

## **Planning Reform**

Planning has always been a contentious issue throughout British history. There is no right to the access of adequate housing enshrined in UK legislation and sadly many face homelessness as a result. There is a demand for housing but there is also a need to build responsibly. The implications of poor developments are more far reaching than one might expect and the consequences to that community can be devastating as a result.

The effects of planning on the environment has been hotly debated over decades. Academics undertook research spanning 10 years and published 'The Resource Management Series' in the 1980s. This series contained three books:

1. Water Planning in Britain by Dennis J.Parker and Edmund C.Penning-Roswell
2. The Countryside: planning and change by Mark Blacksell and Andrew Gilg
3. Countryside conservation by Bryn Green

These studies looked at resource analysis both in the natural and social sciences. They mirrored the public's concerns about declining environmental standards, man's detrimental impact on the ecosystem, spatial and temporal allocation of resources, and the capacity of the Earth to sustain further growth in population and economic activity. As a result the Town and Planning Act 1990 was introduced to improve issues such as flooding due to poor developments.

What is so frightening is that despite the numerous comprehensive studies conducted to influence politicians to make sound policies based on fact, the reality is that we have a planning system still deeply flawed. It appears that the very Act put in place to protect communities is now being deregulated. We all know that Green Belt is no longer safe and despite more houses supposedly being built, many cannot afford to buy or even rent them. Time is running out and unless these issues are addressed our only legacy for our future generations will be that we failed to act and caused their ruination.

As a case study I will be referring to the development of 110 houses on Marl Lane / Pentywyn Road in the county of Conwy (application 0/43059). Below are the key issues felt by our community due to our personal experiences:

1. Planning Policy issues
2. The Well-Being of Future Generations Act 2015 is not enforceable
3. Lack of Transparency/ evidential issues
4. Developments are not sustainable
5. Loss of best and most versatile agricultural land
6. Not enough social housing
7. Houses classified as "affordable" are not

A lot of these issues are interconnected but I will try and expand on these issues specifically.

### **Planning Policy**

Planning Policy Wales Edition 10 was implemented in December in the middle of the planning inquiry awaiting a decision for Marl Lane/Pentywyn Road. The public, the county and the developer all put their arguments at the inquiry using edition 9. I have done a more

comprehensive report on my views to PW 10 (3 A4 pages) where I raise many concerns which I have summarised below:

- Planning Policy Wales Edition 10 is more difficult to navigate through. Compared to Edition 9, it is less accessible to the general public in terms of finding relevant information and understanding how legislation and policy is applied.
- PPW Edition 10 is not clear on what is mandatory and what is advisory. Although there are links to legislation, legislative requirements are not explained and specific sections of legislation are not identified. Unless a person has access to legal databases (which is not the general public), finding what legislation is relevant is difficult.
- PPW 10 does not clearly show what is required from Local Authorities in terms of appraisals and assessments.
- There are loopholes concerning greenfield sites.
- PPW 10, para 4.2.15 states 'planning authorities must ensure that sufficient land is genuinely available or will become available to provide a five-year supply of land for housing...' How is this policy in line with the Well-being of Future Generations Act 2015? Land is a finite resource and currently there is a shortage of agricultural land to meet the needs of the population. The JHLAS studies are currently flawed as calculations produce unrealistic targets.
- Tan 1, para 6.2 (which was not part of PPW 9) which required 'considerable weight' for housing applications that did not meet the 5 year supply was dis-applied. The reason for this was that a consultation paper produced quite a strong reaction from councils across Wales who felt the pressure to allow applications at the expense of sustainability. Yet the flawed JHLAS study has now become policy under para 4.2.15.
- PPW 9 (para 4.3.1) required evidence to be scientific and this has been reduced to the ambiguous term of 'robust' in PPW 10.

In conclusion, PPW 10 attempts to take a more holistic view and adhere to the principles and objectives of the Well-Being of Future Generations Act 2015 but at closer inspection, it is in fact a deregulated policy which allows developers to abuse the system.

### **The Well-Being of Future Generations Act 2015 is not enforceable**

This Act requires public bodies to carry out sustainable development. This interlinks with developments not being sustainable, transparency and evidential issues.

In the case of Marl Lane/Pentywyn Road, residents raised concerns over the sustainability of the development. The Well-Being study for the area shows that we have a higher older age population, a higher than average population with long term illness and in-work families suffering from poverty. Economically there are few well paid jobs. The boundaries of schools were actually changed because the closest was at capacity and the new school situated over 1.8 miles away from the new development is full according to local knowledge. The planning officers did not present this information to councillors, it was the residents who found the statistics and presented them to council. The local councillors as a result found in our favour. This decision was then overturned by the Planning Inspectorate at appeal.

Residents wanted to challenge the decision but were advised by our solicitors and counsel (as we had raised money in the hope of conducting a Judicial Review) that we did not have a strong enough case. There does not seem to be a legal requirement for evidence produced at these inquiries to be of any quality. Thus, decisions are based on opinions and not fact and this is deemed legally acceptable in our system. Our Health Board actually responded to the Council and stated that they had concerns about providing an adequate

service due to several developments outside of the Local Development Plan being granted planning permission. However, they failed to object or ask for any financial contributions from the developers. This means that despite the fact that there are statistics of 1 GP to 3161 patients (which is nearly double the Wales average) we are now left without a remedy as a community. We were told by counsel that, if the Health Board had failed to reply, we might have had a case. An ambiguous reply is still evidence a Planning Inspectorate can rely on.

### **Lack of Transparency/ Evidential issues**

During the planning application process for Pentwyn / Marl, including at the enquiry itself in September 2018, it was largely the residents who drew attention to the many flaws in the documents submitted to support the application by Beech Developments. Some of these contained factual errors and most were significantly lacking in detail. Examples include: 1) the initial tree survey (conclusion: not a lot there, just some old hedge); 2) the habitat survey, carried out in January, the time of year when they are least likely to gain any significant observations; 3) the traffic survey, carried out in less than one hour at non-peak time (mid-morning); 4) the soil surveys which contained errors (which went unnoticed and un-challenged by the Department for Environment and Rural Affairs).

Most, if not all, of the above mentioned “surveys” were undertaken by preferred contractors from outside Wales, and all were **chosen by the Developer**. Some of the same contractors have worked on other sites for the same Developer (e.g. Sychnant Pass and Llys Marl), all of which have been successfully granted planning permission. Surely a fairer system would be that the surveyors required for any potential development in future are **chosen by the Planning Authority**. This would remove potential conflicts of interest and potential bias. Preference should be given to local-based contractors.

Admittedly, there may not currently be a sizeable “pool” of potential contractors in Wales, but if it was compulsory for Planning Authorities in Wales to preferentially choose contractors based in Wales, this would be a potential growth area and provide employment opportunities. For example, local Universities (e.g. Bangor and Aberystwyth) could be encouraged to design courses and qualifications to include habitat surveys, soil surveys etc. These are potential graduate employment opportunities for Wales currently being lost to contractors based as far-afield as Exeter.

On a practical note, many of the 1000+ residents who objected to the Pentwyn / Marl development found the sheer amount of documentation on the Conwy (CCBC) Planning Explorer very difficult to negotiate. There were many hundreds (if not thousands) of pages and documents, with none of them indexed. Why not introduce a filing system on the Explorer, with key words such as: CCBC documentation, Developer submissions, Resident’s submissions, Health, Transport, Schools, Environment, Soil etc? At times it was impossible to find specific documents, except by trial and error, scrolling through hundreds of pages. The system, at least in CCBC, could be significantly improved.

### **Loss of best and most versatile agricultural land**

A study titled ‘The best use of agricultural land’ conducted by the University Cambridge found that there is a potential additional demand for up to 7 million hectares of land to meet a growing UK population’s food, space and energy needs while increasing the area needed to protect and enhance the nation’s natural capital.

Concerns were raised about the cumulative effect of loss of agricultural land; this is not the first piece in Conwy alone to be developed. The Marl/Pentwyn site was classified overall

as grade 3a land (good) despite it containing some areas of grade 2 (very good) soil. This fact was largely “hidden” in the soil reports. Grade 2 is the highest grade of soil available in almost the whole of Wales, as Grade 1 (excellent) is extremely rare. The Planning Inspectorate (para 47 of his decision) concluded that the loss would amount to a minor adverse impact. A Freedom of information request reveals that the Welsh Government have no figures on how much agricultural land has been developed. If the Welsh Government does not have figures on how much agricultural land (let alone good to excellent land is being developed), how will they know when the critical point in terms of loss of land has been reached? According to the Cambridge study it is estimated that there is a shortfall of 7 million hectares of land; Wales only has 2 million hectares and only 285,000 hectares (14%) of that is actually good to excellent in grade (1, 2 and 3a). It is alarming that developments are being permitted on good agricultural land considering its sparsity.

### **Not enough social housing /Houses classified as “affordable” are not**

Innovative solutions need to be developed to address the issue of the lack of housing and affordability of housing. Once land receives planning permission its value becomes hugely inflated and it is this price that is being passed onto the buyer or tenant of rental properties. The theory that building more houses will reduce prices does not work in the housing market. Why would developers deliberately flood the market and reduce their profits? Company directors are actually under a legal duty under the Companies Act 2006 to promote the success of its company. A company’s prerogative is to generate profit which is therefore in conflict with the society’s need for affordable homes.

Would an Expropriation Act such as that in the Netherlands provide a solution to the UK’s housing crisis? The Expropriation Act provides specific public law authorities to seek to expropriate property if this is in the public interest and strict criteria must be met before this is done.

### **Conclusion**

Our community is not against development and many other residents, like ourselves, who oppose controversial plans seem to be tarnished and branded as NIMBYs. Our community wants responsible developments that encourages communities to flourish. As it stands, many communities across Wales are losing precious green spaces to ill suited developments while brown field sites are left derelict. Unless there is investment in the economy and infrastructure to our areas it is likely that residents in our communities that are already struggling will slip further down the social mobility ladder. Rapid urbanisation without careful planning can lead to the increase in poverty. The Victorian slums of the past may soon become our future. We hope that the members of the Assembly will give this topic the time it deserves and represent Wales and its people. The ideal of “sustainable development” encapsulated in the Well-Being of Future Generations Act 2015 are admirable but legislation is meaningless unless enforced by the bodies that created them.