



Blaengwrach Community Action Group

P-05-843 More Third party rights in planning appeals – Correspondence from the Petitioner to the Committee, 17.10.18

This petition asks for legislation to be introduced which will grant more rights to third parties affected by planning applications. In order to elaborate on this, and to demonstrate why the current legislation is simply not adequate, I have used our own experience with a recent planning approval (for a major development of a petrol filling station and a fast food drive-through restaurant) which is set to devastate the way of life for our small village.

We ask for:

1. Direct communication about planning applications to affected third parties

We believe that if a planning application is going to affect the home or travel of any local resident, that resident should be considered as an affected third party. This should also apply to sensitive institutions such as affected health centres or schools. An affected third party should be **directly notified by letter** and **directly invited to consultations** to allow for the opportunity to input into planning conditions or to be given the chance to appeal.

Notices on random lampposts in the area should no longer be a sufficient means of communication. Nor should there be a sole reliance on local councillors to directly inform all affected parties. The residents affected by the Blaengwrach development were not sent letters or direct communications and were unaware of the planning application until 2 days before the planning meeting. We are absolutely certain that, had we been given the opportunity to form this action group in the pre application stages, this development would never have been granted approval.

Many residents staged a protest at the site for the Planning Committee visit. Numbers were such that a police presence was requested to ensure Planning Committee safety at the ensuing Planning Meeting later that same day. Despite this, it was officially recorded that there was *little* protest to the planning application.

This demonstrates the need for mandatory direct communication to affected third parties in order to give residents ample notice of applications and to form any official responses.



Blaengwrach Community Action Group

2. Mandatory consultation invitations to affected residents

Consultations between the Local Planning Authority and affected third parties should be made freely available, in good time, and with flexible options for working people and those with dependents. Each affected party should be able to have their concerns recorded and assessed as each situation is unique and important.

In our case, access to and from our houses and the primary school will be severely impacted. Affected residents deserve to have their situations considered by an objective public body who should be putting the best interests of our residents first, and implementing appropriate remedial action or conditions.

3. More advice to be freely given at the point of notifying third parties of a planning application.

Information and advice on legal rights and responsibilities is severely lacking and inadequate.

In our case, residents were told in the planning application meeting (P2017/0112) by the Head of Planning, that there was no legal way to challenge their decision to approve, and that we had no recourse to appeal in any way.

We since learned that this was not correct and third parties have a 6 week window to request a judicial review. We were hampered by this misinformation and were not able to challenge the application in time.

Our residents were surprised to learn that the LPA has unrestricted and unchallenged powers in the land. As Lesley Griffiths AM herself has directly stated to us, there is no official body or authority that will intervene once that 6 week deadline has passed.

Our action group later learned of the Planning Aid charity which deals with giving objective advice. Our residents have been hesitant to use this service, as the same planning official names listed as advisors in this organisation are the ones we have been unsuccessfully dealing with during our own appeal.

We ask that when affected third parties are directly notified of planning applications and invited to consultations, they are also provided with correct information and guidance including actions available to take, avenues for appeal and relevant timescales.



Blaengwrach Community Action Group

4. More time to submit third party planning appeals

Communities and action groups take longer to organise and form official responses. Residents are not experts in planning, process, or legislation and have much to learn in their spare time before they can even begin to form an appeal via a judicial review.

Information must then be gathered from Freedom of Information requests which, using our experience with NPTC, typically take the full 4 weeks to elicit a response. This is an especially long process where follow-up correspondence is required.

As such, the current 6 week window for third parties to formally request a judicial review is completely unrealistic and merely plays lip service to the whole process.

5. The right for recognised Community Action Groups to have direct consultations with the Local Planning Authority

With a view to save public resources, Community Action Groups can be a better method to represent large numbers of affected third parties in a residential area. With the approval of the Local Councillor, these groups should be given the rights to represent those in their community to work with the Local Planning Authority and take positive action in direct consultations. This is not the case currently.

6. Special consideration be given to appeals where vulnerable people are affected in a community

We have a large number of elderly and mobility impaired people in our community who rely on public transport (Active Travel) to reach health centres and grocery shops. Our school children use the only pedestrian route through the village to travel to school. Not everyone is able to own and drive private vehicles, and developments that impact Active Travel have a severe effect on residential lives.

Vulnerable residents, and those community groups that represent them, should be given more consideration by the local authority when appealing against detrimental planning applications.

In our case, a realistic traffic assessment has been requested numerous times and summarily dismissed every time. If conducted, this would mean a much needed major change to the conditions imposed on this development, and which is sorely needed for the safety of local residents.



Blaengwrach Community Action Group

We would also like to take this opportunity to address the comments received from the Cabinet Secretary, Lesley Griffiths AM, on this subject.

More rights for third parties in planning appeals are still sorely needed and is a long running topic that will not go away while our (third party) needs remain unaddressed.

The provisions advised by the Independent Advisory Group for the Planning (Wales) Act 2015 are simply not adequate and are not being enforced. Improved public engagement is desperately needed in Local Planning Authorities. More opportunities to attend pre application and pre approval consultations are something we are asking for in this petition and more importantly, a mechanism to enforce such processes. It is all well and good to implement a facility for consultation but it is ultimately useless, unless steps are taken to ensure consultations are carried out and the feedback from third parties taken seriously.

Local Development Plans are very important to communities and yet ours is inaccurate and needs updating. The development approval in our community was rushed through by our Local Planning Authority using an inconsistent interpretation of the policies in our LDP. This was facilitated by a lack of detail around these policies, (some of which do not even exist) as well as missing key information. Indeed we have also submitted another petition to allow us the opportunity to update and amend our LDP rather than to wait another 2 years; as there is no mechanism in place to force our local authority to keep this current and up to date.

We also agree that it is more efficient to involve third parties in the pre application stages than in post approval, and this would alleviate the planning system in many ways. But in cases such as ours, where we have had no opportunity to input and discuss the implications of such a major development, we should also have some avenue to appeal. We have serious concerns over school route safety, and pedestrian walkways to public transport, as the planning conditions on the development are wholly insufficient.

These planning conditions were created by a Planning Committee Member and read out to us at the planning meeting. They were based on incorrect information and with no avenue for us to appeal or to make changes. We were told in the meeting that we were lucky that he had taken it upon himself to implement his conditions, as it was made clear to him before the meeting that this approval was going ahead. He also informed us that if it were not for him, we would have had no conditions implemented for any pedestrian and traffic safety, however insufficient we believe them to be. Despite over a thousand letters and complaints to our local authority



Blaengwrach Community Action Group

from our residents, we are met with blank refusals to even discuss our safety concerns and provisions in planning conditions.

Indeed, the Public Services Ombudsman for Wales is the only recourse available to us (as the public) where we believe the planning authority have failed to uphold our best interests in a planning application. The Ombudsman regularly writes to advise local authorities in Wales about the sheer number of complaints his office has to deal with, which could be prevented with more proactive steps taken by local planning authorities.

We would ask the Welsh Government, in the aftermath of voting against the amendment to the Planning Bill in 2015, to consider that the provisions intended by the Planning (Wales) Act 2015 have proven insufficient to meet the needs and rights of third parties. Community Action Groups such as ours are still on the rise and complaints about planning are being generated in higher numbers than ever. The requests we have submitted for consideration under this petition are absolutely critical to improve the planning system in this country and to rebalance the system which is weighed so heavily in favour of profit heavy corporations.

Our Welsh culture is under threat and more of our traditional towns and villages are suffering from what we perceive as a massive injustice. We are asking for the tools and mechanisms to be put in place so we may work with our local authorities toward suitable developments and appropriate remediation. The system as we know it today simply does not work and we need to look to the well-being of future generations and the rights of everyone in our communities.