



The Ulster Architectural Heritage Society welcomes the opportunity to submit a response to the Environment Committee respecting the Northern Ireland Planning Bill 2013.

This Bill is being brought forward to legislatively prepare the planning system for a transfer of major planning responsibilities to local councils in 2015. The Society welcomes many of its proposals such as the statement of community involvement; pre-application community consultation; the power to decline to determine overlapping consultations; the increase in fines for environmental crimes; a requirement for a development to enhance rather than merely preserve the character of a conservation area; and the redefinition of demolition in a conservation area to include partial demolition.

Nonetheless certain clauses in the Bill are of grave concern to the Society, and we are convinced that rather than promote the acknowledged aim of current planning reform in Northern Ireland to achieve simpler and speedier planning decisions, the introduction of these clauses would have precisely the opposite effect, and indeed in some cases, for instance clauses 10 and 20, are quite unnecessary.

Dealing firstly with the latter two clauses. Clause 10 would result in a questioning of the legitimacy of any planning decision made by a body appointed directly by the DoE to determine the case; and clause 20, by offering immunity from prosecution once an initial fine has been paid, limits the scope of effective enforcement, an already acknowledged underused and neglected power.

Moving on to those clauses which the Society fears would serve only to impede, and add complexity, uncertainty and cost to the planning system, namely clauses 2 and 6, we offer the following comments:

The Planning Act 2011 contains the objective of furthering sustainable development, which is widely accepted as encompassing the following five pillars:

- living within environmental limits
- ensuring a strong, healthy and just society
- achieving a sustainable economy
- promoting good governance
- using sound science responsibly.

Changes to our planning legislation must perforce seek to address this commitment to furthering sustainable development, and the thrust of our efforts should now be to provide effective, proportionate, clearly understood and implementable legislation and guidance to promote and achieve it.



The Society urges the Committee to recognize that the introduction of an additional and separate objective [enshrined in clauses 2 and 6 of the Planning Bill] to **promote** economic development rather than considering the achievement of a sustainable economy as part and parcel of an assessment of sustainable development, serves only to undermine, delay and thwart such an assessment.

By way of illustration, we would point out that an attempt to fulfil this additional role would be hampered by the absence of a clear definition of the following:

- the meaning of economic development;
- agreed criteria upon which a judgement of economic benefit is to be based - the most commonly accepted being those to be addressed by a suitably qualified expert as part of a *Green Book Assessment*;
- who should benefit – specific individuals or society at large;
- whether it is to be assessed in the long- or short-term;
- staff adequately skilled, trained and resourced to carry out such an assessment;

There will also be added onus and expense on the applicant to produce adequate information and documentation to justify the economic benefits of their proposal, and the inevitable delay and additional expense involved in assessing them.

Furthermore, Clauses 2 and 6 incontrovertibly change the commonly understood and agreed role of planning, enshrined in legislation, to address issues **solely** related to the use and development of land. The introduction of a specific requirement to promote economic development fundamentally alters this recognised role, and attempts thereby to use planning for a purpose for which is neither designed nor authorised under its legislation, opening up a potential area of legal conflict and challenge.

As an organisation specifically concerned with built heritage, UAHS is keenly aware of the added threat posed to this heritage and its potential - recognised in a recent debate in the Northern Ireland Assembly - to deliver long-term sustainable economic gains, by the inclusion in the Planning Bill of an additional, specific, statutory requirement to promote [non-defined] economic development.

We would also like to raise the importance of a third party right of appeal as part of a healthy and robust planning system, and would support measures to achieve its speedy introduction. This crucial check and balance measure would entitle third parties like UAHS to appeal damaging decisions in the same way that developers can appeal refusals, rather than be forced to undertake a



resource-intensive judicial review in the High Court. We firmly believe the introduction of third party right of appeal would result in better quality decisions and environments.

Bearing all this mind, the Society would urge the Environment Committee to revert to the spirit of the 2011 Planning Act, and include economic considerations as partners amongst equals in the factors determining whether a development is sustainable; and to resource and empower Planning Service to introduce legislation and guidance fitted to achieve this aim.

Furthermore, the Society is aware of the considerable amount of work yet to be done, and small staffing resources currently allocated, to ensure the successful completion of the outstanding Planning Policy Statements and *Urban Design Guide* scheduled to be made available for public consultation within the calendar year; and the amount of work yet to be done to draft the intended Single Planning Policy Statement and its supporting guidance. Additional resources may yet be required to achieve these agreed targets, and we would urge the Committee to ensure that this should take priority. The additional work that will inevitably be generated in association with Clauses 2 and 6 of the Planning Bill will inevitably introduce delays and further expense into the system, and hamper the achievement of existing targets.

UAHS hopes these comments are helpful to the Environment Committee, and would be delighted to be contacted by the Committee for further comment and clarification.

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