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Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-05-843
Ein cyf/Our ref JJ/05723/19

Janet Finch-Saunders AM
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29 April 2019

Dear Janet,

Thank you for your letter of 03 April, regarding petition P-05-843. Thank you also for forwarding further correspondence from the petitioner, and the attached report. I have read the Cardiff Environmental Law Foundation Clinic's report with interest. I do not agree, however, with its recommendations.

In Wales, well-established and understood duties exist to inform members of the public of emerging development proposals. This includes the duty to undertake pre-application community engagement on major applications. I set these out in my letter to the Petitions Committee dated 20 December. The duties to seek community input prior to a decision being made ensure these views are taken into account by the Local Planning Authority when deciding whether to grant permission. There are complaints procedures in place within each Local Planning Authority (LPA), which can be used where a LPA does not comply with those duties, with a further recourse to the Public Services Ombudsman.

The planning system in Wales is plan-led. This means Local Development Plans must be prepared in the light of community engagement and input. Draft plans are scrutinised for their compliance with national policy, which is itself subject to public consultation and engagement. Following adoption, these plans form the basis of planning decisions. The duties to consult on applications referred to above also ensure the public is given yet another opportunity to become involved in development proposals.

The plan-led system creates certainty and transparency for developers and communities alike. A third-party appeal mechanism, however, would create an unnecessary layer of uncertainty in the Welsh planning system. The report claims a third party appeals process would provide greater access to justice.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

It is already possible to challenge the processing of an application via the Courts, if it is legally flawed. It is also open to request any application is called in by the Welsh Ministers for their own determination prior to a Local Planning Authority decision. Some applications are also automatically referred to the Welsh Ministers if they meet certain criteria. The Town and Country Planning (Notification) (Wales) Direction 2012 ensures applications for the construction of 150 or more dwellings, or for development of 6 or more hectares, are referred to the Welsh Ministers so call-in can be considered.

I am aware of a number of applications which have been controversial as they have been significant departures from the relevant adopted development plan. As we move towards complete Local Development Plan coverage, this should cease to occur. Officials actively monitor the frequency of significant departures from the relevant development plan. The Welsh Ministers will intervene where appropriate, and have recently done so on a number of occasions.

Decisions on development proposals are made by publicly elected representatives, or their appointed delegates. Those representatives are responsible for decisions they or their delegates make, including at the ballot box. It is also possible for elected representatives to revoke, modify or discontinue a permission they or their predecessors have granted where it can be demonstrated the decision is grossly wrong so that damage would be done to the wider public interest. The use of these powers is, however, likely to lead to significant compensation costs.

The Clinic's report concludes third party appeals would not hinder economic growth. It refers to GDP of other nations where third party appeal mechanisms exists and concludes that as they are more prosperous than the UK, there would be no negative economic impact. In contrast, the planning system in England and Wales is already under considerable pressure from developers to speed up the consenting process. Developers cite the financial uncertainty of planning decisions as hindering opportunities for growth. In terms of direct costs to Welsh taxpayers, initial work used to inform the Planning (Wales) Act 2015 identified that, if 10% of approved applications were subject to a third party appeal, this would increase the workload of the Planning Inspectorate in Wales by 400%. This would therefore, significantly increase the costs of the appeals system, which are borne by the main parties to the appeal and the taxpayer.

As I stated in my correspondence to the Petitions Committee in December 2018, the issue was considered in detail as part of the scrutiny of the Planning (Wales) Act 2015 and set aside. I do not consider that circumstances have changed sufficiently to justify reconsideration of the matter. Neither the latest correspondence from the petitioner, nor the Clinic's report, alter my view third party rights of appeal are needed in Wales.

I am satisfied that there are already sufficient opportunities for individuals and community groups to engage in the planning process, from plan conception to application determination. Consequently, the Welsh Government does not intend to consult on or introduce a third party appeals mechanism in Wales at this time.

Yours sincerely,



Julie James AC/AM

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