



The Planning etc. (Scotland) Bill

Response from the Federation of Small Businesses in Scotland

Introduction

The Federation of Small Businesses is Scotland's largest direct member business organisation and campaigns for a social, economic and political environment in which small businesses can grow and prosper. Many business people are regularly involved in the planning system, submitting applications for a variety of measures aimed at growing or diversifying businesses. Similarly, investment in the infrastructure that business depends on - water, waste, transport, energy, and telecommunications - is often dependent on planning approval. As such, we welcome the opportunity to submit written evidence to the Communities Committee as part of the consideration of the general principles of the Bill.

The FSB recognises that the past three years have seen wide-ranging discussion about Scotland's planning system. The FSB has contributed to this discussion in a number of ways; from carrying out our own survey on planning with our members, to responding to consultations on rights of appeal, public inquiries and updating SPPs, as well as working with West Lothian Council to identify how the planning process could be better managed for small business applicants.

Our membership survey, carried out in November 2004, showed that of the 1160 respondents, 30% had been in contact with their local planning department in the previous 12 months, whether applying for planning permission or taking an interest in an application. Unsurprisingly the most common complaint was the time taken to get planning permission.

The debate around planning reform is often polarised, with business interests portrayed as large developers at odds with the community, however we have tried to demonstrate throughout this debate that Scotland's tens of thousands of small businesses are regular users of the planning system and rely upon an efficient, easy to use, effective system to help them start and grow their businesses.

The FSB is broadly supportive of most of the proposals in the Planning Bill – we believe that the proposed legislative changes should enable a more responsive, fit for purpose planning system. We acknowledge however that the detail of many aspects of the Bill will be taken forward at a later stage in secondary legislation. But we are under no illusions that these proposals alone will bring about the desired improvements – increased involvement of communities will, for example, be very difficult and will require (as others have noted) serious commitment from all involved.

Part 1- National Planning Framework

1.1 The FSB supports the development of a robust National Planning Framework (NPF). The new NPF should have clearer links with existing strategic documents, such as the Framework for Economic Development in Scotland.

- 1.2 We note the general concern from some stakeholders (in response to the White Paper) that projects will be approved 'by the back door' through inclusion in the NPF however we welcome the commitment from the Scottish Executive that there will be extensive consultation on the new framework and, in particular, the commitment to publish a consultative draft of the framework.
- 1.3 We believe that the procedures relating to parliamentary scrutiny of the NPF require more detail. An obvious option is for some form of consideration by a parliamentary committee, but 40 days does not seem adequate if the views of external stakeholders are to be sought. We have argued that 40 days is barely long enough for certain pieces of subordinate legislation to be effectively scrutinised by Parliament, therefore it seems unlikely that this would be sufficient time in which to consider such a key document.

Part 2 – Development Plans

- 2.1 The FSB is generally supportive of the proposals relating to development plans. We agree with the logic behind an up to date, plan-led system; however, we have concerns about the need to balance increased certainty - which an effective plan-led system should offer - against the need for flexibility if new opportunities are not to be missed. Whilst the updating of development plans every five years would represent significant progress it is still a long time in terms of business development.
- 2.2 The FSB supports the move towards a single tier of development plans although we had been concerned that Strategic Development Plans (SDP) would start to duplicate the Local Development Plans (LDP) and that the existing problems of two types of plan would re-emerge. We therefore welcome the provisions in the Bill which set out the parameters for SDPs and LDPs, as well as requiring development plan schemes and action programmes. We believe that it is important that planning authorities are realistic in approaching development plans as a means of managing development, rather than directing or manipulating it – this distinction should also be clear to the public.
- 2.3 We welcome the duty placed on key agencies to engage in the development of the SDP although there does not appear to be any detail at this stage on who else should be consulted/engaged in the development of the SDP or LDP (apart from key agencies and relevant planning authorities) although we assume that this will be taken forward in guidance or secondary legislation.

Part 3 - Development Management

- 3.1 The FSB welcomes the proposals to close the 'mezzanine floor' loophole.
- 3.2 We support the principle of a hierarchy of developments so that the complexity of certain types of application is reflected in planning processes, though we believe further consultation on the definitions (or appropriateness of 'cut off' points) will be necessary. We remain concerned that 'local' developments could be seen as less important or less of a priority for planning authorities.
- 3.3 Whilst providing notification of initiation and completion of development does place a new requirement on developers we believe that this is reasonable in assisting the development of a more efficient enforcement regime.

- 3.4 The FSB has consistently supported the adoption of standardised forms in local authorities.
- 3.5 We understand the need to tighten up procedures for retrospective planning applications; however, we believe that it is still the case that there will be genuine mistakes which will require retrospective planning permission and a common sense approach should be adopted in these circumstances.
- 3.6 Early and effective engagement with communities can often lead to the best outcome for both developer and community and the FSB generally supports the principle of pre-application consultations. We are concerned that whilst there are suggestions as to which type of application would be subject to pre-application consultation, this has yet to be tightly defined. As we stated in our response to the White Paper, the guidance on the nature of pre-application consultation should recognise the scale and nature of the proposed development and should not be overly-prescriptive. Hiring planning consultants to manage an extensive local consultation programme is simply not an option for a small business.
- 3.7 We support the measures in the Bill which aim to improve access to information on planning applications.
- 3.8 The FSB supports greater use of hearings. In determining how hearings should take place we believe that it is important to consider the views of the local business community (where they have made representations) as they could add a different (and useful) dimension to hearings.
- 3.9 Many planning authorities already operate effective schemes of delegation and we are not aware of any particular difficulties with this approach, though again there is a need for further consultation on the details of the proposed reviews of delegated decisions. We welcome the proposals in the Bill but acknowledge the importance of retaining accountability in the planning system through the continued involvement of elected members.
- 3.10 We support measures to improve transparency of section 75 agreements but we maintain that such agreements should be used in an appropriate and proportionate manner – the same is true of ‘good neighbour’ agreements.

Part 4 - Enforcement

- 4.1 We have considered the potential for vindictive complaints against developers and the potential for lost income should enforcement procedures be applied in such circumstances, however on balance, we accept that the current enforcement procedures are problematic and broadly support the measures in the Bill.
- 4.2 We particularly welcome the introduction of an enforcement charter. This document should be based on the Enforcement Concordat (to which all Scottish local authorities are signatories). Planning authorities should seize this opportunity to take a fresh look at planning enforcement and consider the findings of the Hampton Report which stresses key principles for effective enforcement regimes e.g. visits based on risk assessment.

Part 5 – Trees

5.1 The FSB notes the provisions in Part 5.

Part 6 - Correction of Errors

6.1 The FSB notes the provisions in Part 6.

Part 7 – Assessment

7.1 Notwithstanding the additional burdens which the new proposals will place on planning authorities, we welcome the audit/monitoring of decision-making by planning authorities.

Part 8 – Financial Provisions

8.1 The FSB remains concerned about lack of resources in planning departments – particularly the lack of planners, however we note that this has been a constant refrain from all those involved in discussions on modernising our planning system and that discussions are ongoing between the Scottish Executive and planning authorities on this matter.

8.2 Whilst we note the potential for ‘major’ application fees to greatly increase in return for timescale agreements, we are naturally concerned that fees for ‘local’ applications will also rapidly increase to cover increased costs by planning departments. This would be disappointing since the Financial Memorandum suggests that costs for dealing with ‘local’ applications may actually go down as a result of greater efficiency. Although businesses will benefit from more efficient decision-making and less delay, surely part of the reason for resolving these problems was to assist economic growth? It therefore makes little sense to place additional costs back on businesses. Fees should be cost recovery for a service and not a disincentive to expand or invest. Lastly, it is worth remembering that applicants increasingly have to provide costly additional material to accompany a planning application – e.g. traffic assessments or decontamination reports.

Part 9 – Business Improvement Districts

9.1 While the FSB remains opposed to the general principle of BIDs we did participate in the Scottish Executive’s working group which considered many of the measures in the Bill. We are pleased that the Scottish Executive has supported the group’s proposals including the provisions that a minimum level of business interest in the proposals be established before proceeding to a full ballot and that a turnout threshold be set at 25% of those entitled to vote. These measures should ensure that a BID will only go ahead when there is genuine business support for the proposal.