

Petition: P-05-843 More third party rights in planning appeals

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Research Briefing:

Petition number: P-05-843

Petition title: More Third party rights in planning appeals

Petition text:

We, the undersigned, call on the Welsh Government to introduce legislation which will grant more rights for third parties to appeal on planning decisions. Currently, even those who are directly affected by planning approvals are considered as third parties to applications and have little or no rights to appeal or even to input into planning conditions. The judicial review process is aimed at developers and the time limit of six weeks to submit such an application is not suitable for community action groups. Third parties should have the same rights as a developer to appeal in planning decisions and should not have to send all communications through the elected ward member.

Background

There is no third party right of appeal against planning decisions in Wales. Under the current planning system, the applicant and the local planning authority are the main parties to an appeal and any other interested parties are classed as a third party.

Applicants may appeal on a range of grounds, including where the local planning authority has refused planning permission or a granted planning permission but imposed conditions.

Welsh Government action

The preparatory work ahead of developing the Bill which became the *Planning (Wales) Act 2015* (the Planning Act), included a review of the planning system in Wales by an Independent

Advisory Group (IAG). The IAG's work considered the issue of third party rights of appeal and [reported to the Welsh Government in 2012](#).

The IAG concluded that the risk of over burdening the planning system did not justify any benefits to be gained from introducing third party rights of appeal. Instead, it identified improved public engagement in Local Development Plan (LDP) preparation and formal pre-application community consultation for major planning applications as more appropriate community engagement mechanisms.

The IAG report states:

3.45 In our view such a significant change risks overburdening the system and shifting resources away from decision and plan making. We believe that the arguments in favour do not justify the burden that would be placed on the Planning Inspectorate and LPA [local planning authority] planning officers. We are satisfied that the problem applications cited to us during the debate are not the norm and do not justify the shift of resources implied by the introduction of third party appeals. We do not consider that a third party appeal right would benefit those sections of the community who are traditionally seldom heard. Resourcing confidence in the planning system is a better solution. Most importantly, none of those arguing in favour were able to produce a set of clear criteria that did not run the risk of abuse of the right of appeal by people acting in a vexatious manner.

3.46 Our conclusion is that measures are needed to ensure those who may be affected by a development are made aware of it from the earliest stage and those who consider they might be affected are given every opportunity to be heard. Front loading the planning process and involving third parties in planning decisions from the earliest stages would address the types of problems that have been described to us and go some way towards improving public perception and confidence in the planning system. ...

...

3.52 In summary, we do not consider there is a case for introducing third party rights of appeal in Wales. The issues that were raised with us can be overcome by other measures to ensure that the rights of the public to be involved in decisions affecting them are properly protected. We make a number of recommendations ... designed to widen public involvement in the planning process.

The IAG's full consideration of the issue can be seen on [pages 23 to 25 of the report](#).

The letter from the Cabinet Secretary for Energy, Planning and Rural Affairs, Lesley Griffiths, to the Committee (dated 25 September) reiterates the IAG's position:

Since that time [of the IAG report] no persuasive evidence has emerged to suggest the introduction of a third party right of appeal would be a step forward or an improvement in the planning system. We remain of the view, therefore, it would not be appropriate to introduce such changes to the planning appeals process. Ensuring we have up to date LDPs which have been subject to comprehensive public engagement is the best way to ensure the rights of all groups are taken into account when planning decisions are made.

National Assembly for Wales action

During the passage of the Bill for the Planning Act through the Fourth Assembly, the then Environment and Sustainability Committee received some evidence in favour of introducing a third party right of appeal in certain circumstances, for example when an approval is contrary to the area's adopted LDP. However, the Committee decided against making a recommendation in this area in its [Stage 1 Report](#).

As noted in the Cabinet Secretary's letter, also during the passage of the Bill through the Assembly, [opposition Members proposed amendments](#) to include a 'community right of appeal' in the Act. The amendments were defeated and did not therefore find their way into the Act.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.