

ENVIRONMENT, PLANNING AND COUNTRYSIDE COMMITTEE

REPORT TO PLENARY UNDER STANDING ORDER 9.9:

SECOND ASSEMBLY LEGACY REPORT – 2003 - 2007

INTRODUCTION

The Environment, Planning and Countryside Committee is one of the Assembly's seven subject committees. This report is made under Standing Order 9.9, which requires subject committees to report to the Assembly from time to time on their progress in fulfilling their work programme. The report is made separately from the Committee's annual report for 2006-07, and is in two parts. First, it gives an overview of the strategic priorities and work activities of the Environment, Planning and Countryside Committee (the Committee) during the Second Assembly. Secondly, it sets out a legacy to the relevant successor Committee(s) of the Third Assembly, indicating key issues that those Committees may wish to consider.

Copies of all the Committee's reports, agendas, papers, minutes and transcripts of meetings can be found on the National Assembly website.

1. STRATEGIC OVERVIEW

Remit and Responsibilities

1.1 The Committee's remit mirrors the portfolio of the Minister for Environment, Planning and Countryside. The Minister's portfolio embraces the environment and sustainable development; town and country planning; countryside and conservation issues; agriculture and rural development including forestry and food production.

Work and Achievements

1.2 The Committee met 53 times during the Second Assembly. The Committee also met jointly with the Enterprise, Innovation and Networks Committee on 8 March 2007 to discuss the EU Green Paper: *Towards a future Maritime Policy for the Union: A European Vision for the oceans and seas*. As part of its commitment to making its proceedings more accessible to the people of Wales, the Committee held a number of its meetings in various locations: County Hall, Haverfordwest, 23 March 2006; National Assembly for Wales's North Wales Visitor Centre, Colwyn Bay, 26 October 2006; the LANTRA building on the Royal Welsh Agriculture Showground, Llanellwedd, 30 November 2006; the National Botanic Garden of Wales, 1 March 2007. The Committee undertook three main inquiries during the Second Assembly. It launched its report, *Planning Aspects associated with the provision of affordable housing and sustainable communities in the countryside* in January 2004. Its report on *Bovine TB* was launched at the United Counties Show in Carmarthen in August 2004 and its third inquiry on *Meeting Landfill and Recycling Targets* was launched at the Royal National Eisteddfod of Wales in

August 2005. The Committee prepared and laid a further five policy reports in 2006-07, which were the result of shorter inquiries.

1.3 The Committee's main strategic priorities during the Second Assembly as stated in its annual strategic forward work programmes were: to report on the planning aspects of affordable housing; to keep under review the regulation of waste management; to undertake work on the marine environment; to examine the effectiveness of the treatment and control of bovine tuberculosis; to explore the potential for the biocrops and biofuels industry; to report on the planning aspects of mobile telecommunications apparatus; to consider the sustainability of agri-environment research. The Committee also received regular updates on the implications of CAP reform and the development of the successor Rural Development Plan 2007-2013.

1.4 The principal achievements of the Committee during the Second Assembly are outlined below.

Legislative scrutiny

Primary Legislation

1.5 The Committee agreed a protocol for handling its scrutiny of Primary Legislation in September 2005.

1.6 The following items of Primary Legislation were remitted to the Committee for consideration:

- *Planning and Compulsory Purchase Bill*
- *Clean Neighbourhoods and Environment Bill*
- *Animal Welfare Bill*
- *Natural Environment and Rural Communities Bill*
- *Common Land Bill*
- *Marine Bill*
- *Climate Change Bill*

1.7 The Climate Change Bill was remitted to the Committee for consideration on 28 November 2006. Since it would not be likely that the Committee would have the opportunity of scrutinising the draft Bill before the end of the Second Assembly, for its meeting on 25 January 2007, the Committee requested and discussed a paper from the Minister setting out the likely contents of the Bill.

1.8 In the case of the Animal Welfare Bill, the Committee scrutinised both the draft Bill and the Bill. Members welcomed the principle of the Bill as providing the Assembly, as the appropriate national authority, with wide enabling powers to decide its own priorities for promoting welfare standards. The Committee was therefore content with the Bill as drafted but noted its wish to scrutinise the subordinate legislation pursuant to the Act.

1.9 The Committee secured an amendment to the *Natural Environment and Rural Communities Bill*. Members were unhappy that Clause 38 allowed for

the Secretary of State to issue directions to the Joint Nature Conservation Committee about the exercise of certain functions, whilst having no legal duty to consult devolved administrations. Members questioned whether this was in keeping with the UK Government White paper, *Better Governance for Wales*. The Committee therefore requested that the Minister convey its wishes to the Secretary of State for an amendment to the Bill that would reflect the spirit of devolution and ensure that Ministers in devolved administrations would be consulted. The amendment was accepted by Defra and was proposed as a Government amendment to the Bill.

1.10 While the Committee broadly welcomed the Common Land Bill, it was concerned that it did not contain framework provisions and therefore was not in keeping with the undertaking in the *Better Government for Wales* White Paper that Bills would be drafted in a way that would give the Assembly wider and more permissive powers. The Committee took evidence on the Bill and heard of witnesses concerns about future running costs and powers of commons associations and whether the Bill promoted the better management of common land. An amendment to Clause 31 (1) (a), which would have provided discretionary flexibility within the functions of commons associations, was proposed, and the Bill was amended in Parliament to provide the flexibility inherent in the Committee's amendment.

1.11 *The Marine Bill* was remitted to Committee in June 2005. In March 2006, Defra published a consultation document. Having received a position paper from the Welsh Assembly Government, the Committee took evidence from key stakeholders on the UK Government's proposals. The Committee's response was sent to Defra and laid before the Assembly. It made a number of recommendations with regard to seeking framework powers in the Bill; the revision of legislation relating to fisheries; and future marine conservation in Welsh waters.

Secondary Legislation

1.12 A protocol for handling subordinate legislation was agreed in October 2004. The Committee received a detailed timetable of forthcoming legislation within the Minister's portfolio at regular intervals throughout the Second Assembly. The Committee requested several refinements to the lists to assist Members to identify only those items of legislation where responsibility had been either wholly or partly devolved to the Minister. Details of the statutory instruments scrutinised by the Committee are contained in the Committee's annual reports for 2003-2007.

European Legislation

1.13 The Committee has considered items in the European Commission's Legislative and Work Programme relevant to its remit, including a joint meeting with the Enterprise Innovation and Networks Committee to take evidence on and agree a response to the EU Green Paper *Towards a future Maritime Policy for the Union: A European vision for the oceans and seas*.

1.14 At its 4 May 2005 meeting the Committee considered the European Commission REACH proposals for a new European Union chemical strategy. In the following months it received an update on the scoping study undertaken by the Welsh Assembly Government in relation to the REACH Regulation. In addition the Committee sought the views of Dow Corning, a member of the Chemical Industries Association, and from World Wildlife Fund Cymru. The Committee discussed its report and emerging conclusions of its discussions on 13 July. In January 2006 the Minister provided an update on the progress of the proposals.

1.15 As part of the Committee's drive to find new and innovative ways of working, on two occasions, it used video conferencing technology to link the Committee directly to Brussels during its proceedings. This was well received both by the Committee and the European Commission.

Policy reviews

1.16 The Committee undertook three major inquiries during the Second Assembly and in February 2007 scrutinised the Minister on progress made in implementing the recommendations that he had been disposed to accept. As noted in 1.2, the Committee also laid five further reports which were the result of shorter inquiries. The Committee found this to be a flexible way of working and of making recommendations to the Minister.

1.17 The Committee reported to plenary in February 2004 on its first inquiry, *Planning Aspects associated with the provision of affordable housing and sustainable communities in the countryside* making recommendations to the Welsh Assembly Government in the areas of roles and responsibilities, planning mechanisms, information and data, the Welsh language, sustainable development, availability of land, and resource. The Minister accepted all but one of the Committee's recommendations. The Committee's second inquiry into Bovine Tuberculosis focussed on the containment of the disease and the long-term management and reduction of Bovine TB by utilising best farming practice in animal health and welfare. The Committee completed its inquiry into meeting landfill and recycling targets in May 2005. The report, which was published in August 2005, highlighted the substantial challenge facing Wales if it is to increase the amount of waste recycled and composted. It included a series of recommendations aimed at facilitating recycling which would assist in meeting landfill and recycling targets set by Europe and the Welsh Assembly Government. In November 2005 the Committee scrutinised the Welsh Assembly Government's response to its report. Members agreed to receive regular updates from the Minister on progress made in implementing the Committee's recommendations. In March 2006 the Committee considered an initial update and sought the views of the Welsh Local Government Association on progress made to date. The Committee maintained its interest in waste management issues and in January 2007, it took evidence from Environment Agency Wales and the Welsh Local Government Association when it was appraised of the current situation with regard to the provision of landfill sites and discussed the use and development of sustainable waste management facilities..

1.18 Details of the Committee's shorter inquiries can be found in the Annual Report for 2006-07.

Budget scrutiny

1.19 The Committee fulfilled the requirements upon it to contribute to the budget process each year by identifying priority areas for expenditure within the environment, planning and countryside main expenditure group (MEG). During 2006-07, following all-party agreement on the final budget, the Committee considered and agreed proposals to reprioritise the EPC MEG in order to restore the level of Tir Mynydd payments, which was one of the Committee's stated priorities.

Scrutiny training

1.20 In October 2004, Committee Members and officials supporting Committee work undertook scrutiny training led by John Sturrock QC of Core Solutions Ltd. The training covered issues such as planning work programmes, the need for a collegiate approach to Committee work, and questioning and listening techniques.

2. LEGACY TO SUCCESSOR COMMITTEE(S)

Strategic Issues

2.1 It is recommended that successor Committee(s) should concentrate on the following high level strategic issues.

Environment Strategy Wales Action Plan

2.2 Given the strategy's long timescale and its intended impact on the quality of life of the people of Wales, it is crucial that the action plan is reviewed regularly and any difficulties with funding and delivering outcomes identified. The mitigation of and adaptation to climate change is one of the strategy's five overarching themes. The Committee pressed the Minister on a number of occasions to ensure that sufficient resources were allocated to addressing this priority. It strongly believes that successor committees should continue to scrutinise the Welsh Assembly Government's performance on climate change.

Waste Management

2.3 The Committee has serious concerns that some future requirements of EU Directives on waste will not be met, and with landfill capacity likely to be exhausted in the next five years, the need to recycle waste and manage waste in a sustainable way becomes ever more pressing. Members of the Third Assembly may wish to keep the Welsh Assembly Government's waste strategy, *Wise About Waste* under review.

Biocrops and biofuels

2.4 The development of a biofuel industry in Wales has implications not only for agriculture, but for economic development in rural areas. Given that biocrops are carbon neutral, their contribution to mitigating the effects of climate change is also significant. An appropriate successor Committee may wish to consider a fuller inquiry than this Committee was able to carry out into the potential of biofuels.

Food and Marketing Development - Horticulture Strategy; Dairy Strategy

2.5 At its meeting on 1 March 2007, the Committee heard of the Government's intention to develop a revised single overarching Agri Food Strategy, incorporating sector specific action plans, which would be published by the end of 2007. The Committee believes that the current horticulture strategy has underperformed, when sector growth is considered; that the successful implementation of a robust strategic action plan for the dairy industry is crucial; and that other sectors may learn from the successful branding advocated by Hybu Cig Cymru, for example. It therefore suggests that Members of the Third Assembly may wish to review progress of the new overarching strategy.

Bovine Tuberculosis

2.6 The results of the first six months of gamma interferon testing will be known by May/June 2007. Given the far-reaching effects of bovine TB on rural areas, these should be considered carefully, as should the impact of pre-movement testing.

Sustainable Farming and Environment 2020 – Task and Finish Group

2.7 This group is due to report in June 2007. The Minister has stated on a number of occasions that he will give the group's conclusions serious consideration. A successor Committee might also wish to scrutinise them.

Successor Rural Development Plan (RDP) 2007-2013

2.8 The programme period of the current Rural Development Plan (RDP) closed at the end of 2006. The successor plan will run from 2007-2013. The successor plan was developed in the context of the overarching EU objectives of the Habitats and Birds Directive and the Water Framework Directive. Climate change is also a significant consideration, as is the impact of the Welsh Assembly Government's 'Wales Spatial Plan'. The Wales Environment Strategy seeks to incorporate the Lisbon competitiveness agenda and the Gothenburg sustainability agenda. A flexible, adequately funded RDP is therefore vital for the future of Wales's rural communities. In its report of evidence taken on the successor plan, the Committee recommended that the Welsh Assembly Government used the evidence that it would gather during its ex-ante and ex-post evaluations of the current plan to disseminate best practice throughout all of the successor plan's programmes. Once the

successor plan is formally adopted, which is unlikely to be until late 2007, a successor Committee should monitor and evaluate progress and delivery over the plan's four axes.

Review of TANs

2.9 A number of TANs are overdue for review. As the Committee found when reviewing the implementation and operation of TAN15, revised TANs can be problematic if guidance is not appropriate. The Committee would advise Members in the Third Assembly to monitor and review the revision, operation and implementation of TANs.

Cross-cutting issues

2.10 Successor Committees will wish to note that the Committee recommended that all Committee papers and briefings contain advice and questions, where appropriate, on cross-cutting issues.

Legislation

Primary Legislation and Measure Making Powers

2.11 On 15 March 2007, the UK Government published its long-awaited White Paper on a Marine Bill. The Committee recognises the need for a Marine Bill, since there is currently no overall strategy for the management of our seas. It therefore sees a future Bill as a significant opportunity to address the current state of the marine environment, and, at a time of increasing development, to seek more integrated and streamlined systems. In its report on Defra's consultation on a Marine Bill, the Committee called on the Welsh Assembly Government to do all that it could to secure the broadest possible flexibility to develop policy in Wales using framework powers. Given the implications of the powers which should be conferred on the Assembly, the Committee strongly advises Members in the Third Assembly to take evidence on the Bill and to make known its views to Defra and the Welsh Assembly Government. The Committee also commends that a Subordinate Legislation Committee in the Third Assembly examines the merits of any policy taken forward by legislation pursuant to a Marine Act.

2.12 As noted under 1.8, Committee considers it important that the Assembly scrutinises the subordinate legislation pursuant to the Animal Welfare Act, as an area where Wales is enabled to make its own distinctive policy.

2.13 The Climate Change Bill was not published in time to allow Committee scrutiny before the end of the Second Assembly (See above 1.7). The Committee therefore commends a successor Committee to hold an inquiry on a draft Bill and report to the Assembly.

Secondary Legislation

2.14 A number of items of draft legislation were identified for scrutiny by the Committee but not brought forward for consideration before March 2007. These are listed in the table in Annex 1. Where possible, indication has been given as to the handling of the draft Statutory Instruments in the Third Assembly.

European Legislative Proposals

2.15 At its meeting on 25 January 2007, the Committee considered the European Commission's Annual Work Programme 2007 and identified the following as priorities for scrutiny in the Third Assembly:

- White Paper "Towards a European Climate Change Adaptation Programme";
- Green Paper on Post-2012 Climate Change;
- Communication on maritime policy;
- Action Plan on Sustainable Consumption and Production;
- CAP Health Check;
- Communication on the Animal Health Strategy 2007-2013;
- Regulation on animal by-products.

Members Research and Committee Services March 2007

Annex 1

Ref. No. & Date Identified	Name/Working Title	Purpose	Anticipated procedure in 3 rd Assembly (if applicable) Affirmative/Negative/ No formal Procedure	Estimated timing for coming into force (CIF) – if known / Date to be scrutinised by EPC Committee - if scheduled.
EPC(2)-03-03(p.3) - N.o 83 - now N.o 77 July 16, 2003 22PE	Village Green Regulations	To provide definition of village green and prescribe periods within which application may be made for registration as village green		To be subsumed into new secondary legislation to be brought forward under the Commons Act 2006
EPC(2)-02-04(p.4) - N.o 79 - Now N.o 74 February 4, 2004 18PE	The Environmental Impact Assessment and Habitats (Extraction of Minerals by Marine Dredging) Regulations (Wales)	To transpose the relevant European Directives for marine dredging in Welsh waters	Negative	CIF – September 2007
EPC(2) 02-06(p3) No.71 1 February, 2006 CFA152	The Tir Mynydd (Amendment)(Wales) Regulations 2006	Required to implement the successor Tir Mynydd scheme in 2007		These Regulations were incorporated in The Rural Development Programmes (Wales) Regulations 2006, which had a coming into force date of 01/01/07.
EPC(2)-05-04(p.4)	Municipal Waste Management	The proposed Regulations	To be confirmed	No dates currently

	<p>- N.o 73</p> <p>May 5, 2004</p> <p>17PE</p>	<p>Regulations</p>	<p>will implement Sections 29 and 30 of the Waste and Emissions Trading Act 2003 (WET ACT) and will require the preparation of municipal waste management strategies and to require the submission of municipal waste data in a prescribed format.</p>		<p>scheduled</p>
	<p>EPC(2)-02-05(p3) – Part 1</p> <p>February 2, 2005</p> <p>CFA76</p> <p>&</p> <p>EPC(2) 11-05(p7) No.89</p> <p>October 5, 2005</p> <p>CFA76</p>	<p>Dee Estuary Cockle Fishery Order 2006</p>	<p>To control fishing</p>	<p>To be confirmed – likely to be a composite Order with Defra.</p>	<p>CIF – possibly late 2007</p>
	<p>EPC(2) 04-05(p3) - No.44</p>	<p>The Sea Fishing (Enforcement of Community Quota and Third</p>	<p>This provides enforcement powers of, and lays down</p>		<p>WITHDRAWN – legislation no longer</p>

April 13, 2005 CFA46	Country Fishing Measures) (Wales) Order	penalties for those provisions of Community Regulations which are outside Section 30(1) of the Fisheries Act 1981		proceeding
EPC(2) 11-05(p7) No.24 October 5, 2005 CFA117	The Heather and Grass, etc (Burning) (Wales) Regulations 2005	To revoke and revise current statutory burning conditions for farmers and landowners	Negative	CIF - Mid September 2007
EPC(2) 11-05(p7) No.55 October 5, 2005 44PE	The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations	Replacement of regulations made in 1991 to satisfy the requirements of EC Technical Standards Directive	Negative	No dates currently scheduled
EPC(2) 11-05(p7) No.82 October 5, 2005 CFA90	The Shellfish (Specified Sea Area) (Prohibition of Fishing Methods) (Wales) (No2) Order2005	To safe guard the food source for the Scoter Duck by prohibiting dredging in a specified sea area		WITHDRAWN – legislation no longer proceeding
EPC(2) 11-05(p7) No.83	Protection of Cetaceans (Wales) Order 2005	The application of technical measures to fishing nets to minimise the	Negative	Provisional CIF date – late 2007 / early 2008

October 5, 2005 CFA88		incidental capture of cetaceans during fishing operations		
EPC(2) 11-05(p7) No.85 October 5, 2005 CFA81	South Wales Sea Fisheries Committee Byelaw - Skomer No Take	To protect stocks		WITHDRAWN – legislation no longer proceeding
EPC(2) 11-05(p7) No.86 October 5, 2005	South Wales Sea Fisheries Committee Byelaw 38 - Maximum Vessel Size	Fishing effect control	To be confirmed	No dates currently scheduled -
EPC(2) 11-05(p7) No.90 October 5, 2005 CFA67	The Swansea Bay (Colin Vivian Thomas) Mussel Fishery Order 2004	To cultivate shellfish	To be confirmed	No dates currently scheduled
EPC(2) 11-05(p7) No.92 October 5, 2005 CFA46	The Sea Fishing (Enforcement of Community Conservation measures) (Wales) (Amendment) Order	Measures support EU technical conservation regulation 850/98	Negative	Provisional CIF date – late 2007 / early 2008
EPC(2) 11-05(p7) No.93	The Sea Fishing (Enforcement	The management of fish quotas. Provides		WITHDRAWN – legislation no longer

October 5, 2005 CFA45	of Community Quota and Third Country Fishing Measures) (Wales) Order	enforcement powers.		proceeding
EPC(2) 02-06(p3) No.147 1 February, 2006 91PE	Town and Country Planning (Environmental Impact Assessment)(Wales)(Amendment No.2) Regulations	To apply the need for EIA to 'stalled' mineral review applications submitted before Regulations came into force on 15/11/2000	Negative	No dates currently scheduled - Will not be scrutinised prior to end of 2 nd Assembly.
EPC(2) 05-06(p1) – Minister's report 8 March, 2006	Infectious Diseases of Horses Order	To extend the list of diseases in the current Order to take account of certain new and emerging diseases. This will provide the Assembly with the powers to control the spread of diseases detailed in the Assembly's contingency plan for Specified Type Equine Exotic Diseases (STEED).	Negative	CIF – autumn 2007 or spring 2008
EPC(2) 08-06(p3) No.61	Code of Practice on Greyhounds	To explain the standards that will be required at	Negative	CIF - 2008

	24 May, 2006		Greyhound tracks, micro-chipping and best practice.		
	EPC(2) 08-06(p3) No.62 24 May, 2006	The Welfare of Greyhounds	To introduce standards for Stadia used for racing greyhounds, to introduce micro-chipping of animals and to ensure a veterinary presence at race tracks	Positive	CIF – 2008
	EPC(2) 08-06(p3) No.69 24 May, 2006	Code of Practice on Dogs	To draw up a code of practice on best animal welfare practice for looking after dogs.	Negative	CIF - October 2008
	EPC 11-06 (p1) Minister's report 13 July, 2006	Regulations for various sections of the planning and compulsory purchase Act Town & Country Planning (General Development Procedure (Amendment)(Wales) Order & Town & Country Planning (General Permitted	To enable new sections of the Act to be brought into force Improvement of planning service in Wales	Negative	No dates currently scheduled

		Development) (Amendment)(Wales) Order 2007			
EPC 11-06 (p1) Minister's report 13 July 2006	The Town and Country Planning (Use Classes) (Amendment) Order 2007	Improvement of planning services in Wales	Negative	No dates currently scheduled	
EPC 12-06(p3) No. 90 28 September 2006	Amending SI: The Agricultural Processing and Marketing Grant (Wales) (Amendment) Regulations 2006.	Amendments to existing to existing Processing and Marketing Grant regulations	n/a	These Regulations were incorporated in The Rural Development Programmes (Wales) Regulations 2006, which had a coming into force date of 01/01/07.	
EPC 01-07(p2) No. 14 25 January 2007	The Intra-Community Movement of Circus Animals	The SI aims to set a common animal health movement regime for circus animals by laying down health conditions and animal health inspections before permitting animals to travel to another member state. It	Negative	CIF - Summer 2007	

			will provide the legal basis for the enforcement of the EU Regulations		
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