

Scottish Wildlife Trust



Public Petitions Committee

Consideration of petition PE1534

Calling on the Scottish Parliament to urge the Scottish Government to review the current rights of appeal within planning and other consenting processes which give deemed planning consent, considering the benefits of widening the scope of appeal, and providing an equal right of appeal.

PE1534/A

The Scottish Wildlife Trust welcomes the opportunity to provide evidence to the Public Petitions Committee regarding petition PE1534.

The Scottish Wildlife Trust's central aim is to advance the conservation of Scotland's biodiversity for the benefit of present and future generations. With over 37,000 members, several hundred of whom are actively involved in conservation activities locally including planning, we are proud to say we are now the largest voluntary body working for all the wildlife of Scotland. The Trust owns or manages over 120 wildlife reserves across Scotland and campaigns at local and national levels to ensure wildlife is protected and enhanced for future generations to enjoy.

The Scottish Wildlife Trust comments on planning matters in line with the Trust's policy on planning¹. The Trust's planning policy states:

Inappropriately located and badly designed developments have significant, detrimental impacts on Scotland's biodiversity and on people's quality of life. Scottish Wildlife Trust believes the planning system needs to be well informed, organised and implemented in a way which ensures Scotland's biodiversity is adequately safeguarded and enhanced. We believe that the planning system should act as a guardian for biodiversity and actively support and promote its conservation, enhancement, restoration and expansion.

With regard to the Trust's engagement with Scotland's planning system, the Trust makes representations to inform both development planning and development management, where appropriate and capacity allows. The Trust has also contributed to the shaping of National Planning Framework 3 and Scottish Planning Policy through the Scottish Government's consultation process.

The Trust also supports Trust members who act as planning volunteers; planning volunteers are trained by the Trust and respond to planning applications locally and in line with Trust policies to achieve positive outcomes for wildlife (which also adds value to local people's quality of life too).

With regard to the consultation and engagement the Trust believes:

The planning system should encourage a wider participatory, consensus-driven approach to decision making. Consultation processes should be inclusive of all available specialist local knowledge, expertise and experience. Whether the process is the formulation of policy or the

¹ See:

http://scottishwildlifetrust.org.uk/docs/002__057__publications__policies__Policy_on_the_planning_system__June_2012__1339581875.pdf

determination of a development proposal at a national, strategic or local planning level, the involvement and consultation of specialist nature conservation groups is essential to the development of well-informed decisions. We believe third parties with specialist local knowledge and expertise, who are currently out-with the statutory consultation process, should be given the opportunity to respond to decisions at all phases in the planning process.

The Scottish Government's recently revised planning policy states, inter alia, that

“all those involved with the system have a responsibility to engage and work together constructively and proportionately to achieve quality places for Scotland.”

And that:

“Throughout the planning system, opportunities are available for everyone to engage in the development decisions which affect them. Such engagement between stakeholders should be early, meaningful and proportionate. Innovative approaches, tailored to the unique circumstances are encouraged, for example charrettes or mediation initiatives. Support or concern expressed on matters material to planning should be given careful consideration in developing plans and proposals and in determining planning applications. Effective engagement can lead to better plans, better decisions and more satisfactory outcomes and can help to avoid delays in the planning process.”

With regard to the ambition of the Scottish Government to achieve a 'front-loaded' planning system where effective engagement leads to better planning outcomes, the Trust believes the system as enacted at local authority level may not always live up to Government expectations. Because of this, the Trust has sympathy with the petition put forward by Planning Democracy which stated in its evidence session that:

“People do not feel listened to when it comes to key development decisions. The promises of better participation are not working in practice.”

The Trust has a current example in which a planning volunteer making a representation regarding a planning application on behalf of the Trust and in line with Trust policy has had difficulty in achieving effective engagement with local authority planning officials post submission. The second example highlights the difficulty of raising biodiversity concerns in the treatment of a planning application where a statutory consultee (i.e. SNH) has made no objection or comment on the application.

The first involved an objection by a Trust planning volunteer to a submission for outline planning permission for a regeneration proposal (which included an Environmental Statement and Masterplan) to a large Council located in the Central Belt, because of, inter alia, negative impacts to wildlife resulting from destruction of existing habitat networks. Despite repeated requests for a meeting to discuss the Trust's reasons for the objection - and indeed to outline how the development - as a Masterplan - would achieve a better environmental outcome, the volunteer was denied such a meeting. At the time of the objection the Trust volunteer stated:

“We [the Trust] would be happy to enter into discussion with the development team, with SNH and the Council to help to conserve what is most valuable on the site and to improve the value of the green corridors, the opportunities for biodiversity and the accessibility of semi-natural green spaces.

(The Trust can provide further information regarding both the objection and attempts to engage with the Council's planners².)

The second example involves Trust planning volunteers who objected to a planning application for a mountain bike trail which would go through sensitive habitats including ancient woodland (previously experiencing very little disturbance); with support from Trust headquarters they concluded that:

The Trust is not against mountain biking nor to increased access to the countryside. On the contrary we encourage responsible use of the outdoors as a way of introducing people to the amazing wildlife we have in this country. However this proposal would inflict an unacceptable level of damage to one of our "Biodiversity Hotspots" without mitigation of any kind being suggested. We therefore ask that planning permission be refused.

Prior to submitting the objection, the Trust volunteers have had some difficulty convincing the Council's planners that the site was special in terms of biodiversity because SNH had not objected (The site is not an internationally or nationally protected site).

Due to persistence by the Trust planning volunteers with support from Trust HQ, a meeting with the Council to discuss the site's biodiversity value is being undertaken in the middle of December 2014. At this stage there is no guarantee that any mitigation will be undertaken to protect the ecological interests of the site as SNH have not commented (it is not a designated site but does contain inter alia, heathland, ancient woodland, 19 species of butterfly including locally and nationally rare species, cuckoo, 55 oak trees, adder, and redstart).
(The Trust can provide information regarding the objection if required.)

These two examples illustrate how the planning system is failing to achieve "effective engagement [which] can lead to better plans, better decisions and more satisfactory outcomes"

The Trust would like the Committee to note that these members of Scottish Wildlife Trust are volunteers who give a remarkable amount of their own time trying to achieve positive outcomes for wildlife in Scotland; and it is only by their sheer persistence and determination, with support from HQ, that they are able to ensure that the environment is given adequate consideration in planning.

The Trust would encourage the Committee to explore the reasons for the paucity of engagement with local people (including cases where there are genuine wildlife issues outwith designated sites) which may possibly be attributed to a single or combination of factors such as a lack of resources, culture or even the fact that the environment is not being perceived as being important (in the economic downturn). The Trust also knows local authorities have experienced financial constraints; meaningful engagement is an expensive process – indeed, innovations which involve communities of interest and local communities such as charrettes³ and Enquiry by Design cost thousands of pounds⁴ to host.

The Trust also believes that other environmental NGOs such as RSPB Scotland and Woodland Trust may have had similar experiences and it may be useful to contact these

² After writing to the Council's CEO and planning committee expressing our concerns over lack of engagement we have very recently received an offer for a meeting.

³ A charrette is a multidisciplinary design workshop, usually held over a number of days, that allows the community, local authorities and a wide range of stakeholders to come together to design and develop a community masterplan

⁴See: <http://www.creatingplacesscotland.org/2013-08-16/grant-funding-local-development-plan-charrettes>

organisations and/or Scottish Environment LINK for further information.

In conclusion the Trust believes there are instances where the planning system is not delivering *“opportunities for everyone to engage in the development decisions which affect them.”*

From our own experience, the Trust believes this could result in the delivery of suboptimal environmental outcomes which is detrimental to Scotland’s biodiversity and stock of natural capital and ultimately impacts on people’s quality of life and Scotland’s prosperity.

The Scottish Wildlife Trust respectfully suggests that if there is no improvement in planning regarding meaningful engagement for the public in an agreed timescale then there should be a review of the current rights of appeal within planning.

Dr. Maggie Keegan
Head of Policy and Planning
Scottish Wildlife Trust

December 2014