

Subject: Bettws Newydd Supporters' Newsletter: Appeals Allowed

12th December 2010

Dear Supporter,

The Bettws Newydd Core Group attended the full 6 day Inquiry at the end of October on your behalf and led by Robbie Manson we put up the strongest case possible.

An informal account can be found at <http://parrog.org.uk/blog.htm>

We regret to tell you that we were informed through the Planning Portal on Friday that despite the Inspector finding that the building breached policies in many serious respects, he has decided to allow the appeals. This means that Bettws Newydd can remain as built.

You can see the Inspector's report at

<http://parrog.org.uk/Decision%202131835%20&%202128919.pdf>

The disappointment of the Bettws Newydd Core Group cannot be overstated.

We consider that this decision sets dangerous precedents.

1. The Appellant has not been penalised for many serious breaches of planning rules, but instead has been rewarded by the grant of retrospective consent which thereby authorise those breaches of the planning code,
2. A signal is sent out to other developers that you can build more or less what you like, as long as it doesn't differ too much from what you have permission for, provided you have the resources to go to appeal.
3. This case shows that as so called "third-parties", we, along with Newport Town Council and the rest of the community have no rights under the planning system to appeal against flawed grants of planning permission by incompetent planning authorities.

We think this case makes a travesty of the planning system, which has been shown to be incapable of controlling a powerful and wealthy developer.

We think that it is amazing and highly disturbing that a development which everyone acknowledges was unauthorised and built without the benefit of planning permission and a development which both the National Park Committee and Officers and now the Government Inspector himself **all** agree is **not** in compliance with planning policies, should be granted permission in this way!

It is we, the general public, the residents of and visitors to Newport, who are the losers in all of this, whilst the owner has not been penalised for breaching planning rules. Instead, he has been rewarded by receipt of retrospective consent.

Given that it is accepted that the as-built dwelling is not in compliance with the Development Plan, it is still open to the Authority to correct this situation by issuing a Discontinuance Order under section 102 of the Planning Act requiring removal of the current building, by revoking the planning permission granted by the Inspector and by giving planning permission for a replacement dwelling which is in compliance and upon

which we could all agree. Compensation would be due to the Developer, as independently assessed.

Press Release

We have issued a Press Release, which can be seen at <http://parrog.org.uk/101210%20Press%20Release.pdf> which gave our initial reaction.

The summary of this press release is as follows:

We deeply regret the decision to allow the building to remain.

We note that the Inspector, in the first part of the decision, agrees with us that the building breaches planning policies in many serious respects. This confirms that the 2006 decision of the National Park Authority to grant permission was a flagrant mistake. The inspector's long list of breaches of policy includes:

- “..the completed building would be visually intrusive and insensitively sited.”
- “..it also currently impinges upon the level of amenity enjoyed by local people particularly on the appearance of this part of the town and adjoining countryside”
- “..when completed, the building would fail to harmonise with, or enhance the landform and landscape character of the National Park as required by Policy 15 of the LDP.”
- “.. Due to the prominence and scale of the 2- and 3-storey elevations, the building is incompatible with its surroundings and due to the visually intrusive nature of the building I conclude that the retention and completion of the development would have an unacceptable impact on local amenity contrary to LDP Policy 30.
- ” On sustainable development: “the large modern dwelling that has been built on the site fails to meet many of the criteria of the approved LDP policies.”

However, the overriding consideration for the Inspector was the existence of the deeply flawed 2006 permission, which would allow the developer to construct a building which he judged to be similar.

The reason for allowing the appeals, as we see it, is that the Inspector believes that since the developer has permission to build something that the Inspector sees would be equally as bad, there is no point in pulling down the existing illegal building.

As you are aware, BNOG contends that permission was not given to construct a 3 storey building at this level or in this location on the site and therefore the development is very different from the 2006 approved scheme.

This decision means that the community and many visitors to this area will continue to experience the effects of this eyesore due to the dreadful mistake made by the National Park planners when they granted the original permission back in 2006.

We deeply regret that this means that the efforts of ourselves, of all our supporters, and the Planning Committee Members to rectify the mistakes of the officers have all been mostly in vain, although one or two of the conditions the Inspector is imposing will be of some

benefit. We also regret that the planners' mistakes will now be protected from further legal scrutiny, by way of an action for a claim for compensation from this developer.

BNOG's complaint to the National Park (following the Inquiry)

At the Appeals Inquiry, which lasted six days, a number of other issues and examples of maladministration became clearer to us. As a result, on 24th November 2010, we sent a letter of complaint to the National Park Chief Executive.

You can see a copy of the letter at <http://parrog.org.uk/101120-Tegryn-Jones-letter.pdf>. We also sent similar letters to the Chairman of the National Park and the Chairman of the Development Management Committee. You can see our list of 55 points of complaint at <http://parrog.org.uk/101120-points-of-complaint.pdf>. We have now received a reply which you can see at <http://parrog.org.uk/101209-TJ-reply.pdf>

Our letter raised, firstly, the issue of non-appearance of any of the National Park Planners at the Appeals' Inquiry. Not a single planner employed by the National Park attended for even a minute. Time after time, the Appellant claimed he had agreements with the planners or that other events had taken place involving the planners, but they were not present to clarify matters. The National Park was represented by an outside Planning Consultant, RPS, the County Council's Chartered Landscape Architect and a barrister Graham Walters of Civitas. Whilst we understand the reasons for the National Park not being represented by their own Officers, given their previous unswerving record of support for the Appellant's retrospective planning applications, including the 2010 application subject of the Appeal Inquiry, which would clearly involve a serious conflict of interests, nonetheless, BNOG believe that the Authority's decision to have none of the Officers involved with the development for the last 5 years, available to answer questions to which only they held the answers, was a mistake. This was a decision that not only cost considerable Inquiry time, labouring over points where there was insufficient information available, but may have proved to be a major mistake in terms of the Inquiry outcome.

Secondly, we called for a full investigation into the handling of the Bettws Newydd applications and appeals. At the Inquiry, further examples of mishandling of this case by the planners became clear to us. We have now produced a list containing a total of 55 separate examples of alleged maladministration by the National Park Planners (To be seen at <http://parrog.org.uk/101120-points-of-complaint.pdf>). These include examples where the planners failed to follow policies, failures to note details of meetings on the files, failures to follow up when mistakes were found during the development, and examples where various people including Newport Town Council have been misinformed. We want to see a full investigation into these mistakes to ensure there is no repetition in the future in accordance with BNOG's second aim (found at), and have pointed out that a similar request for "a thorough investigation" by Newport Town Council in May 2009 has not resulted in any action.

In his reply, written prior to the issuing of the Inspector's decision, the new Chief Executive, Mr Tegryn Jones has stated that it has always been his intention and that of the Chairman, Mr Richard Howells, that there should be a thorough review of the Authority's conduct in relation to Bettws Newydd, and he is now inviting the Independent Monitoring Officer at the

National Park to undertake this. This review will allow an opportunity for other groups and organisations to put forward concerns.

A tragedy:

We regret to have to tell you that one of our most important core-group members died suddenly (tragically) soon after the inquiry.

Sue Potts was a close neighbour to Bettws Newydd and one of the first to complain to the National Park in June 2007 when the steel frame was being erected.

Sue's complaint was eventually taken up by the National Park's Monitoring Officer but when the resulting report was unsatisfactory Sue took her complaint to the Ombudsman, where it has remained pending the result of the WAG Inquiry.

Sue's performance at the inquiry was outstanding and those present will never forget this. The BNOG group are extremely saddened by her loss and our thoughts go to George, her husband, who continues to support our campaign.

The future:

We would like to thank the many supporters of our campaign and to state we will now be seeking immediate advice as to whether we have any viable prospect of seeking a remedy, in respect of the Inspector's decision, whether by means of judicial review or otherwise. We will also continue to pursue the National Park to ensure that the many failings this sorry case has revealed are addressed and that action is taken to ensure there is no repetition, in accordance with our second aim (see <http://parrog.org.uk/about.htm>)

Thanks again for your support,

From the Bettws Newydd Opposition Group.

More information about us, including full contact details, is on our web site at <http://parrog.org.uk>

Note: You are receiving this newsletter as a result of providing your email when signing the petition regarding Bettws Newydd, or contacting us as a supporter. If you don't want to receive these periodic updates, please send an email to info@parrog.org.uk . Anyone wanting to join the distribution list can also write to this address, or preferably submit the form at <http://parrog.org.uk/joinus.htm> We apologise for not replying individually to every email received.