

PE1518/E

**The Scottish Parliament: Public Petitions Committee PE01518:
Inquiry into Meaningful Public Consultation within the Scottish Planning
System**

August 2014

Planning Aid for Scotland

Planning Aid for Scotland (PAS) is a national charity operating on social enterprise principles, working across Scotland to improve the way people engage with the planning system and helping people to contribute to their communities. PAS's focus is on the wider issue of civic and civil interaction, looking at policy matters in big-picture terms in the context of - but also well beyond - the organisation's most immediate focus of the land-use planning system.

Through its impartial [advice](#), [training](#) and [education](#) services, PAS is actively involved in raising awareness of the opportunities for all people to be involved in planning, and works directly with individuals, Community Councils and other community groups. PAS is especially interested in planning policy and law; engagement and consultation; and involving all groups of society in a transparent and equitable way with planning matters.

PAS welcomes the invitation to provide written evidence to this Inquiry on the basis of the following question: *What are your views on what the petition seeks and the discussions that took place at the meeting on 17 June 2014?*

Planning Reform and Engagement

PAS welcomed as part of planning reforms introduced in 2009 the Hierarchy of Development regulations, and viewed these as a key aspect in achieving the Scottish Government's aim of a more inclusive planning system. PAS considered that the statutory requirement to hold a public event for 'national' and 'major' planning applications would lead at the very least to greater public awareness of larger planning applications that might impact on their local area. PAS also viewed the setting of a 12-week run-in period to the submission as a clear invitation to applicants to consider undertaking a higher and more ambitious level of engagement.

Furthermore, the requirement to invite the relevant Community Council(s) to any PAC event demonstrated the value that the Scottish Government placed upon

Community Councils as the only community group with a statutory role in the planning system. The publication of a Planning Advice Note (PAN 3/2010) dealing specifically with the topic of community engagement in planning further demonstrated this commitment to inclusiveness.

Current Practice

As the legislation current stands, it is PAS's view that there is no illegality in the practice described by the petitioner. However, this does not mean that the practice should be accepted or encouraged, as it clearly conflicts with the ethos of planning reform centred as it was around inclusivity and effective engagement.

A theoretical legal amendment would be to allow planning authorities to require PAC on a discretionary basis eg on contentious or locally important proposals. This very different approach might have some benefits but might also lead to these rulings being challenged and the requirement for complex guidance to planning authorities – and PAS is not proposing this as a solution. Equally, PAS is aware that many planning authorities will be in the habit of suggesting that applicants undertake early engagement on certain 'local' planning applications – and would support this approach.

The problem with the situation as described in the petition is that if developers are seen to be easily able to avoid PAC, this sends out a discordant and confusing message and is likely to undermine confidence amongst key stakeholders, in particular Community Councils.

The 12-week PAC period was clearly based on the belief that the majority of proposals requiring PAC will have a relatively long run-in time before submission, Thus, the 12-week period was seen as an **opportunity to allow the applicant to embed engagement from the outset as part of the whole project process**. There are already plenty of examples of good and excellent engagement, and PAS would suggest that a culture should be created whereby developers view PAC as an opportunity and positive addition to the development process, not as an afterthought or tick-box exercise. If this approach became more widespread there would also be greater public confidence and buy-in, and increased expectation from the public of a higher level of engagement being carried out.

Currently, PAC often manifests itself as an enhanced information-giving/awareness-raising process (not a bad thing in itself but not hugely raising the level of inclusiveness achieved). PAS is aware that certain instances where PAC is required will lend themselves better than others to undertaking a high level of engagement, and that some national or major development proposals will be more contentious than others for affected communities. This is an inevitable outcome of setting a statutory threshold. PAS is aware (anecdotally only) that some developers may see

PAC as a burden rather than an opportunity – if this feeling is widespread it perhaps suggest that message of the benefits of effective community engagement needs to be communicated more strongly by Scottish Government.

In terms of good practice, PAS would also expect that any chartered planner operating under the Royal Town Planning Institute's Code of Professional would act in the spirit of the 2009 Hierarchy of Development Regulations.

Effective Engagement

In a series of responses to Scottish Government consultations (most recently with regard to the revised Scottish Planning Policy) PAS has argued that the level of aspiration associated with engagement in planning needs to be raised.

In 2009 PAS published [SP=EED™](#) (Successful Planning=Effective Engagement and Delivery) – a guide to effective engagement in planning - to dovetail with the reformed planning system's greater focus on effective engagement. The SP=EED™ approach sets three levels of engagement to suit different scenarios, and recognises the inherent complexities of engagement in planning. Thus, not all national or major planning applications will necessarily require the highest level of engagement (Level 3) – but some might. Further promotion of the benefits of community engagement should ensure that developers do not view the process as onerous, rather as one that can help them design a better development proposal and reduce the likelihood of objections.

Possible Actions

Without legislative change there is unlikely to be a definite solution to the issues raised by the petitioner.

It would be useful initially for the Scottish Government to undertake further research into how widespread the practice is across Scotland of applicants deliberately avoiding PAC. This could help inform what – if any – level of action needs to be taken.

If necessary, the issue could be addressed by a two-pronged approach of promoting good practice with regard to PAC, alongside on-going efforts to raise the level of aspiration around engagement in planning – thus ensuring that the message of planning reform is not lost.

A possible course of action could be for letter from the Chief Planner to be sent to planning authorities and planning consultants discouraging the practices described by the petitioner and advising planning authorities how to deal with this scenario (the exact content of this would need to be agreed). The letter might, for example, suggest that if a planning authority identifies that what could clearly be a major application split into

smaller applications, it should invite the applicant to a meeting to discuss the nature of their proposals, their overall impact in terms of the hierarchy regulations, and the associated PAC requirements. Taking this further, it could become the case that not having undertaken meaningful consultation could become a reason to refuse consent. The letter could also re-iterate planning reform's message of raising the level of engagement throughout the Scottish planning system.

In retrospect, these matters might have been better dealt with in the recently revised Scottish Planning Policy, and still could be in its future iterations. If PAN 3/2010 is to be updated, this would also present an opportunity to promote good practice with regard to PAC.

A further option would be for relevant parties (such as Heads of Planning, representatives from the private sector, Homes for Scotland, RPTI Scotland, the Improvement Service and PAS) to form a working group to agree a model of good practice regarding this matter.

If the outcome of this petition does lead to consideration of amending the legislation as it currently stands this would have to be dealt with by due process.

PAS would be keen to be involved in any further research or discussion processes.

Note

PAS would like to clarify that the record of the impartial advice offered to the petitioner through PAS's free advice service does not suggest that the practice of avoiding PAC as referred to in the petition would definitely constitute illegality.

CONTACTS

PAS would be pleased to respond to any queries with regard to this evidence and is always willing to consider a joint venture with the promoters of the call for evidence to take forward further research or training on any aspect of the subject which relates to the core business of PAS.

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