



**Supplementary Manifesto briefing
September 2010**

A “Third Party right of Appeal”

CPRW has long advocated that the current arrangements for challenging planning decisions are democratically unfair and inadequate.

Increasingly communities and individuals are encouraged to take an active role in informing the land use decisions that shape their surroundings by actively engaging in the production of their Local Development Plans. In return their efforts are usually repaid by sounder and more informed policies in these plans when they are adopted and in most instances by development decisions which accord with them. However there are occasions when the determination of planning applications is not consistent with these policies. It is in these circumstances that the odds are stacked against those who have invested time and effort in trying to ensure that the planning system delivers fair, objective, consistent and transparent decisions.

Disappointingly the current planning system remains largely focussed on a dialogue between developers and Local Authorities, with community groups, concerned bodies and individuals often unable to find the time and resources to adequately promote their point of view. Nevertheless many do rise to this challenge of overcoming inequality through sheer effort and commitment. If they succeed in convincing decision makers of the merits of their case to refuse planning permission for a development, they soon discover that the applicant has the option to challenge the decision through an appeal procedure and may still gain their permission. However if consent is granted in favour of a developer contrary to the prevailing Development Plan policies, no-one can currently appeal against the grant of such consents .

Inappropriate decisions can be challenged legally, but this can only be done through the courts and is confined to examining the process by which a decision is made. Realistically few feel confident or able to take this Judicial Review route.

CPRW believes that these circumstances are not only inadequate but also democratic unjust and reform of this long standing imbalance is long overdue. Strengthening them would not only remove this injustice but would also significantly raise public confidence in the Planning system.

CPRW therefore believes there is a strong case for introducing a **limited Third Party Right of Appeal** focussing on those types of case which give greatest grounds for concern in respect of the quality, transparency, probity and accountability of development control decisions.

In recognising that these circumstances should be limited, we accept that it is important to ensure that

- Planning Authorities are not undermined by indiscriminately opening their decisions to further review without good cause

- Delays to development or increase financial risk to investors do not occur without good cause
- The Planning Inspectorate is not suddenly overburdened with a flood of case work

Notwithstanding this, we advocate that a limited Third Party Right of Appeal should be introduced under the following circumstances

- When a development is approved contrary to the provisions of an adopted Development Plan
- When the application is one in which the local Authority has an interest.
- If an application is Major Development or one requiring an Environmental Impact Assessment.
- When the Officer recommendation was to refuse the application.

Within these the limited circumstances, there should be:

- No restriction on the scope for the Grounds of appeal.
- Parity of choice (written representations or oral hearings) between developers and third parties.
- A flat fee levied on those lodging an appeal
- A strict time limit of 28 days for the appeal to be lodged once the approval decision notice has been issued by the Planning Authority
- Realistic targets established for the arbitration of such appeals.

In order to avoid abuse of this Right we further believe that

- This Right should be limited to those who have formally registered a prior objection to an application.
- That the relevant Minister should be able to intervene to prevent anyone merely seeking to delay development proposals, to gain commercial advantage, or secure benefits from a developer in return for the withdrawal of an appeal.

In the context of the above CPRW therefore believes that there is both strong justification and no practical reason why the next Welsh Assembly Government cannot introduce a Third Party Right of Appeal as a fundamental and democratic dimension of the planning system in Wales.

**We therefore urge your Party to include as a one of its Manifesto pledges,
a commitment to introduce a Third Party Right of Appeal
into the Welsh Planning system.**