

Petitioner Letter of 16 January 2014

Public Petitions Committee  
PE1461 – Interference in the Planning System

**Reply to Scottish Government's Letter of 20<sup>th</sup> December 2013**

Those in our Community behind the above Petition are extremely concerned and dismayed at the Scottish Government's response. The Scottish Government's refusal and indifference in recognising that any interference of the kind described in the Petition should be made punishable as a crime within the context of Planning Legislation, is negligent and wrong. In addition Mr Stewart MSP and Chair of the Petition's Committee made the statement that '*The key point is that any intimidation in the planning process is a matter for the police*' We do not believe this to be the important primary deterrent nor effective identifiable preclusion to any situation involving 'interference in the Planning system' as you will see from our concerns listed as follows;

- a) Scottish Planning Policy emphasises quite clearly the importance of public participation. That principle of participation is backed up at international level by the Aarhus Convention (to which the UK was a signatory) as it grants the public rights regarding access to information, public participation and access to justice in environmental decision-making. Such rights are well established in the Scottish Planning System. There are therefore obligations on all UK planning authorities and indeed Scottish Ministers, to comply with the legislation laid down by the Aarhus Convention. That right to this principle of participation should be, without question, rigorously maintained and protected by our Scottish Ministers and our Planning people alike. Article 3 of the Aarhus Convention states that 'Each Party (i.e. in this case the Scottish Government) shall take the necessary legislative, regulatory and other measures....., as well as enforcement measures to establish and maintain ..... the provisions of this (Aarhus) Convention'.
- b) Without the public or their right to participate on Planning Applications where would the Planning System and its associated elements of democracy be ? The public's viewpoint and their right to be represented is an essential part of any democratic planning process.
- c) Notwithstanding that aforementioned right, any interference of that right would in Planning Policy terms be contrary to the commitment reflected in the Aarhus Agreement and other subsidiary Scottish Government statements of support for the public's right to participate. Whether that right was interfered with in a minor or major capacity is irrelevant – it is the interference and removal or attempted removal of that right to participate that is the critical issue and the definitive theme of the Public Petition as lodged.
- d) To re-address the irresponsibility previously shown for inadequately determining the type or degree of interference that occurred and direct it again to the Police was not the purpose of the Petition. When a structure shows weakness with its stability, it is the foundations that need attention not the ancillary workings that are perpetuated by it. The petition solely sought to highlight and make such interference an unacceptable action within our written Planning Legislation and that such action/s a) be detrimental to any Planning Application's approval and b) create the imposition of a substantial fine for committing such an offence.

The Petition as raised sought to stop this type of unacceptable behaviour and make such changes to the Planning System as would offer proper and adequate protection to all Scottish citizens. Existing Breach of the Peace laws are inappropriate if they are the subject of poor judgement or a matter of opinion determined by one party over another. If people have been removed from a planning process by unfair or unjust means then that is both a serious contravention of the spirit of the Planning System and the dictates of the Aarhus Convention and as such should be recognised as an offence under the Planning regulations/policies.

Without any change to the Planning System and its regulations, the situation as experienced will continue to remain as a fundamental inherent flaw and weakness. As previously mentioned even if evidence is again registered with the Police concerning such interference, the time taken and the failure to re-act immediately or at all, by that body, will mean that any further Planning Applications involving such detrimental distressing interference might be decided upon without any correlation to the levels of interference undertaken or numbers of the public who have been removed from participating. This is why planning change is very necessary so that such interference is punishable and evident under the future determination of any Planning Application, otherwise the distressing situation that was created and the Police ineptitude with our own dilemma will continue to occur unabated.

- e) To quote from the reply letter from Mr Robinson as Planning Policy Manager, he states *“the committee will be aware that the Scottish Government is currently revising Scottish Planning Policy”*. With the situation regarding the Petition, its background and in particular the public’s request for the importance of this matter to be specifically profiled within Planning documentation and legislation, why may I/we ask was this Public Consultation exercise never notified to the Writer or those behind this Petition. The matter, Mr Robinson goes on to say *“was subject to public consultation over summer 2013 attracting over 1600 responses.”* Planning Aid Scotland replied to the Public Petitions Committee on 19<sup>th</sup> February 2013 as did the Scottish Government on 14<sup>th</sup> January 2013 and yet none gave any indication of such a Public Consultation task being performed, despite a mentioned Draft of the SPP being published in April 2013. Mr Robinson goes on to state that *“issues relating to intimidation and harassment” ... “the Scottish Government has not considered that they fall within the scope of the land use planning system.”* We, as members of the public, would very strongly disagree, all for the reasons stated under the headings a), b), c) & d) above and supported by Article 3 of the Aarhus Convention which states that necessary legislative & regulatory measures should be put in place alongside necessary enforcement measures to maintain in this instance the public’s right, at all times, to participate.

To conclude, the Aarhus Convention was signed up to under Government Policy, it had nothing whatsoever to do with Police Scotland nor any modicum of a role they might assume to have in ensuring that public participation was a right bestowed upon the public of this country – that was a prime responsibility of our Government. Therefore the Scottish Government itself has a moral and obligatory duty to ensure that every member of the Scottish public has that right to participate in the decision making processes without fear, favour, victimisation, harassment or having those rights interfered with by any system, person or practice – the Scottish Government in its impasse of blindness should be made to realise this and implement suitable enforcement within its Planning Legislation and act accordingly, that is exactly what the Petition seeks. The UK and Scottish Government has already been found very much at fault for not complying with Article 7 of the Aarhus Convention by not allowing the public to fully participate in the decision making processes over environmental issues. This certainly now raises the question as to how they would

stand with their non acceptance of responsibility and failure to incorporate measures within a Planning System which would further and adequately ensure that every member of the Scottish public has the democratic right to correctly participate and be seen to be fully protected within the Scottish Planning Legislation ?

Yours faithfully

William E. Campbell