

PE1534/J

Stockbridge and Inverleith Community Council Letter of 22 December 2014

PEO1534: Equal Rights of Appeal in the Planning System

I am the Planning Officer for Stockbridge and Inverleith Community Council and I would like to inform you of my experience of the planning system and my conviction that it badly needs reform. It is heavily weighted towards developers and against the local community. Developers have every advantage in the course of a planning application - they have money to pay lawyers, planning experts and PR firms and indeed may have the influence to have meetings arranged with Historic Scotland and the Scottish Government. Whereas community objectors are not given these same opportunities.

2006 changes to planning legislation

The new legislation of 2006 (which was supposed to promote consultation with the local community) has unfortunately only served to increase the influence of the developers with the planners. The result has been that meetings of developers and their architects with planners before the first PAN is issued can decide the form of major developments before the public has become aware that there is a development mooted. There is little evidence that community views affect development applications.

Problems noted on some important Edinburgh planning applications

I have sat through Development Management Sub-Committee meetings following various large applications in Edinburgh e.g. the so-called Caltongate applications, the Craighouse application and the Edinburgh Academicals application in Stockbridge and I have been involved in several smaller applications. The role of the planners seems to be as partners with the developer from an early stage rather than having a neutral role. In the applications mentioned above, the Local Authority has often failed to apply the policies of the Local Plan and this in a system that is meant to be plan-led.

Councillors have come to Community Council meetings and stated that *'there is a presumption in favour of development'*. And indeed this same phrase was used at a Development Management Sub-Committee by one of the councillors on the committee. A planner also used the same phrase to myself when discussing an ongoing application. There seem to be misunderstandings by Councillors and sometimes by Planning Officers that the system is meant to be *'plan-led'* - i.e. the presumption should be in favour of development that supports the Local Development Plan.

Erroneous information from the developer

An example of advantage given to developers at Hearings to the Development Management Sub-Committee in Edinburgh is that the developer always speaks last. I have sat through cases where the developer gave out wrong information about the

development but because no-one making objection to the application, spoke after them, the errors went unchallenged. Also at Hearings on applications the planners have been known to give erroneous advice to Councillors and this also goes unchallenged. Very occasionally, knowledgeable people listening have been so incensed by the wrong information that they have shouted out from the public gallery only to be ignored. This happened at the renewal of the old permissions for Caltongate where the Planning Officer advised the Convenor that there was no way that renewing all of the old permissions (including LBC permissions) would mean that the Listed Buildings concerned could be taken down because a new application was to be submitted. This was clearly wrong but was not corrected and the committee duly renewed all the consents including the LBC consents.

Judicial Review

The only challenge that the public can make if an application is granted is to try and go to Judicial Review. Judicial Review is a complex and very expensive option. Most communities would not be able to raise the money or have the knowledge to explore this option. Furthermore Judicial Review looks for errors in the process of the decision making and not at the quality of the decision.

Historic Scotland's and the Local Authority Planning Department's loss of role in planning applications

Whereas in the past the public could expect the Local Authority planning departments and government organisations such as Historic Scotland to look at planning applications with concern for the long term public good - this is no longer the case. They all appear to see their role as supporting the developer and enabling planning applications to go through as fast as possible and indeed the Scottish Government seems to encourage them in this. So-called economic development is what the Government wants and this amounts to development at almost any cost. Both the Scottish and UK Governments have consistently weakened planning legislation and continue to do so. They appear to think that this is the only way to get out of the 2008 financial crisis - this is a disastrous, short-term view. Lip-service is paid to involving the public and to the democratic process but in reality the public is seen as a nuisance and ignored.

Public lack of confidence in the planning system

The planning decisions made in Edinburgh have made the public feel less involved and more cynical. When a prominent Councillor at a Development Management Sub-Committee meeting is allowed by the Convenor to speak at length about how he is going to vote for a rugby stadium (including a row of shops) for the Edinburgh Academicals against policy on the grounds that he may then live to see the Scots beat the English at rugby which will be revenge for Culloden; and when Councillors voting on Craighouse say clearly that they don't understand Scottish Planning Policy on Enabling Development and yet vote to grant it; and when Councillors appear to be unfamiliar with Planning Reports or make erroneous quotes on planning legislation – then it is hardly surprising that the public despairs at the quality of decision making and wants a qualified Reporter to look at important applications.

Third party right of appeal

Third party right of appeal would enable the community to have a Planning Reporter look at a planning application. The Reporter is a planning expert and would make a detailed analysis of the case. The Reporter's analysis would help to re-assure the public that the application had been dealt with properly even if they did not agree with its conclusion.

At the very least, if there is no 3rd party right of appeal then the developer must equally have no right of appeal.

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