

PE1534/R

Evidence to Petitions Committee - Petition 1534 on Equal Rights of Appeal by the Scottish Environment LINK Planning Taskforce



Introduction

LINK is the forum for Scotland's voluntary environment organisations. Its 37 member bodies represent a wide range of environmental interests with the common goal of contributing to a more environmentally sustainable society. Our membership organisations have over 500,000 individual members cumulatively. LINK aims to ensure that the environment is fully recognised in the development of planning policy and legislation affecting Scotland.

The Need for Equal Rights Of Appeal

Public participation is a key plank of environmental law, enshrined in international agreements such as the Aarhus Convention and viewed as an important means of holding public decision-makers to account in the name of sustainable development.

LINK organisations and their members feel that members of the public face a number of substantial disadvantages when they try to engage with the planning system in Scotland. In 2005 in response to this, LINK members campaigned for what was then called Third Party Rights of Appeal and were frustrated and disappointed that The Planning Etc (Scotland) Act 2006 did not provide equal rights to communities, instead relying on promises that the 'frontloading' of public engagement would provide better opportunities for citizens to influence plans and decisions.

Our experience suggests that the 'new' system has not provided a suitable framework to support the delivery of sustainable development and that 'frontloading' has had little or no impact on the system's responsiveness to public participation. Indeed the environmental concerns of communities seem to be consistently overlooked in the drive for 'sustainable economic growth'.

The 2006 Planning Act was fully implemented by 2009 and has now been embedded for some years. We feel that it is time for a fully considered review of the planning reforms that looks at the intentions of the Planning Act, in terms of increasing public confidence in planning, improving public engagement and delivering sustainable development, and asking whether these are being fully delivered by the current system. This review needs to take into account public opinion and the views of communities affected by development.

The planning system exists to provide a forum for democratic debate about what kinds of development serve the public interest, allowing society to weigh up the relative costs and benefits of different proposals and their potential economic, social and environmental value(s). For such debate to be fair and meaningful all affected parties should have an equal right to participate. The lack of Equal Rights of Appeal given to communities is therefore fundamentally unjust and unfair.

At present only applicants for planning permission have the right to appeal against the decision of a planning authority. This imbalance is the result of the historical legal power of landowners to protect their property rights against appropriation in the public interest. However, planning is a creature of its times and LINK members feel that lack of equal rights of appeal is an historical curiosity that is now out of step with the needs of a modern, participative

democracy and the widespread recognition that environmental decisions have significant effects on parties other than the applicant.

LINK members support the aim of the Scottish planning system to deliver sustainable development through a plan-led system. We believe in a plan-led system because it helps provide an integrated and visionary approach to planning, giving it the potential to deliver sustainable development.

A plan-led system provides a framework for communities to join the debate, helping to shape their area and influence developments. However our member organisations believe that the plan-led system would be enhanced by the introduction of Equal Rights of Appeal. Ensuring that subsequent decisions are subject to proper scrutiny would provide a stronger incentive to all parties to 'frontload' their engagement and influence the development plan. At present, decisions to grant planning permission are not subject to scrutiny, even where they represent a significant departure from an agreed development plan. Equal rights of appeal would provide checks and balances to improve decision-making, making a significant contribution to environmentally sustainable development. Such checks and balances would also ensure communities feel a sense of fair play, helping to boost public trust in planning as a whole.

LINK members therefore believe that Equal Rights of Appeal are a fundamental requirement for a planning system in Scotland that promotes sustainable development.

This response was compiled on behalf of LINK Planning Taskforce and is supported by:

- WWF Scotland
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