



**New Town & Broughton Community Council, Edinburgh**  
Comments on Independent Review of Planning Consultation November 2015

**CONTEXT**

- 0.1 Edinburgh New Town & Broughton Community Council covers a rather different type of area from most Community Councils – it is a high density urbanised area, the central business district of Scotland’s capital, has a strong historic character with world heritage status, and also has a large residential component. It has an educated and highly articulate population who care deeply for the quality of their environment. By its nature, it attracts major planning schemes with significant impact including conservation, environmental and traffic. It also hosts numerous cultural events for the benefit of the wider community including large numbers of tourists which, while admirable, can have detrimental impacts on the day-to-day activity of those who live and work in the city. So there are somewhat different pressures here which are not always addressed in the current “one size fits all” planning system.
- 0.2 As Community Councils are geographically based, our experience is limited only to the delivery of the planning service by our own local authority, the City of Edinburgh Council. Therefore, when we comment on the quality or shortcomings of that delivery, it is not always clear to us whether these are the result of regulation, imposed restrictions or guidance within the Scottish Government’s Planning System or whether they are a result of the Council’s own structure, administration, aspirations and skills base. In either case, we trust these comments will be helpful in identifying areas within the planning system which work well, and those where stronger control or direction is needed.

**KEY AREAS OF CONCERN**

We have grouped our comments under the same headings as used in “Review Questions” document.

**1. Development planning**

- 1.1 Previous planning reforms have concentrated on strengthening the economic development component of the planning process. We fully accept that a thriving local economy is required for a successful community, and appreciate that in most of Scotland economic improvement is needed; but Edinburgh, as one of the few high-performing areas, needs more than elsewhere to ensure that economic promotion is balanced by the safeguarding and protection of its other qualities. The current system seems biased in favour of developers, and suggests that the government (and local authorities, following their guidance) do not always appreciate this in their single-minded pursuit of development.
- 1.2 The Development Plan should be the primary document in setting out the city’s aspirations for how it sees its future physical environment. Unfortunately, the current and proposed Edinburgh plans, presumably prepared in accordance with government guidance, do not offer much of this – they are largely summaries of current and proposed development initiatives and work-a-day policies with little sense of inspired vision. There is for instance no acknowledgement of the current “smart city” movement within the plans. A failure to address such issues could leave Edinburgh (and Scotland) behind its competitors on the international stage.
- 1.3 The plans are prepared by the local authority team, with public input coming only through carefully managed consultations. The examination process is too complex and long winded. For genuine citizen involvement, the plans should be devised from the outset in conjunction with and informed by community input, both with the many organisations within the city and with individuals.

- 1.4 The townscape of Edinburgh is unique and much valued, but too much new development relies heavily on undigested international architectural trends which do not take account of Edinburgh's special character, its "DNA". Too many of the plan statements are too vague or subjective or too general to adequately control unsatisfactory development. The local authority no longer has adequate architectural and urban design skills to negotiate better solutions with prospective developers. This is an area in which the government must follow up on its excellent previous "Designing Places" initiative.
- 1.5 Overall, a revised planning system should ensure that the local planning system works more closely with other related areas which affect the physical and social fabric of the city such as economic development, transport, and environment, and also specialist inputs such as health & education infrastructure and utilities providers. It also needs to be sufficiently flexible to take account of the special circumstances which prevail in different areas, and to provide the council and the community with stronger tools to regulate and resist unsuitable proposals, and to then effectively enforce those decisions against those who flout the system.

## **2. Housing delivery**

- 2.1 The NTBCC covers a city centre urban area, so is not directly involved in green belt issues that concern other CCs in the suburban fringe. Instead, the pressure for housing manifests itself in persistent proposals for redevelopment of brownfield sites or those seen as "under-developed". Schemes are often higher, meaner in proportion and of poorer quality design and materials than those they replace. In order to maximise numbers, many developments (including those by Registered Social Landlords, who should be setting an exemplar for other housebuilders) try initially to concentrate on small flats which are not suited to family use, which would then produce a population imbalance – frequently the Planning Officer has to negotiate a change of housing mix as part of the process to achieve more family housing. Clearer direction to private and public sector housing developers is required.
- 2.2 These pressures are fuelled by Government-imposed targets for new housing, apparently predicated on an assumption that Edinburgh will grow at an exponential rate over the next few decades. The figures for this growth, translated into additional households which are the root of pressure on the green belt, come from the Scottish Government. However, despite requests, no clear explanation or justification has ever been offered as to how these figures are arrived at – what factors were used in deriving the projections, how the demand is calculated, or where all the new residents are supposed to come from. The basis for the projections must either be re-examined and new figures brought forward which more closely reflect the realistic situation or the relevant local authority must be given more opportunity to challenge the assumptions.
- 2.3 The city has a strong central area residential component which covers all levels of incomes – something that, although common in mainland Europe, is virtually unique in the United Kingdom. It is valuable in keeping the city alive and also, by the unofficial "policing" it provides, contributes to public safety. However, the perception of many residents that their quality of life is not taken into account when new developments are granted – issues of noise, disturbance, overlooking, reducing daylight etc are given less weight against developers' financial aspirations. Many from the local community do not object to the principle of development of in-fill sites in the city centre but do object to the over-development and intensification of use of these sites, leading to their quality of life being impacted more than is acceptable.
- 2.4 Maintenance of a suitable residential environment is also compromised by a lack of communication between different agencies and an under-appreciation of the detrimental impact which increasing numbers and ever-extending hours of licensed premises, leisure facilities, specialised tenures (e.g. students), festivals, events and non-stop construction work have on the residential environment. Stronger guidance and controlling powers are required within the system to ensure that residents are not driven from the centre.

## **3. Planning for infrastructure**

- 3.1 A major infrastructure issue within the centre is transport. The city is now pursuing a long-overdue parking study to which the NTBCC has responded. However, the increasing density of development and growth of attractions within the city, encouraged through cultural, economic and other initiatives, is not

being paralleled by adequately addressing how to handle the traffic these generate. Apart from the tram, there has been little investigation of innovative new transport initiatives. Traffic levels in the city have reached saturation, reflected in air pollution, gridlock and generally unpleasant and inefficient conditions for all users.

- 3.2 Transport planning in the city currently relies heavily on self-contained “traffic calming” measures which reduce the network capacity without offering viable alternatives. Costly schemes (e.g. city centre traffic scheme, congestion charging, George Street pedestrianisation) fail because they have been conceived in isolation from other aspects of city planning or even other transport initiatives. Provision for cyclists has been perceived as over-generous and disproportionate. The resulting congestion and driver frustration is evidenced in risk taking and aggressive behaviour, which is dangerous to pedestrians and cyclists.
- 3.3 Although there is limited use of “smart” solutions (e.g. real-time bus information, parking apps etc) there is scope for more. For instance, there is no cross ticketing or transfer system or modal co-ordination to encourage more widespread public transport usage.
- 3.4 We are aware that some local authorities in Scotland (e.g. Aberdeen) adopt a more rigorous approach to ensuring that local facilities remain adequate or more than adequate by developing in tandem a separate Infrastructure Plan. There is perhaps an opportunity to either encourage or legislate further in this regard.

#### **4. Development management**

- 4.1 The pre-application process is a good concept – it is helpful for CCs to be involved in dialogue at an early stage – but often there is minimal information on-line, making it difficult to comment meaningfully. Enlightened developers do contact the CC and/or arrange public exhibitions, which are very helpful, but it is not compulsory for them to do so. The recently-developed Edinburgh Concordat is a welcome step in the right direction in support of early engagement but at present this is on a “best endeavours” basis rather than covered by regulation.
- 4.2 The Council planners advise developers on whom to consult. The CC is normally on their list, but it may well be a problem for other organisations whose input could be valuable (e.g. residents’ associations) but are not included.
- 4.3 The feedback from the pre-app process is reported by the developers themselves, and does not always seem to reflect reality – a current major proposal within the CC’s area had, according to the promoters, a largely favourable pre-app public response, yet the application itself generated several thousand negative comments. We would support stronger and clearer requirements that any pre-consultation report from the developer (or representative) accompanying a full planning application must acknowledge and include all comments from the pre-consultation process rather than at present, only a selection.
- 4.4 Planning Committee meetings are web-cast by the Council, which is exemplary and could be required of other authorities; however, individual voting decisions are not published. If these were, it would assist public confidence in responsible decision-making.
- 4.5 Currently only developers have the right of appeal against decisions. The limitations brought in with the previous reforms to curb frivolous appeals have been helpful, but in Edinburgh’s strong economy stakes are high and most developers appeal as a matter of principle. The council’s defence, through lack of resources and suitable staff, is often too weak to withstand a well-equipped developer team. There are many examples where a planning decision has potentially been influenced by the concern that the developer may appeal. This could lead to a timid planning approach with in-built bias.
- 4.6 The NTBCC consider that the government should again examine the inclusion of a third-party right of appeal as a matter of urgency. We appreciate the rights of owners to develop their property within the framework of the planning system, and the general concept that applications should be granted unless there are material reasons not to. Nor would we wish to see a free-for-all where every application could be challenged and delayed. However, on balance we believe that a limited third-party right of appeal (TPRoA) might be beneficial. Experience from other countries with TPRoAs indicate that more than 50% of the appeals by third parties resulted in a change to the original permission granted, typically by adding conditions rather than over-turning it – suggesting that the original decision may often be insufficiently

robust or considered. Particular areas where a TPRoA might be appropriate are where the committee approve proposals in the face of widespread public opposition; where the decision reached by a committee was on a split vote with less than (for example) a 75% majority; where the local authority has a financial or other interest; or where, as in several recent instances, a number of major applications have been approved contrary to the officials' recommendations and indeed to the council's own adopted policies, with no satisfactory explanation or justification for the decisions.

- 4.7 Changes made after consent is granted are rarely advertised or neighbour-notified, even if they may have a major impact on the scale, appearance or function of the building, especially as the purpose of such variations is often to save money by cheapening materials and design details. A more prescriptive definition of "non-material variation" is required to avoid individual planners and authorities taking an over-liberal view to ease workloads. In a heritage area such variations will almost always have a material impact, and should be treated as new applications.
- 4.8 The current system has no effective mechanism for reversing or invalidating an application where erroneous or incomplete information has been supplied. The same is true where demolitions, tree felling etc. are carried out (often at weekends or public holidays) to try and force the local authority to approve a less satisfactory scheme. The system should contain meaningful and punitive penalties of sufficient level to negate any benefits to the developer from such activity.
- 4.9 While the powers granted under the enforcement regulations may well be adequate, we are concerned at the general reluctance by the City of Edinburgh Council to apply the full extent of the rules and regulations, often instead seeking a weak compromise. A current case illustrates this point – even though the Reporter recommended complete removal of a structure, CEC enforcement requested only relatively minor modifications, which were even then only partially complied with. This is in an area where residents have to apply for permission for almost any alteration to their listed buildings. The perceived inability of the Council to enforce its planning decisions adequately, through proper enforcement on developers who appear to flout the rules or worse, demonstrates contempt for the planning system. The government must make it clear that the Council will be expected to exercise its enforcement powers without fear or favour.
- 4.10 In addition to planning, CCs comment on transport, economic and environmental initiatives, which all impact on each other as well as on planning. Getting a "joined up" solution is made difficult by the silo mentality which still pervades local authority thinking.
- 4.11 We are aware of concerns expressed within the community regarding Neighbourhood Notifications. Although the planning documentation needs to include all parties notified of the potential development, this sometimes is not completed in a timely manner, leading to a shortened period for comments or objections to be submitted. Notifications are not required for many types of application but we would support extending Neighbourhood Notifications to include applications relating to Listed Building Consent as a minimum.

## **5. Leadership, Resourcing and Skills**

- 5.1 Currently there is no government-recommended model for how planning delivery should be structured, or what weighting it should be given, within a local authority. In Edinburgh, planning has been moved from the former City Development Department, where it had a close relationship with other functions (transport and economic development) which shape the city's built environment, into a general-purpose community services division where it is just another council service along with waste collection and park maintenance.
- 5.2 This effective demotion suggests a lack of understanding of the potential role of planning by the political leadership and officials. It has not encouraged inspired leadership or direction – the service is now essentially regulatory, processing applications according to procedures rather than setting the pattern of the future city environment. This does not engender professional pride or job satisfaction amongst the planning staff, which shows in the increasing number of errors and unsatisfactory results.
- 5.3 Other functions within the council have been quick to seize the opportunity to fill the void vacated by planning by promoting their own development initiatives, but these then tend to reflect a single narrow

agenda (e.g. economic development, social work, education) rather than being harmonised within the wider context which proper planning should provide.

- 5.4 Situations where the local authority is also party to the development are particularly fraught. Public and private open spaces are an important part of the cityscape; but individual decisions to dispose of sites (e.g. Education selling off playing fields for development because they are “surplus to requirements” for their current philosophy of sport, without any concern for the wider environmental impact) have halved the city’s green space over the last few decades. Once built on, these areas are lost for ever. Stronger regulation for protection is essential, as is a completely independent decision making system when the council has an interest. This could include a third-party right of appeal for applications such as these. A “brownfield” site should not imply carte-blanche to develop to maximum levels without any new open space.
- 5.5 The part of Edinburgh’s urban landscape which lies within the NTBCC’s area – the Georgian new town, its major streets and squares of world heritage quality, the critical skyline – is, together with the Old Town, what defines the essence of the city and attracts tourists (a major contributor to the local economy) as well as encouraging businesses and new residents. The CC is not against good new development, but it must enhance and complement rather than (as in some recent proposals) destroy those very qualities which draw developers here in the first place. The impact on the historic skyline can be a particular issue.
- 5.6 At one time, the city had specialist skills in conservation and design – even a high-profile design initiative fronted by Sir Terry Farrell. Recent restructurings have reduced and diluted these specialisms so that they are now much less widespread and less effective than before. Because the planning service no longer holds a prominent position within the council, vacancies are not being filled and it is severely under-resourced. NTBCC are now seeing applications where through pressure of work essential information has been missed, or conditions omitted from decisions, creating loopholes for unscrupulous developers.

## **6. Community engagement**

- 6.1 We welcomed the role of the government in setting up Community Councils, which has eased the ability of communities to make their views heard. We appreciate that there is some uncertainty about the role and remit of Community Councils, and we are aware that, even within a city like Edinburgh, the Community Council coverage is patchy. Perhaps this reflects the degree of threat and pressures for change which the residents of a particular area perceive; in NTBCC’s case, the pressure is high and we are therefore a very active group who embrace all opportunities open to us.
- 6.2 In terms of community involvement, Edinburgh Council has some commendable elements which a new system could require other authorities to emulate; the webcasts of Planning meetings has been mentioned, and others include weekly lists of all new applications circulated on-line to any organisation or individual who requests them; the Planning Portal is fairly easy to navigate (from a pc or laptop, less so using a mobile or tablet); on-line drawings are usually readable, facilities for making on-line comments are good.
- 6.3 Essentially, the planning system needs to ensure more transparency and equality for all parties, including rights of appeal. It needs to move from a conception that planning is essentially a dialogue between developers and the Local Authority, to an understanding that it must be between those who commission development and the community, with the planners acting as facilitators rather than being an autonomous entity in themselves.

The Edinburgh New Town and Broughton Community Council thanks the Scottish Government for the opportunity to contribute to potential improvements in the planning system, and would be happy to participate in further discussions or events.