained within the Bill.

The Institute has always promoted the move to local level planning and the development of the planning functions to Councils and has been proactive since this time in working with members and other bodies in preparation of the transition.

RTPI NI welcomes the opportunity to comment on the proposals within the Bill and commends the Environment Committee for the work it is doing in publicising the Bill to maximise the level of stakeholder participation in the Committee Stage of the Bill. In light of this RTPI NI is disappointed that the Bill lacks the opportunity to engage in a full consultation process considering the introduction of specific clauses.

The RTPI NI acknowledges that many of the clauses will require the publication of supplementary guidance and that these will be published in due course with the opportunity for RTPI NI to participate in the consultation process on these documents. This would include details of what is involved in Pre-application community consultation and reports.

In general there is concern from members that the Bill contains unnecessary complexities and that it should be produced in a more user friendly manor. There is a general concern that elements of the Bill are unclear and will result in lengthy legal challenges.

3.0 Detailed comments

General functions of the Department and the Planning Appeals Commission

RTPI NI has engaged in much discussion and debate around the three objectives set out in the Bill –

- (a) Furthering sustainable development;*
- (b) Promoting or improving well-being; and*
- (c) Promoting economic development*

RTPI NI would urge the Committee to consider why the three objectives are accompanied by three different requirements i.e. ‘furthering’ v ‘promoting or improving’ v ‘promoting’ and deliberate standardising the wording to ensure equality of the objectives.

While the Institute welcomes the increased emphasis on furthering sustainable development and the introduction of improving well-being, it is concerned that too much emphasis will be placed on the promoting economic development, especially since economic growth is captured through the ‘triple bottom line’ approach to sustainable development, where social and environmental factors are considered along with economic ones. Therefore, careful and further consideration should be given to this clause and the weight that will be awarded to ‘promoting’ economic development over ‘furthering’ sustainable development.

RTPI NI recognises the importance of economic development and the critical role that planning plays in this, however there is concern that the introduction of this clause will enable applications that promote economic development to take precedent over the other elements of sustainable development.

Sustainable development is at the heart of the Regional Development Strategy and it is important that the regional framework guides how the elements of economy, society and environment complement each other to achieve this and to ensure that the conflict between the three elements does not impact negatively on the aspirations of sustainability.

Planning Policy Statement (PPS) 1: General Principles provides a basis for the consideration of economic factors, in respect of both ‘sustainable development’ and ‘material considerations’.

Furthermore PPS 4: Planning and Economic Development, sets out the Department's planning policies for economic development uses and indicates how growth associated with such uses can be accommodated and promoted in development plans. It seeks to facilitate and accommodate economic growth in ways compatible with social and environmental objectives and therefore sustainable development.

It is important that the continuation of regional economic planning policies is contained within the production of any new single planning policy documents.

There is a concern from some members that through the RDS and PPS 4 there is sufficient policy structure in place to ensure that applications and proposals are given relevant consideration in light of promoting economic growth. The inclusion of this clause within the Bill will add a further layer of legislation which is unnecessary and will result in further confusion and challenge. The issue highlights the complexity of planning, and while motivation behind the introduction of this clause is to make the system simpler there is a danger it will do the opposite.

The tension around the inclusion of the clause promoting economic development is further heightened by the concern that some members expressed with regarding to introducing this ahead of RPA. It was felt that the clause will lead to conflict amongst councils who will be competing for development and will enable the approval of a proposal that may otherwise have been rejected. While RTPI NI is very much in favour and supports the concept of promoting economic development, there is further work needed to ensure that this will not be at the detriment of sustainable development and more information is required as to how this will be controlled, particularly post RPA.

In light of these concerns and the importance of both economic and sustainable development it is proposed that the relevant clauses should be included:–

‘The core function being furthering sustainable development through the promotion of economic, social and environment objectives’

Uniting the important elements rather than allowing for the opportunity to differentiate between them.

Matters relating to planning appeals

There is concern amongst members that the option for appointed persons other than the Planning Appeals Commissions to conduct inquiries and hearings into major planning applications may result in political influencing and control should be in place to ensure this does not happen. It is questionable as to whether the inclusion of this clause is entirely necessary as the PAC are now well equipped to deal with pressures to their operating system.

If there is a real concern that PAC capacity may become a reality, consideration should be given to reciprocal arrangements between mirror organisations elsewhere in the UK, for the use of their trained Inspectors.

More clarification is required for clause 12 as to what will or will not be considered *as (b) and other material consideration*. While the intention of the clause may be to prevent or reduce changes to a

proposal pre appeal, the interpretation of what constitutes other material considerations may undermine this.

Conservation Areas

The current legislation, as found in The Planning (NI) Order 1991 in relation to Conservation Areas, states that *'Where any area is for the time being designated as a conservation area, special attention shall be paid to the desirability of **preserving or enhancing** its character or appearance'*

The clause proposes to introduce a new test that involves

- (a) Preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;*
- (b) Enhancing the character or appearance of that area in case where an opportunity to so does arise.*

Careful consideration must be given to the implication of these changes and how this will impact on the inward investment and development within many of the Conservation Areas within Northern Ireland, in particular within City Centres. This clause causes tension with the concept of promoting economic development, as it is suggesting that a new development that does not enhance the character or appearance of the area will be refused in favour of preserving existing buildings.

There is considerable danger that the interpretation here is development in Conservation Areas is detrimental resulting in derelict buildings and lack of inward investment the consequences of which will be felt in towns and cities all over Northern Ireland. This is further compounded by the subjective assessment of the official assessing what is or is not enhancing the Conservation Area and should therefore be preserved.

It is questionable as to why the Bill is deviating away from the nationally recognised preserve or enhance test that is supported in case law to introduce new legislation that is mildly confusing and open to interpretation and will most certainly be challenged through the courts.

Consultation Responses

RTPI NI would urge the Environment Committee to give consideration to the operational implications of clause 23. Members have expressed concerns as to how faster consultation responses will in reality be achieved. While the motivation behind the clause is honourable consideration needs to be given to the likelihood of consultees sending default responses requesting additional yet unnecessary information to 'buy them more time'. This will result in needless costs and delays for applicants who have to pay for additional and unnecessary surveys and reports.

Final comments

The contents of the Bill reflects the complexities of the planning system in Northern Ireland, the RTPI NI would ask the Committee to consider the necessity for such complex language throughout.

RTPI NI continues to engage with the Department of the Environment and NILGA on capacity building and resourcing on the development of professional training sessions for planners and



councillors. The Bill contains proposals that will require cultural change and additional funding; if funding in particular is critical.

The RTPI NI is currently working with the Department on the development of a single planning policy summit that is supported by the Minister for the Environment. This summit will provide the opportunity for discussion around the development of a single planning policy document for Northern Ireland, addressing concerns and issues from groups and individuals from the public and private sector ahead of the publication of the draft document.