

Planning White Paper :

Executive fail to deliver 'real rights' in the planning system

Press release from the LINK Planning Task Force

29 June 2005

“Disappointing and discouraging” is the response to the much anticipated White Paper on Planning (published today) from the Planning Task Force in Scottish Environment LINK – the liaison body for voluntary sector environmental organisations in Scotland. Anne McCall, Convener of the LINK Planning Task Force, responded by saying:

‘This paper is a missed opportunity for Scotland’s people and our environment. The Executive have produced a package of measures which amount to ‘good housekeeping’ but significantly fail to provide any real rights for communities seeking to engage with the Scottish planning system. Ruling out Third Party Rights of Appeal sends a bleak message to all those who care about their local surroundings – you can engage with the process but not on an equal footing with developers.

‘Furthermore, despite 86% of respondents supporting a Scottish Executive consultation calling for increased rights in the planning system for Third Parties, there could actually be a reduction in opportunities for the public to challenge large-scale proposals. The White paper suggests the introduction of a new category of developments called ‘national strategic developments’ which would be agreed in principle in the National Planning Framework. While we welcome the fact that this document will now be statutory and subject to regular review we are very concerned that there will be no opportunity for public scrutiny via a public inquiry or examination in public.

Fred Edwards, the President of Scottish Environment LINK said:

‘I am extremely disappointed that the expectations generated by the executive in respect of Third Party Rights of Appeal have been dashed. For the widely expressed desire for the limited rights requested by people in meetings from Aberdeen to Dumfries to be so cruelly cast aside while preserving the rights of developers is not something I would have expected from a Labour/Lib Dem coalition government. The Executive went through a technical and poorly publicised consultation on rights of appeal in planning, but even then many hundreds of people leading busy lives around the country managed to respond to let them know that they want real rights in an accessible planning system. This Executive is not listening.

‘By ruling out even a limited Third Party Right of Appeal, and instead offering a package of measures which increase public consultation and slightly alter the process for appeals from developers – the white paper does not deliver environmental justice. This is not equity, this amounts to offering the public a ‘speakers corner’ where they can voice their concerns but neither developers nor councils will be obliged to listen.’

'The measures to give people an opportunity to air their concerns may not be bad, but without an obligation to be taken into account, they amount to the epitome of gesture politics. If the package of measures included *real rights* for people like Third Party Right of Appeal, then there would be real value in undertaking effective pre-application consultation in order to minimise the likelihood of challenge later on. As it stands, no amount of spin about more consultation will convince those who have genuine concerns that they will be taken seriously.

The alarming proposal to introduce national strategic projects, which simply need to be agreed in principle in the National Planning Framework has met with grave concern as this document is not subject to public challenge or public inquiry. For projects in it, which could include Scotland's most controversial developments, like the Beaulieu Denny transmission line, the Harris superquarry, the M74 or any nationally important specialised waste facility, the opportunity to discuss the 'need' for the project would be removed from any subsequent public inquiry once an application was lodged. This amounts to an attempt to make a significant reduction to existing third party rights.

While the Planning Task Force are shocked by the resistance to give people real rights in the system, there are some proposals where an attempt is being made to make the system slightly more effective and slightly more efficient, which we would support.

Contact : Anne McCall, Convener of the LINK Planning Task Force on 0131 311 6500 or email: anne.mccall@rspb.org.uk or Jessica Pepper, LINK Parliamentary Officer on 0131 225 4345 or jessica@scotlink.org

Editors notes:

Scottish Environment LINK is the umbrella body for Scotland's voluntary environment organisations. Organisations in the network represent a broad spectrum of interests in natural and cultural heritage, they are supported by a collective membership of around 500,000 people.

Members of the LINK Planning Task Force include RSPB Scotland, Friends of the Earth Scotland, ruralScotland, the National Trust for Scotland and Scottish Wildlife Trust.

An overwhelming majority of responses, 86% respondents (1620 in total), to the consultation 'Rights of Appeal in Planning' last year were in favour of Third Party Rights of Appeal in principle. The majority of respondents supported the case for the limited right of appeal outlined in the Partnership Agreement (as supported by LINK and the **everyone** campaign – see below).

Member organisations of Scottish Environment LINK are often contacted by individuals and communities who have concerns about planning issues in their local area.

Last summer, Scottish Environment LINK organised a series of public meetings across the country to let people know about the consultation on Rights of Appeal in Planning. These included case studies from local areas and MSPs were involved on the panels. More at www.everyonecan.org

Scottish Environment LINK members have called for a limited right of appeal in planning in the following cases;

1. Cases where the local authority has an interest.

Where local authorities are required to be both applicant and decision-maker the need for transparency of process is paramount. A Third Party Right of Appeal would allow access to independent arbitration, reducing the risks when there may be a conflict of interest.

2. Cases where the application is contrary to the development plan –

In a plan-led system where all are actively encouraged to engage in the forward planning process, any decisions which depart from the agreed plan must be subject to an increased level of scrutiny. Failure to make decisions in accordance with development plans alienates people and devalues the forward planning process. The introduction of a widened right of appeal would serve to encourage local authorities to produce up-to-date plans in order to avoid departing from the development plan.

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3. Cases which go against planning officers recommendation.

LINK organisations work across Scotland and are acutely aware of the different approaches taken by different local authorities to planning matters. While some level of local variation is a welcome reflection of local democracy, an inconsistent application of national policy does not reflect well on the planning process. Planning officers are employed as professionals, operating under a professional code of conduct, which requires them to provide impartial advice on planning matters. Should councillors then decide to depart from this advice this decision should be made subject to an additional level of scrutiny to ensure the departure was for sound planning reasons.

4. Cases where an Environmental Impact Assessment is needed

Despite the relatively small number of proposals accompanied by an EIA, this is a highly important category for inclusion in any widened right of appeal. The requirement for an EIA serves as an indication that the development may have significant environmental impacts (either positive or negative). As such, it highlights those proposals that are likely to give rise to significant environmental change that often extends beyond the immediate vicinity of the development.

LINK has produced a planning manifesto that sets out how the whole system could be revised to restore public confidence and create a planning system that reflects the needs of the 21st century. The 'Planning Manifesto' and more information is available from www.scotlink.org