

Introduction

As community groups we are seeking to work in conjunction with the Department of the Environment towards a better planning system for all.

For many years within established areas communities have been subjected to bad planning and poor development which has had a negative impact on the area, its surroundings and community. Planning policy is weak and ambiguous and gives benefits to developers and property speculators. Individuals have been able to take full advantage of a growing economy, particularly one that has accelerated at the end of a turbulent period reflected in years of political violence and acts of terrorism. Planning problems have been accelerated under such circumstances due to a system inherited from the years of economic inactivity and one that sought to promote and support development. Under the new circumstances we need a system that offers a balanced and long sighted view to planning in an expanding and growing Northern Ireland with a vibrant economy. There is a need for a planning system that seeks to promote good development whilst offering protection to established communities and areas of architectural significance.

The Northern Ireland Residents' Coalition is a resident-led group and was set up in October 2007 bringing residents and associated groups together. We have organised and facilitated discussions between residents and associated groups to draw together the key issues with regards to planning in Northern Ireland. This document sets out a summary of these points which we agree need to be addressed urgently.

Groups and residents have been represented from as far away as Newcastle, Downpatrick, Bangor, Hollywood, Ballyholme, Antrim, Dunadry, Ballyrobert and various areas of Belfast. Our representations are therefore wide despite limited resources.

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Now that devolution has been re-established we feel that local politicians need to drive forward planning policy in order to rectify the problems that have existed for the last decade or more. Many residents' groups have been formed out of concern at the absence of effective planning policy that seeks to protect the local character, heritage and environment of areas.

Bad development as a result of poor planning structures is evident in how areas now look. Many areas throughout Northern Ireland have been damaged as a result of poor planning regulation and control. Local politicians now have the power to put things right and this is where communities place their trust in hope that something will now be done. We especially put our trust in the new Minister for the Environment (Arlene Foster) and the N.I. Executive that something will be done to protect and save communities from the weight of poor development.

This document sets out what we feel needs to be addressed in order to rectify the problems associated with the current planning system. People have nothing against the Planning Service, but the system that the service has to work within. We understand that Planners are limited in what they can or cannot do due to the current arrangements. The issues have been discussed at length with residents and within groups. We have summarized the issues below to include discussion and explanation. The following deals with policy, appeals and community involvement.

Since the invitation to meet the Minister was confined to residents' associations in South Belfast we feel obliged to restrict our views and comments to issues of concern to South Belfast. However it must be stressed that these concerns are shared by all parts of Northern Ireland. Therefore we are speaking for all the groups in the Northern Ireland Residents Coalition.

1. Views of Government

The House of Commons NI Affairs Committee reported in 1995-96 on the planning system. The report stated that there is:

- i. Ineffective enforcement
- ii. Poor staff performance, especially the use of unqualified staff as a cheap substitute for qualified professional staff
- iii. Soft line taken with infringements through retrospective permission. This has caused great annoyance, especially when retrospective permission was given in cases whenever planning would not have otherwise been allowed. Large developments amended extensively or false information given.
- iv. Little or no monitoring or enforcement of conditions attached to planning permission.

The report further noted that:

- i. There is a higher caseload in NI than in the rest of the UK.
- ii. Much needed reform is only realistic after normal conditions take effect in the province.
- iii. There will be the opportunity to develop blighted sites.
- iv. Enhancement of the role of elected representatives in the planning system is central to building confidence in the system.
- v. Officials have been left exposed to considerable criticism. Cannot place all the blame on the Planning service, which functions in very difficult circumstances.
- vi. There is a lack of democratic control. Public trust will be lacking until there is democratic responsibility for the Planning Service in NI.
- vii. Extended family links are still important in NI.

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Finally, the report recommended that legislation be introduced to:

- i. Strengthen existing enforcement powers, as in GB.
- ii. Include demolition as part of development, requiring planning permission.
(Not introduced)
- iii. Give powers to decline “repeat” applications, where there are no material changes in circumstances. *(Introduced in Article 9 of 2006 Order however does not appear to be practiced.)*
- iv. Reduce the legal complexity surrounding enforcement notices.
- v. Use STOP notices. *(Included in Article 13 of 2006 Order how ever not practiced.)*
- vi. Employ tree protection orders and more protection for listed buildings.
(2003 and 2006 Orders)
- vii. Enable community involvement at an earlier stage in the process.
(‘Statement’ included in Article 3 of 2006 Order.)
- viii. Consider 3rd party appeals as in ROI and introduce safeguards against its frivolous use.

In 1998, a joint publication by Roads Service, Planning Service commented on the need for a holistic design led approach, all working together to create a sustainable environment. **It suggested that financial issues dominated the brief of developers, who regarded the Planning Service and Roads Service concerns as technical requirements to be met in their financial parameters.**

In 2000, Policy Statement 9, dealing with enforcement recommended that for planning procedures and decisions to command respect, it was necessary that the Department employs the following key objectives:

- Remedy the undesirable effects of unauthorised development, including, where necessary, the removal or cessation of unacceptable development.

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- Take legal action, where necessary, against those who ignore or flout planning legislation.

The publication said it is essential that the Department strives to secure these objectives, otherwise the credibility and integrity of the planning system will be undermined.

According to its planning booklets the Planning Service recognises the need to regenerate older parts of the city utilising the many genuine brownfield sites, conserve our natural and built heritage and to involve communities in the decision making process.

2. Views of Public representatives

Responding to government proposals, Rita Harkin, of the Ulster Architectural Heritage Society, has recommended that enforcement fines should be raised to a million pounds (otherwise developers regard fines as expenses), demolition should be considered as part as development, 3rd party appeals be allowed and retrospective permission **not** allowed. She says that at appeals, a Brownfield site is frequently agreed as **any** site within the urban area.

Professor Sharon Turner (Professor of Environmental Law, QUB), writing a few months ago in the South Belfast News, branded the planning system as *unfit for purpose*, saying:

“Staff not well trained not sufficient support from legal expertise to support the system. Government officials are going into court, and being routinely minced by expensive lawyers. They are not enforcing the rule of law.”

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At a BMAP meeting in the City Hall, an architect said: “the only question a developer asks me is ‘what can I get away with’”.

Our politicians have continuously criticised the planning system. At the Deramore Residents’ Association AGM in May 2007 and later at the AGM of the Old Stranmillis Association in October 2007, most of our politicians, including the MP (Alasdair McDonnell), were present and were unanimous in claiming that the planning system was in need of radical improvement. They have written and stated on numerous occasions, for many years, that the planning system is enabling the destruction of the *family ethos* of many areas, by allowing the demolition of family homes, their replacement by apartments or Houses of Multiple Occupancy (HMOs).

Former MP for South Belfast, Martin Smyth wrote in November 2003 to say: “There is neither rhyme nor reason for some decisions of the Planning Service.”

3. Views of Residents groups

For at least 17 years, residents’ groups from the Lower Malone, Stranmillis, Holylands, Lisburn Road have tried in vain to retain a residential area. These areas were well integrated and well supported by schools, and other services. Incremental development of apartments, HMOs, hotels and bars has led to long term residents systematically been driven out by the process of demographic cleansing, resulting in serious social disorder. It is now feared that no area is immune to this process.

The speculative boom has caused a proliferation of apartments and HMOs in these areas. These apartments are too expensive for social needs and many remained unoccupied. The Ormeau Road area of South Belfast, or more specifically the so called ‘Holylands’ area is a key example with many of the implications reflected in the local and regional media. These problems have been caused by a growing University population with no plans put in place to facilitate

the housing needs of students. HMOs have been a common example. These houses have provided low standard housing for students and many others on a low income. The areas have therefore suffered problems associated with anti-social behaviour. A policy has now been drafted. However developers are already adapting by converting houses into apartments which effectively remain HMOs. These problems have now spread into the areas of Stranmillis, the Lisburn Road and Donegall Road. Policy does not exist to protect these areas. The logic of giving over family dwellings to HMO use or flat conversions has to be seriously questioned when there is a crying need for family dwellings (as demonstrated in the Semple Report, 2007) and when there is a large amount of empty flats.

During the same period, all along the Malone Road and in the avenues off it (to include areas designated as 'Conservation areas') residents have had to endure the onslaught of constant building work. As early as 1990 our residents' groups have been writing to politicians warning against overdevelopment. In Feb. 1990, the Deramore Residents' Association wrote to Mr. Needham and Martin Smyth: "The DOE is applying a set of guidelines to each individual application without considering the overall effect. This is leading to a change in the area."

Regarding Conservation areas, safeguards offered through policy are inadequate. These 'protected' areas do not receive the benefits associated with 'Conservation area' status. These areas have been subjected to overdevelopment.

It is now prevalent for houses around 20 years old to be demolished and replaced by apartment blocks. Piney Hills is one of the latest victims. At the other extreme, the Planning Service is allowing massive extensions that tower over neighbouring properties.

Our experience is that both the Planning System and Planning Appeals Commission favour development to the extent that they disregard issues which would cause demonstrable harm to interests of acknowledged importance: i.e. matters which protect the public interest.

Objectors believe that, as these matters are legislated on, they are interests of acknowledged importance. However, the simplistic view of Planning Service and Planning Appeals Commission is that any relevant legislation is outside their remit. Planners have stated to residents on numerous occasions that it is up to politicians to change the system as they are paid to plan on policies available to them.

From the public's perspective, the process is:

1. Planning Application
2. Advertisement
3. Neighbour Notification
4. Council Consultation
5. Expiry of Approval

1. Proposal

The process relies on:

- a) Developers submitting development proposals. Developers often carry out unauthorised works and only submit proposals if / when caught on: obtaining retrospective approval as a matter of course at a later date.
- b) Developers submitting correct information. Developers say they occupy land when they do not. This gains them permission for works on other people's property. Some think this entitles developers to breach their boundaries. Others lack means or ability to fight their corner.

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- c) Developers recording neighbour details. Developers neither know, care or record who their neighbours are. Not recording neighbour information gains planning permission by evading objections / objectors.
- d) Developers submitting plans they intend to adhere to. Non-adherence to approved plans gives developers 'gain' over and above their entitlement: so why should they submit plans which reflect their intentions.
- e) Developers not starting work until they obtain approval. Developers often demolish properties in advance of approval: allowing them to maximise disruption to neighbours: particularly in mid-terraces (see 5).

The present process is heavily dependent on developers being honest. This is not necessarily the case, or in the public interest.

2. Advertisement

Weekly advertisements are in very small print amongst other insignificant advertisements. Few people read them and they pose little risk to developers attempting to gain planning approval without neighbours' knowledge. A favourite developer trick is to time proposals so that an advertisement is placed at the start of a Public Holiday.

3. Neighbour Notifications

Community representatives are not advised of planning applications affecting their areas. South Belfast communities assign volunteers to follow up on applications advertised in the Press. This work is intensive and unpaid.

Our experience is also that developers do not name neighbours within 90 metres of their developments. Most HMO development in South Belfast is in terraces.

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However, it appears to come as a surprise to Planning Service when neighbours come out of the woodwork.

4. Council Consultation

After consideration by Planning Service, proposals are reported to Council, with recommendations to approve or (unusually) to reject. The template report contains a field for number of objections.

Belfast City Council now has a policy of rejecting HMO proposals for the Holyland: and lobbies Government for a moratorium on such developments.

5. Expiry of Approval

Once approval has been given, developers have 5 years to complete works. Our experience is that this gives them several years to pressurise neighbours into vacating their properties. We believe that communities and the Planning Service are intimidated by wealthy developers who readily will threaten legal action; and unfortunately because the planning legislation is either wanting or ambiguous, developers can employ expensive barristers and consultants to finally get planning permission, defying planning guidelines. Too many examples have proved that guidelines without statutory force are worse than useless when they are routinely rubbished at appeal by barristers.

It is now time our politicians tackled this issue of planning. It is the single issue that unites residents not only in South Belfast but elsewhere in Northern Ireland. We want the Planning Service to be given the necessary resources and legislation to enable it to refuse inappropriate applications.

Our residents' groups have met the Planning Service on many occasions and have consistently responded to consultation papers. They have pointed to the need for:

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- A holistic approach to protect against the cumulative effects of piecemeal development.
- Legislation to be strengthened.
- An ombudsman exclusively charged with dealing with planning matters.
- Stronger enforcement.
- Statutory neighbourhood notification.
- No retrospective permission.
- No repeat applications.
- The introduction of 3rd party appeals.
- The protection for listed buildings and trees to enable Belfast to retain a significant part of its heritage.

Clearer policy will make life easier for all. Attempts at compromise by granting permission but imposing conditions are absurd and unenforceable. Conditions are never enforced. The Planning Service cannot expect to be treated with respect unless their policies are clear, consistent, equitable and known to be enforced.

Specifics

Specific issues are set out below under individual subject headings.

1. The presumption in favour of the development.

Planning Policy Statement 1 “General Principles” favours development: by implication favouring developers. It therefore runs contrary to the stated purpose of the Planning Service in not putting the public interest first. As PPS 1 sets out the basis of the planning system in Northern Ireland it is therefore very important in the promotion of good and sustainable planning.

The following sets out a statement contained in Planning Policy Statement 1:

“The Department’s guiding principle in determining planning applications is that development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.” (PPS 1, point 59, page 23)

The above point is a demonstration that current system works from the basis that an application will be granted approval and therefore in favour of the developer/applicant. We feel that Planning Policy Statement 1 (abbreviated as PPS1) is largely ambiguous and in reality supports development without promoting sustainable development that contributes positively to the local environment and community.

PPS 1 is regularly used to support the approval of applications whether good or bad. The policy has never been subject to an equality impact assessment in that it should be assessed with taking into account all parties involved in planning – the community and the developer/applicant. PPS 1 therefore needs to be reviewed and subjected to an impact equality assessment to take note of communities and sustainable living.

2. Enforcement

Enforcement is important for promoting good planning. Currently enforcement is not adequate. Anyone who seeks to develop or make changes to land or a building will be required to apply for retrospective planning permission if reported and caught. In our experience retrospective planning permission is usually granted with few changes enforced. Effective deterrents need to be put in place e.g. Heavier fines or even legal charges brought to an applicant who fails to meet planning requirements. Demolition should also be looked at as an option which would act as an effective deterrent for illegal development.

3. 'Garden grabbing'

'Garden grabbing', a popular term generated by the media, is where residential gardens are developed, usually in established areas. Many areas throughout Northern Ireland have been subject to garden development with plans involving the separation of gardens from established houses to make way for development. This should not be allowed in the majority of cases and we recommend it is examined very carefully. Established gardens subjected to development whether to facilitate the development of houses or apartments is a common feature of urban areas and is damaging local character and heritage. It involves many acts of 'Town Cramming' in the urban area. Development such as this is having a negative impact on community life. Policy is not clear on this issue. Therefore a clearer and more reasonable definition of 'Brownfield site' would be helpful for interpretation.

4. Apartment development

Apartment development has become more common in recent years in areas of Northern Ireland but is proving unsustainable with large proportions of apartment blocks unoccupied. Established houses and gardens are being used to facilitate this apartment development. Apartment development should be restricted in areas with established character. Where it is permitted it should blend in with the surrounding area. As a result many old and established houses are being demolished unnecessarily to make way for apartment development. We need to see established areas with houses protected and not allow the forces of the property market or developers to dictate what is built in areas of established character. It should be kept in mind that under the current property market circumstances apartments are retailing for similar prices to that of houses. The price is essentially reflected by demand, which comes from individuals seeking to rent the property or from a growing population seeking desperately to get onto the property ladder. Apartments are more attractive for builders to build compared to houses as they are generally more profitable. This is an area that

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needs to be looked at carefully in the promotion of sustainable development.

5. Houses of Multiple Occupancy

HMOs have become popular with students, young people and immigrants as they offer cheap accommodation. However they have proven to offer a negative impact especially on areas surrounding the University areas of Northern Ireland. In the past their development has been unregulated and not controlled therefore leading to many of the social problems experienced within modern society.

A draft plan has been developed over the last few years. However its impact will not be felt in many areas of Belfast due to these areas already exceeding the recommended 30 percent cap. Policies need to be developed to assist those areas subjected to HMO over-development.

Policy also needs to keep up to date with market/developer trends. Since the publication of the draft policy on HMOs, developers are already reversing HMOs and creating separate apartments within the same house. Whilst it may be feasible to allow this, it needs to be regulated and restricted as the same social problems experienced in areas will continue.

HMOs, including those that have been converted to apartments offer cheap accommodation for people in the current housing market environment. However if HMOs are allowed to 'dominate' an area it results in negative consequences in the area. Media reports from the Ormeau Road in recent years demonstrate this point.

6. Outline planning permission

Outline Planning permission should be forbidden with full applications only accepted in order to assess the wider implications of the plans on the surrounding area. Outline Planning permission is being applied for offering a vague plan of

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what development will occur if permission is granted. Full applications should only be accepted to allow for a full review of development and its feasibility to include impact on surrounding areas.

7. Conservation areas

Conservation areas have been adopted in recent years to protect areas of architectural importance. However this 'protection' has proven useless with many areas facing change with apartment development, amendments made to buildings and demolition work. Areas of architectural significance therefore need more protection. In line with others areas of the United Kingdom the appointment of dedicated 'Conservation officers' specialising in conservation work would contribute positively to Northern Ireland's local built heritage and environment.

8. Trees

Development has made way for the destruction of trees which add to an areas local character. Tree Preservation orders are not used to the same extent as in the rest of the United Kingdom. Further steps need to be taken to aid their preservation where necessary. In addition to this, areas of 'green' should include gardens and shrubs and such areas need protection (see point 3 on garden development for further discussion).

9. Protection of established communities

There should be a requirement for an Architect to design and develop plans. This is currently not the case.

10. Community involvement

Community activism has been a common occurrence in recent years as people see

their areas falling into poor repair with bad development. It is therefore important to include communities in any consultation exercises with regards to any reform and to include community input in any new system. This will facilitate communities having their say on what happens in their area.

11. Appeals

In our discussions with residents, they support the idea of the Planning Appeals Commission (PAC). However we feel that it needs more resources and a wider remit in order to carry out its work properly. If clear and effective policies are put in place their work load should decrease over time. Currently the body is overworked with appeals many of which are complicated in nature and take time to work through.

In addition to this point people feel that third party appeals should be explored as an option as at present residents feel they have no way of appealing a decision that they feel is wrong. However with clear and strong policy the need for appeal should decline as this is reflected under the current system. Another option may be to devolve planning powers to local councils allowing local accountability and scrutiny of planning applications as recommended in the Review of Public Administration under the new system of local government. This would also be in line with the rest of the UK creating a further localisation of planning which would tie in with the local community structures that exist in Northern Ireland.

Having read the Review of Environmental Governance, 'Foundations for the Future' we would sympathise with the recommendations contained in the report; namely the recommendation for the establishment of an independent Environmental Protection Agency in respect of planning functions. We feel that this would be benefit communities and residents in addressing our common concerns, particularly with regards to planning appeals. This recommendation could be looked at as a new body to replace the role of the PAC with a broader remit and stronger powers.

Conclusion

We wish to work with the Department of the Environment and not against it in addressing the points we have raised in our report. We acknowledge that changes may take time but it is imperative that something is done quickly in order provide immediate protection to areas not only in South Belfast, but across the province. We thank you for your time in hearing our concerns and recommendations. We wish you success in your endeavours in addressing these issues.

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