



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

## **The Petitions Committee**

Completion Report

**Report of the Petitions Committee's consideration of  
P-03-095/101 Regional Waste Plan First Review**

**June 2008**

## **Presented**

13 December 2007

## **Ruled Admissible**

8 January 2008

## **Initial Consideration**

**31 January 2008**

The committee agreed to:

- The Committee agreed to request a background briefing from the Members' Research Service.

(See Annex 1 for the relevant extract from the transcript of the meeting on 31 January)

## **Further Consideration**

**21 February 2008**

The committee considered a paper prepared by the National Assembly for Wales' Members Research Service.

- Invite petitioners to give evidence at the Committee's meeting in Colwyn Bay on 6 March 2008.

(See Annex 1 for the relevant extract from the transcript of the meeting on 21 February and Annex 2 for a copy of the paper provided by Members Research Service)

**6 March 2008**

The committee took evidence from the petitioners and agreed to:

- Write to the Minister for Environment, Sustainability and Housing to ask that she reopen the draft Regional Waste Plan 1<sup>st</sup> Review reports for further consultation.
- Ask MRS to investigate the potential for a short inquiry into consultation guidance and best practice.

(See Annex 1 for the relevant extract from the transcript of the meeting on 22 May and Annex 3 for the letter sent to the Minister for Environment, Sustainability and Housing)

**11 June 2008**

The committee considered a response from the Minister for Environment, Sustainability and Housing and agreed to:

- Close the petition as the Committee could take the petition no further.

(See Annex 1 for the relevant extract from the transcript of the meeting on 11 June and Annex 4 for the letter received from the Minister for Environment, Sustainability and Housing)

**Petitions Clerk**  
**June 2008**

## Annex 1

## Extracts from Petitions Committee meetings

**31 January 2008**

**Val Lloyd:** We now move to our next petition—well, these are three petitions taken together. Two are regarding the south-east Wales draft regional waste plan. One of them relates to the actions of Caerphilly County Borough Council and the other relates to Rumney. Another has come from north Wales, which is almost identically worded, and the petitioner has asked for it to be considered with the other two. We also have a further petition, but the petitioner has not asked for it to be considered with the others. I now open this up for discussion.

**Andrew R.T. Davies:** From memory—although I should not say 'from memory'; the paper is in front of us—the one thing that the petitioners are asking for is that the consultation be extended to 29 February. Am I right?

**Val Lloyd:** Or until such time as people have been properly consulted. The petitioners did mention that date, certainly.

**Andrew R.T. Davies:** Given the time-sensitive nature of it, I am not sure how we approach that initial request. There seems to be genuine concern over a flaw in the consultation process, given the evidence that is before us. The Minister's officials have responded on the basis of what they are aware of. It was 28 December when they responded with a very concise letter. I would be minded to listen to what the petitioners have to say on the issue, but I am also aware that there is a time constraint on this consultation process.

**Val Lloyd:** I hear what you are saying, and I think that there is some doubt around the consultation process. The reply from the Minister's officials was very direct and clear, but there are a number of ambiguities that need sorting out—I have looked at the technical advice note, and it states that it lies with the regional waste authority. However, I draw the committee's attention to the letter regarding the south-east Wales regional waste plan. Working backwards, No. 5 is not within our power to deal with, and I am not sure about the legality, or even the correctness, of No. 3—that was answered in the letter, with the certificate of lawfulness, and, in view of that, perhaps we should ask for more information from the Members' research service on the workings of the regional waste plans—

**Mr Sanchez:** Sorry to interrupt, Val, but I just wanted to point out that it is paper 5A that you are referring to. I see that some of the Members are unsure about which paper we are on.

**Andrew R.T. Davies:** There is another paper that has five points as well.

**Mr Sanchez:** Yes, I saw you looking at that, and I thought that it was the wrong one.

**Val Lloyd:** The paper that opens this is paper 5, and then there is paper 5A. I was commenting on Nos. 3, 4 and 5. I have no problem with Nos. 1 or 2, but in view of the complexity of some of the others, I think that we need more advice. I am sure that at least one of them is not a matter for this committee, but the others are, and I think that we need a wider briefing from Members' research service on them. That is not to delay it, but so that we are better informed. Are Members content with that? I see that you are.

**Andrew R.T. Davies:** We have a meeting, anyway, next week or the week after.

**Val Lloyd:** Only if you want to come in during recess.

**Andrew R.T. Davies:** Next week is the first week of February—that is not recess

**Val Lloyd:** Recess is the week after, but we do not have a meeting next week; we meet fortnightly. I will be attending the Committee on European and External Affairs at this time next week

**Bethan Jenkins:** Will that deadline of 29 February be affected by—

**Val Lloyd:** It says 29 February,

'or until such time that the people of the Borough have been properly consulted'.

Even if we cannot reach a final decision, we may be able to reach an interim decision. Perhaps we could set that in motion, if we think that we will need even more information. I am mindful of that. So, we have an action point to ask the Members' research service for more information.

If you are all content, we will move to the last of the new petitions. Sorry, it is not the last, I have missed out the one on the north Wales draft regional waste plan—this is the petition that was not intended to be considered with the other three waste plans. However, the briefing would also apply here—in fact, even though we intended to look at that one in isolation, it is probably better to take them all together.

### **21 February 2008**

**Val Lloyd:** Turning to the regional waste plan reviews, if you remember, as well as the petition on the south-east Wales plan, we also had a petition on the plan in north Wales. We are asking a petitioner from north Wales to come to our meeting in a fortnight's time. We can only hear evidence from three people—it is up to them to decide who would come—but I wonder whether we could invite one of the petitioners from south-east Wales to make the journey to north Wales to join the petitioners there. That means that everyone will get a chance to speak.

### **6 March 2008**

**Val Lloyd:** We have these reviews in south-east Wales and north Wales, too. Some people will give us evidence on this petition and speak to it. I invite you, presenters, to introduce yourselves—this introduction will not come from your time.

**Mr Maddison:** My name is Tim Maddison and I am representing the south-east Wales aspect of the regional waste plan first review

**Mr Tayler:** Good morning. My name is Chris Tayler, and I am not from the Ukraine, because my name is spelt C-h-r-i-s and not K-r-i-s. My surname is spelt T-a-y-l-e-r, which is slightly unusual. I represent a charity called Together Creating Communities, of which I am a trustee. I wish to make the point that TCC is not a single-issue charity—it is a very broad-based charity that deals with aspects such as fair trade, the environment and homelessness as well as charities such as Help the Aged and so on. We aim to—

**Val Lloyd:** Excuse me—I asked you to introduce yourself and not your organisation in that much depth. Thank you

**Ms Rex:** Good morning. My name is Sam Rex, and I am an organiser with Together Creating Communities, which has representation across Wrexham, Flintshire and Denbighshire

**Val Lloyd:** Thank you. You have 15 minutes to make your presentation. You can use it in any way that you wish—it is entirely up to you—and I will indicate when the 15 minutes is coming to an end.

**Mr Maddison:** Good morning and thank you for giving us the opportunity to address you. Jeff Cuthbert sends his apologies from the Cardiff representation, and he has asked me to speak on behalf of its petitioners. Public consultation is enshrined in an EU convention ratified by the British Government on 23 February. The Government is a signatory to convention Cm6586 on access to information, public participation and decision-making, and access to justice in environmental matters, which gives clear guidance on the question of consultation. For example, under 'Objective', it states:

'In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.'

Waste management is covered in annex 1, paragraph 5. I will read out one example.

'Installations for the disposal of non-hazardous waste with a capacity exceeding 50 tons per day'

That paragraph includes all known waste treatment, thus making consultation mandatory. A certificate of lawfulness of proposed use or development, for example, does not require consultation.

The Welsh Assembly Government issued the policy document 'Wise about Waste' in 2002, which also gives local authorities clear guidance on the question of consultation and the need to include members of the public. The following is an extract from the regional waste plan consultation document:

'In order to determine the opinions of the people of the region, a consultation exercise is being undertaken. This involves talking to community groups, members of the general public and anyone else who is concerned about waste matters including green groups, businesses and industry.

'This document provides background information about the Regional Waste Plan 1st Review in your region to inform you of these and the plans for Wales as a whole. But we're also asking you what you think, because it is important that the solutions are acceptable and appropriate to the communities in each region.

'We need your help to: Identify the most suitable facilities for the treatment of waste; and identify the types of locations likely to be acceptable for these'.

The following is an extract from the Members' research service briefing to members of this committee.

'This formal consultation period on the RWP 1st Review is necessary in order to communicate the regional level issues and explore stakeholder and public opinion on the alternative choices at this level. The implementation of the RWP will have a significant impact upon individuals, communities and businesses for many years to come. It is considered paramount therefore that all those interests have a reasonable opportunity to take part in a dialogue about the content of the RWP.'

The word 'paramount' is used, and I am sure that you all know that the meaning of 'paramount' is: above all else, essential.

I have an extract from an e-mail from Martha Savage, confirming the regional waste groups' opposition to consultation meetings with members of the public:

'The matter was discussed at a WAG liaison meeting (which the coordinating authorities attended) and general consensus was that public meetings should not be held. This was later agreed by the three coordinating authorities as it was considered that a consistent approach should be taken across Wales. The approach taken for the consultation was again taken to the Regional Waste Group on the 24th of September.'

WAG had an input through attendance at these inception meetings.

I have an extract from an e-mail from Andy Rees, whom I am sure you all know, dated 27 February. It confirms that the WAG representative recommended public meetings:

'I am told that the WAG representative (Adrian Jones) did advise in the Regional Group meetings that it was advisable to hold public meetings.'

I have an invitation letter from Hyder Consulting:

'But, we need your help! The Welsh Assembly Government firmly believes that the people of Wales should be involved in the process of developing these strategies, and to help design the future waste management services and infrastructure across Wales. To do this, they want members of the public to get involved, ask questions and give your views on the current and future plans. This will help us to: identify the most suitable facilities for the treatment of waste; and identify the most suitable locations for these facilities.

'As such, we are holding a public focus group meeting in your region which will enable us to listen to your views and hear about how you see the future'.

I have a letter from Harry Andrews, the leader of Caerphilly County Borough Council, to a member of our group. It states:

'The public focus group meetings held in Cardiff were not advertised because they were intended to be "by invitation only" meetings for organizations across the whole region who represent the public rather than "open meetings"

At those meetings, Adam Read of Hyder informed us that only one person turned up prior to members of the public finding out about the meetings, and that he was then inundated with enquiries.

Claims have been made by Andy Rees, Stuart Rosser and others that Caerphilly council advertised the consultation in its monthly *Newsline* magazine. That is true, but that was not until after all the meetings had been held—we got it in December. Claims are also made by Stuart Rosser and Andy Rees that the information to allow the public to participate is on the website. I am computer literate, and I am pretty well-informed on waste technology, and I can tell you with absolute confidence that most members of the public would not be able to sensibly make a contribution on the website. The document is 154 pages long; that is the meat of what this is all about. You cannot do it on the website—it is ridiculous, and not enough people have knowledge of planning matters to understand what is in there.

I sent many e-mails to Stuart Rosser before the meetings, asking for information and whether we could attend—he ignored them all until after they were all over. Therefore, the petitioners passionately believe that the evidence provided here shows the consultation process to be flawed and designed to deliberately exclude members of the public from genuine, informed participation in the consultation process.

We therefore request that the Petitions Committee does everything in its power to persuade the Welsh Assembly Government, and local authorities, to repeat the series of three Hyder public focus group meetings for members of the public throughout Caerphilly, and the rest of Wales, and to ensure that they are well publicised. After all, it is our waste and our challenge, so we need to own the solutions to make it work. Thank you very much.

**Val Lloyd:** Thank you, Mr Maddison. Do you want to go next, Sam?

**Ms Rex:** How long do we have left?

**Val Lloyd:** We have had a slight technical hitch. You have seven minutes left.

**Ms Rex:** Thank you. As an organisation with more than 10 years' experience in dealing with waste issues, Together Creating Communities is well known to local councils and beyond. The organisation would have expected to have been notified about the community meetings, the focus group meetings and the stakeholder meeting that was held in Ruthin Castle, although we do not attempt to represent the views of everyone in north Wales.

We only found out about the community meetings from a round-robin e-mail that was sent by an officer from another organisation, and we then later discovered that that officer had been reprimanded for sending that e-mail. We found out about the focus group meetings through a letter that was passed on to us by Bishop Edwin Regan, who is also one of our trustees. At the second focus group meeting, we were informed that those who had contacted their local councils in the past about any waste issues would have been contacted and asked to attend the waste meetings; at least one of our members had done that and had not been contacted.

Therefore, this was not a consultation in process or in content. There was not sufficient information on the county council websites for the general public to access and to know that such a consultation was going on. It was on Conwy County Borough Council's homepage, but even if you carried out all sorts of searches on Wrexham County Borough Council's website and Flintshire County Council's website, it was a minefield to try to find out anything about this consultation.

On content, at the community meetings and the focus group meetings, more than a heavy reference was made to incineration as a waste disposal method. Other waste technologies were mentioned, but there was an emphasis on that particular form of waste disposal. In addition, members of the local community seemed to be characterised as uninformed objectors, and would therefore not have any knowledge or any sound background, or be able to make any sort of informed judgment about waste technologies and where they should be located. This was characterised particularly in one PowerPoint slide that included the words 'We object' in the middle of it, which did not go down too well.

I am sure that you have all had the documentation that I sent through. TCC is asking the Petitions Committee to scrutinise the Welsh Assembly Government on its role in the decisions made about the extent of the public consultation that was to be conducted, and for it therefore to take some responsibility for a totally inadequate consultation process. All the letters that we have had back from Assembly Members and Andy Rees have said, 'Sorry, but the Welsh Assembly Government cannot take any responsibility for this'. Tim referred to the letters that have gone backwards and forwards about Hyder and the 'Wise About Waste' strategy. We also had the same letter saying that the Welsh Assembly Government firmly believes that people should be consulted and, giving its involvement in various meetings, it needs to take some responsibility. We also believe that some credence can be given to this consultation if the draft consultation report is given out for a short period of time for consultation. We asked for that in the third focus group meeting and it was minuted. However, it was recorded inaccurately in the minutes and I am yet to determine whether it has been amended. In general, we ask that the National Assembly for Wales pushes the Welsh Assembly Government to establish best practice guidelines for consultation, which can be used across the board.

**Mr Tayler:** Throughout the meetings that we had with Hyder, we were concerned that Hyder had not actually taken our points away and properly distilled them as we expected it to do. That is illustrated by the fact that we asked for minutes, which we were told that we would get, but we did not get them. However, I think that we did get a copy yesterday, which we were told we were not supposed to get, and the minutes were inaccurate. So, we are very concerned that it is misrepresenting the points that we made.

I would like to make four technical points, if I may, that should be added and included. One is that the waste approach should be clearly based on the hierarchy, which is in the document. If you take the study from Demos, which was undertaken by the Government about 10 years ago, it showed that 80 per cent of, particularly domestic, waste can be recycled; technology has moved on since then and that figure is now probably nearer 90 per cent. Therefore, the need for expensive equipment such as that which has been invested in by Neath Port Talbot County Borough Council, which has proved to be a complete failure, is something that local councils should guard against. That should be clearly put in the document. Those facilities usually have to endure for 25 years and who can predict what is going to happen over a 25-year period? We think that councils could be liable for all sorts of financial difficulties following such large investments. Furthermore, we think that it is a guidance document and that the actual decisions should not be based on it or made by anyone other than the local authorities because it is the local authorities that have to carry the can. The Assembly Government should perhaps illustrate the best ways forward, but we are not sure that the result of the Hyder consultation will actually indicate best practice.

We do not think that the maps that it put in the draft that we saw were helpful to local authorities. For example, the maps pinpoint red spots where you would put things such as incinerators, and I know that one of the red spots is in Wrexham. Why would Wrexham want to be the incineration capital of north Wales? It would not and I think that it is wrong that the document shows that that is where you should put waste incinerators. I think that it is up to local authorities to decide whether they want to put expensive equipment such as that in place, with all the associated difficulties, and that is the way in which the document should read. If there are issues that individual local councils cannot deal with because they are too difficult for them to deal with on their own, I think that there should be collaboration between adjacent councils to deal with problems, rather than the Welsh Assembly Government saying, 'We will have an incinerator in Wrexham', or wherever else it may be. On one of the maps, Snowdonia is completely blank, which would indicate that you could not put any waste facilities there, including community-waste bring sites, because it is clearly a site of special scientific interest, and so on. However, people live there, so, again, the maps are misleading. I think that it could be clearly illustrated that there are approaches that are quite different to what is there.

**Val Lloyd:** Your time is up, Mr Tayler, but you may finish your sentence.

**Mr Tayler:** No, that is fine; I have finished, thank you.

**Val Lloyd:** I wish to pick up on a point that you made before I open this up. You said that the Welsh Assembly Government should not decide on where waste facilities are located. It does not decide on such things; the regional waste conglomerates, which are made up of local authorities, make suggestions, but decisions are still referred to the local planning authorities. I will now open this up for questioning.

**Michael German:** Thank you for what you said. It seems to me that we are getting a picture from two places about the consultation exercise being flawed. I would like to explore that, along with one other issue.

In a letter that Mr Maddison received from Andy Rees, to whom you have all referred, he says that the processes that were used in south-east Wales were, 'Beyond the usual statutory minimum'. I do not know what the usual statutory minimum is; I have no idea whether he is referring to planning applications, in which case this is quite different from a normal planning application because that flows separately. Do you understand what he is talking about and, if so, perhaps you could enlighten me because I think that it is unclear?

Secondly, I would like to explore another issue that I do not understand. You referred quite clearly to the certificate of lawfulness procedure and you used the acronym CLOPUD—the certificate of lawfulness of proposed use or development. Is that a means of bypassing the normal planning process for applications that a local authority then brings forward once its strategy is in place? Is the CLOPUD mechanism a means for not having to go through the normal planning process? Is that the issue?

**Mr Maddison:** To answer your first question first, I do not understand how Andy Rees came to his conclusion either, given the evidence that was supplied to him. Last week, he confirmed in an e-mail that his representative argued that they should hold public meetings, so he has contradicted himself there and he should be questioned carefully on that, as should Adam Read, who is privately dissatisfied with the level of consultation that he was able to undertake with the public—I do not know

whether or not he could go public because his paymaster is the Welsh Assembly Government.

On your second question, the reason why we in Caerphilly are so concerned is that there was a printing factory owned by St Ives plc in the middle of a business park and close—within 220m—to villages. Caerphilly purchased the factory, which had B2 planning permission, when St Ives moved out. It decided, after taking legal advice from John Steel QC, that it did not need to submit a planning application for a change of use because it was not a question of a change of use, but an industrial process and, as such, it could proceed. The EU convention is clear: before any waste facility that processes more than 20,000 tonnes per year or 50 tonnes a day can be opened, a full consultation and environmental impact assessments—the whole gambit—must be undertaken. Caerphilly, through use of the CLOPUD procedure, short-circuited all of that and denied any consultation with members of the public, businesses, or anyone else. So, none of those things were done. Thankfully, it withdrew when it realised that it had made many mistakes on this, but it put into the new regional waste plan that all waste technologies were inherently safe and that, therefore, they could be put into any business park that had B2 planning permission. So, that is what we are terrified of.

**Andrew R.T. Davies:** Thank you for your evidence this morning—it is much appreciated—and thank you for coming along to the offices.

The Petitions Committee must make a decision on the petition before us rather than on the technical stuff of waste management and its intricacies. The petition asks for an extension to the consultation process so that you, or other organisations, could participate more fully in that process and feel more engaged. Given that this is an ongoing process and that deadlines were in place, have you submitted any evidence, irrespective of the outcome with the Petitions Committee, to be considered by the various organisations in the hope that it might be accepted even though the deadline has passed? Secondly, as this is a European directive, have you challenged any of these actions through the European system, using the recourse that everyone, throughout the European Union, has to challenge directives, namely, the EU's own petitions system? We heard from a previous petitioner who had taken advice on the European angle.

**Ms Rex:** I cannot answer your second question because we have not used the European system as far as TCC is concerned—

**Andrew R.T. Davies:** It was not so much about the petitions system in Europe, but about whether you have gone to Europe to seek guidance about the process—as I said, it is a European directive. You say that you have not gone down that route at all.

**Ms Rex:** No, TCC has not gone down that route. However, in terms of the evidence submitted—and I am sorry, but I missed this out when I spoke earlier—in north Wales, the consultation was extended until 29 February, but that was advertised only on the regional waste plans website, and only TCC knew about it through direct contact. There was no other publicity about the fact that it had been extended.

We are organised enough to have been able to get evidence in a formal response to the regional consultation by the deadline of 24 December, but what member of the general public would be thinking about waste plans when they have Christmas shopping to do? So, that is the evidence that we have submitted. However, in terms

of the consultation document itself, and the letter that Hyder Consulting sent, saying that it wants the public to be involved, I am not quite sure how anyone could have got their evidence in.

**Mr Tayler:** One piece of information that might illustrate the effectiveness of the consultation is that, in the first public meeting, in Rhyl, there were just three people from the whole of north Wales. You would expect more than three if there had been reasonable consultation about this significant, serious topic that everyone is talking about in one way or another. The people who turned up happened to have been told about it through our mechanism. We could not go, which is why there were only three people, and at the subsequent meeting, although there were 15 people, 12 of them were from TCC. So, if TCC had not been there, there would have been just three people at the following two meetings. Perhaps that illustrates in hard numbers just how ineffective the consultation was at getting people involved. Even the leader of Wrexham County Borough Council did not know that it was happening.

**Andrew R.T. Davies:** So your view about the deficit in participation would be more concerned with the individual rather than organisations? As you said, your organisation and like-minded organisations have been able to meet those deadlines, although they are very trying deadlines, because the consultation was not advertised as well—

**Mr Tayler:** I think that many other organisations would not have known about it.

**Ms Rex:** We found out second-hand, by mistake. In the past, TCC has asked to sit on the regional waste group—that was a couple of years ago, before my time—and we were told that we were not needed. As an organisation with such experience in north-east Wales on waste issues, we would have expected to be invited to the stakeholder meeting, along with Friends of the Earth, the Countryside Council for Wales, local council officers, and so on. However, we were not invited, so we have asked again whether we can sit on the regional waste group. If an organisation such as ours, which tries to represent community groups, did not know about this, then who did?

**Val Lloyd:** I will ask a supplementary on that. You mentioned Friends of the Earth, among other groups. Was that group invited?

**Ms Rex:** Friends of the Earth was invited to the stakeholder meeting. We found about that and then asked for an invitation to it. That is how we attended.

**Val Lloyd:** I just needed clarification on that.

**Mr Maddison:** If I could just come in, Friends of the Earth attended the Cardiff meeting—one of its members attended, and put in a very critical report.

You asked about the European Commission. I have made enquiries on that, and there is quite a bit of case law showing that local authorities have ignored that EU convention, and the appeals have always been upheld at the European Court of Justice. That is not where we want to go. We have a Welsh Assembly Government, for goodness' sake, so let us make it work here.

**Val Lloyd:** Sam, I know that you have indicated that you wish to speak. However, we are out of time and Gareth has not yet asked a question so I will allow him to do so.

**Gareth Jones:** You mentioned that there was an extension of the deadline in north Wales. I am disappointed to hear that it was to no avail because, for some reason, it was not publicised. Can you expand upon that? How did that situation arise, given that there had obviously been pressure to extend the deadline? Am I right in thinking that it was extended in north Wales by two months until the end of February?

**Ms Rex:** Yes, but we found out that it had been extended about two weeks before the end of the extension. I believe that they decided in mid February that they would open it again, and then we found out, so it was only a couple of weeks before the end of the extension. To be fair, I must correct myself, because, when looking for something else, I saw that the extension was advertised on Conwy County Borough Council's home page. However, it was not publicised anywhere else.

**Mr Maddison:** I wish to come in at this point. Did you not circulate the e-mail that I sent?

**Mr Sanchez:** Yes, we did.

**Mr Maddison:** Stuart Rosser answered an email from me on 27 February, saying:

'It appears that the Denbighshire situation relates to specific circumstances in that area. The primary purpose is to allow Authorities in the area time to send in their responses—it will not involve any further consultation activities.'

**Gareth Jones:** Thank you.

**Val Lloyd:** Sam, I misread the clock, and we have five minutes more. I apologise for taking you out of order. Please make your point now.

**Ms Rex:** That is fine; the point has passed.

**Michael German:** I asked my question earlier, but I noticed that Sam and Chris did not have time to answer. I asked about the usual statutory minimum consultation. To your knowledge, is there a process laid down by the Welsh Assembly Government through which consultation should take place? Does the comment from the Welsh Assembly Government's head of waste strategy about the usual statutory minimum make sense to you? I do not understand it.

**Ms Rex:** To the best of our knowledge, there are no best practice guidelines. As far as the statutory minimum is concerned, the issue is more that, whatever the statutory minimum is, there has been such confusion among the Welsh Assembly Government, the public, Assembly Members and the regional waste group about the extent of public consultation. That confusion has come from Hyder Consulting too; it says that it wants us to be involved and then it says that it does not. The e-mails that have been flying around and what is written in the consultation document and in 'Wise About Waste' completely contradict each other.

**Mr Tayler:** That probably answers the question as clearly as anything would.

**Val Lloyd:** I wish to pick up on the question that you asked Tim earlier about the certificate of lawfulness. It is a well used and well recognised planning procedure. It is used for a very specific purpose and there is nothing untoward about it.

**Michael German:** That is why I raised it. I wish to clarify with Mr Maddison that the point that was being made was that, in this context, the CLOPUD mechanism could be used for any waste process where a B2 planning permission already existed. Is that the case?

**Val Lloyd:** It would still have to be published, and it would still be open to objections and an appeal process. It is part of the due process for planning under law. There is nothing untoward about it.

**Mr Maddison:** The fundamental difference is that there is no need for a consultation.

**Val Lloyd:** No. There is no need because it is a piece of planning law. However, it must still be printed and advertised in planning papers, and it is open to anyone to object to it. I cannot comment on this specific case, but I am quite certain of the process.

**Mr Tayler:** With regard to what happens from this point, we were told that we would not be able to see the draft document produced as a result of this consultation—or lack of consultation. It should be part of the consultation process, particularly for organisations such as Together Creating Communities that represent many people as well as councils, which obviously need to know what is included, that there is a second bite of the cherry to ensure that we are happy with what is included. After all, the councils must bear the brunt of whatever is decided and I think that that should be part of the system. It was made pretty clear to us by Hyder Consulting that the planning timetable for issuing the final document was so tight that we could not have the extension that we had asked for in terms of a consultation period because it would foul up the schedule. That is not right for something that is a long-term-approach document—a month or so for a consultation is not enough when you are trying to deal with something that is going to go on from 2012 to 2025. Councils and organisations such as ours should have an opportunity to look again at what is there and be able to consult on that.

**Val Lloyd:** Thank you. Your time is up now. I now open it up to Members for discussion.

**Andrew R.T. Davies:** We have to be mindful of the petition that is before us. We have heard technical details as well as doubts about the consultation process and the petition specifically asks for an extension of the consultation process. From what I have heard, there is a deficit, or a perceived deficit, in that process. However, if the Minister or the organisations are disinclined to extend that process any further, because it has been extended once already, then surely the opportunity at the draft report stage that we have heard about should be reopened so that people can fully consult on that draft report and get the second bite of the cherry. I do not think that that is an unreasonable recommendation for us to make, and we should also ensure that the circulation list, the list of stakeholders, is fully investigated to ensure that it is comprehensive enough to meet the requirements of a robust consultation process.

**Michael German:** I support that view. It seems to be a reasonable process, when you have a draft report, to go out for a further round of consultation. Another thing that has come out of this meeting is that we do not have a clear consultation plan. We have come across this before with the Environment Agency, although that has now come up with a consultation plan for a particular area of its work. It seems to me that it would be appropriate to have some guidance and guidelines from the Welsh Assembly Government on how you should consult. Perhaps we ought to ask the

Minister for a view on that and on such issues as with whom you should consult, how you should advertise, how widespread that should be, and, particularly, on the point about the minutes of any meetings that are held being publicly available so that anyone can see them, which seems to me to be quite a reasonable and normal way of dealing with things.

**Val Lloyd:** We can write to the Minister, who is I understand is very much in favour of public consultation. This is a local authority issue and we can only write to the Minister as regards the set-up for the regional partnerships.

**Michael German:** Yes, but the Government can lay down guidance to local authorities on these matters. For instance, there is guidance about planning applications and how to consult on them. I understand that the extent of that guidance is a matter for discussion, but it would appear that there is no guidance at the moment from the Welsh Assembly Government on how you should take this to the public. It should be a broad framework, not a restrictive—

**Val Lloyd:** I was agreeing with you that there should be clarity on the consultation process, but I was just drawing it into the public domain that it is a local authority issue and that we can only write to the Minister as regards what she would ask the local authority.

**Gareth Jones:** I think that there is an important point to make. Having lived through 'Designed for North Wales' and the flawed consultation that we had with the hospital situation here in north Wales—which I think is on the table again as an issue—it seems to me that the Government has more or less surmised that the local authorities, working in conjunction, collaboratively and so on, will end up with the end product, and they also take the nature of that consultation very much for granted. It should not do that because, quite frankly, the Assembly is about transparency and about getting things out in the open, and it should not make these assumptions. I share Mike's view that there should be a clear indication of that level of expectation as far as consultation is concerned. It should be laid down that, for all authorities, if their views are sought on any issue, there should be a protocol of what exactly we mean by 'consultation'. We fall foul every time, and I believe that this is a generic issue that needs careful consideration.

**Val Lloyd:** I think that we are all agreed on that.

**Andrew R.T. Davies:** I am not sure that I am approaching this in the right way, but time and again at the Petitions Committee, we hear of the deficit in consultation and the problems that various organisations have with feeling included in consultation. Is there any mileage—almost as a separate issue—in seeking clarification via the Government Minister responsible, perhaps the Minister for Finance and Public Service Delivery or maybe the Counsel General, as to how the consultation process is construed and what role the Assembly can take to ensure that there is a blueprint that people and organisations can work to? We just assume that it happens but, since starting this committee, over the past six to eight months, we have heard about various issues, involving everything from flooding to the Environment Agency, on which there has been a deficit in consultation. I think that there is merit in taking evidence from the Government on how that consultation process is constructed.

**Val Lloyd:** That is a really good idea.

**Michael German:** That was—

**Val Lloyd:** Sorry, but Gareth indicated first.

**Gareth Jones:** I totally agree. This is very much a cross-cutting issue, and that makes it difficult. It involves public consultation and the way in which the Assembly Government approaches it. If you have a cross-cutting issue such as this important issue, the question for the committee stage in the Assembly is: who is scrutinised, and how? We need to address that, because it does not fall under any particular portfolio, but it is a critical issue for us to approach.

**Michael German:** That is my cue for what I was about to say. This Assembly committee has been looking to see whether it could conduct an investigation of any issue. Obviously, we do not want to touch on things that are the responsibility of other committees, but it seems to be perfectly appropriate for the Petitions Committee, which hears the voice of the people in Wales, to have a locus for this sort of inquiry. It may be something that we might wish to consider as a committee inquiry.

**Val Lloyd:** Andrew has identified the Minister for Finance and Public Service Delivery as a possible point of reference, but I can also see the point in our having a sort of scrutiny role in this, given that it is a cross-cutting issue. It is up to Members. We are certainly agreed that we will write to the Minister with responsibility—that is the Minister for Environment, Sustainability and Housing—regarding the issue here. What do Members want to do? Do we write to Andrew Davies, the Minister for Finance and Public Service Delivery, wait for his reply and then scrutinise it? Or do we set up a consultation ourselves?

**Andrew R.T. Davies:** I think that we as a committee need to be proactive and ask the Members' research service to conduct some research into whether a system exists that could act as a blueprint to work to. We could invite the relevant Minister to come along and then take the evidence when the Members' research service has given us the background information. We want to be informed about what we are asking but, from the critical point of view of this petition, there seems to have been a deficit in the consultation, and, if it is not possible to reopen the consultation, people should have an opportunity to come back at the draft stage. That should be a critical comment in the letter to the Minister, in that she should try to facilitate that to the best of her ability, given that it is a local government issue as well.

**Michael German:** We are seeking a route to knowing whether there is a blueprint for consultation; I think the likelihood is that there is not one across the piece. It may be, however, the sort of investigation that would look not just at what the Welsh Assembly Government was doing, but at best practice elsewhere as well, and at how people communicate with the public. That is worthy of an interim, quick stage to find out what is going on in Wales. Also, taking it much deeper, we could look to see where else we can find examples of good practice of Government consultation with the public and perhaps use that as a blueprint for action in a committee report.

**Val Lloyd:** We will start by commissioning the MRS to do some research, and once we have that, we can put the matter back on the agenda for discussion.

### **11 June 2008**

**Val Lloyd:** Our next petition is another that was of huge interest—the petition on the regional waste plan. This related predominantly to the Caerphilly region, where the

first group of petitioners came from. We have now had a response from Jane Davidson, the Minister for Environment, Sustainability and Housing, and it is very comprehensive—each issue is identified and her response goes into some depth. Would anyone like to comment?

**Kirsty Williams:** Coming to this late, I am not quite sure how much further you could take it. The Minister has addressed the issues that were raised. Being new to the committee, I will take advice, but I do not think that we can go much further with it.

**Andrew R.T. Davies:** The Minister has addressed it fully in her letter. We have discussed this before: the level of consultation is enough for some, but there will never be enough for others. It is a case of trying to strike that happy medium. It was telling that the Minister pointed out that nearly £250,000 has been spent so far on the consultation exercise, which is not an inconsiderable sum of money. I wonder where we can take this. I am happy with the Minister's response. While it might not meet the expectation of the petitioners, I cannot see that we will be able to take the petition much further.

**Val Lloyd:** I completely agree. We have had a comprehensive report from the Minister; it was over and above what we could have expected. I think that we should close that petition as no further progress can be made. I see that that is agreed.

## Annex 2

This paper provides specific information to help inform any decision the Petitions Committee may take on the "Consultation and the new South East Wales Draft Regional Waste Plan" petition.

## **Current Welsh Assembly Government policy of relevance to Regional Waste Plans**

The Welsh Assembly Government has a three-page statement that outlines the Welsh Assembly Government's objectives for the revision of the Regional Waste Plans. The statement is appended as Annex 1 to this document. Put simply<sup>1</sup>:

The plans' purpose is to provide a land use planning document to assist the Authorities in Wales to plan for future waste management facilities that will be required to treat or dispose of most forms of waste produced in the different regions including industrial waste, construction and demolition waste, hazardous waste and municipal waste.

There are 11 constituent councils of the South East Wales Regional Waste Plan<sup>2</sup>:

- Blaenau Gwent CBC
- Brecon Beacons NPA
- Bridgend CBC (observer)
- Caerphilly CBC
- Cardiff CC
- Merthyr Tudful CBC
- Monmouthshire CC
- Newport CC
- Powys CC (South Powys - Brecknockshire and Radnorshire only)
- Rhondda Cynon Taf CBC
- Torfaen CBC
- Vale of Glamorgan CBC

## **Outline of the Regional Waste Plan First Review process**

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<sup>1</sup> Welsh Assembly Government, *Wales regional waste plans*,

[http://new.wales.gov.uk/topics/environmentcountryside/epq/waste\\_recycling/wales\\_regional\\_waste\\_plans?lang=en](http://new.wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/wales_regional_waste_plans?lang=en)

<sup>2</sup> South East Wales Regional Waste Plan, *Members steering group*,

<http://www.sewaleswasteplan.org/>

The South East Wales Regional Waste Plan webpage provides the following information about the review process:

Welsh Assembly Government planning policy requires that the Regional Waste Plan (RWP) is regularly reviewed. Therefore, the Regional Waste Group commenced the RWP 1<sup>st</sup> Review process in 2005.

In March 2006 the Members Steering Group agreed a document scoping the RWP 1<sup>st</sup> Review entitled "The Regional Waste Plan 1<sup>st</sup> review – content and approach"<sup>3</sup>. This document stated that the RWP 1<sup>st</sup> Review document would have two principal elements:

1. A Regional Waste Strategy which sets out a preferred mix of waste management/resource recovery technologies and capacities for managing the forecast arisings of all controlled waste streams.
2. A spatial element that guides the location of new facilities

In the context set by the Welsh Assembly Government's planning policy in Technical Advice Note 21 and the Welsh Assembly Government's Objectives for the RWP 1<sup>st</sup> Review<sup>4</sup>, guided by the 'Content and Approach' document, and informed by the Annual Monitoring Reports<sup>5</sup>, the following studies were undertaken in order to produce the Consultation Draft RWP 1<sup>st</sup> Review document.

- A Life Cycle Assessment and Sustainability Assessment of the alternative strategic waste management options<sup>6</sup>
- An Environmental Report on the alternative strategic waste management options<sup>7</sup>
- A strategic Health Impact Assessment of the alternative strategic waste management options<sup>8</sup>
- A Sustainability Assessment report/Environmental Report on the generation and assessment of Areas of Search maps<sup>9</sup>

## Outline of the recent consultation exercise

The South East Wales Regional Waste Plan webpage provides the following information about the consultation process:

The regional waste planning process is an inclusive process; transparent and consultative working practices are at the heart of the project.

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<sup>3</sup> South East Wales Regional Waste Group, *The Regional Waste Plan 1<sup>st</sup> review – content and approach*, [http://www.sewaleswasteplan.org/assets\\_oct\\_07/04.pdf](http://www.sewaleswasteplan.org/assets_oct_07/04.pdf)

<sup>4</sup> South East Wales Regional Waste Group, *The revision of the regional waste plans*, [http://www.sewaleswasteplan.org/assets\\_oct\\_07/05.pdf](http://www.sewaleswasteplan.org/assets_oct_07/05.pdf)

<sup>5</sup> South East Wales Regional Waste Group, *Monitoring the plan*, <http://www.sewaleswasteplan.org/monplan.html>

<sup>6</sup> South East Wales Regional Waste Group, *Reviewing the plan*, <http://www.sewaleswasteplan.org/revplan2.html>

<sup>7</sup> *ibid*

<sup>8</sup> *ibid*

<sup>9</sup> RPS Group, *Identifying areas of search for regional waste facilities across Wales*, July 2007, [http://www.sewaleswasteplan.org/assets\\_oct\\_07/15.pdf](http://www.sewaleswasteplan.org/assets_oct_07/15.pdf)

This website was established to provide details of the past, current and future work of the Regional Waste Group, giving access to electronic copies of agreed documents and giving the opportunity for any person or organisation to engage in any consultation process.

At the outset the Regional Waste Technical Group was established in order to support the work being undertaken by the Coordinating Authority. Participation in the Regional Waste Technical Group has been open to relevant regional-level stakeholder bodies since early work on the first RWP. Consultation with other stakeholders and the wider public is undertaken when relevant.

The next step in the RWP 1<sup>st</sup> Review process is an extensive public and stakeholder consultation [see embedded file below] on the Consultation Draft Regional Waste Plan 1<sup>st</sup> Review document<sup>10</sup>. The consultation is taking place for 10 weeks between 15 October 2007 and 24 December 2007. The final Regional Waste Plan 1<sup>st</sup> Review document will be published in 2007-08 after taking into account the feedback received during the consultation period.



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This formal consultation period on the RWP 1<sup>st</sup> Review is necessary in order to communicate the regional level issues and explore stakeholder and public opinion on the alternative choices at this level. The implementation of the RWP will have a significant impact upon individuals, communities and businesses for many years to come. It is considered paramount therefore that all those interests have a reasonable opportunity to take part in a dialogue about the content of the RWP. The final Regional Waste Plan 1<sup>st</sup> Review document will be published in 2008 after taking into account the feedback received during the consultation period.

The following documents are the subject of consultation:

- The Consultation Draft Regional Waste Plan 1st Review document
- The Life Cycle Assessment and Sustainability Assessment of the alternative strategic waste management Options
- The Environmental Report on the alternative strategic waste management Options
- The strategic Health Impact Assessment of the alternative strategic waste management Options
- The Sustainability Assessment report/Environmental Report on the generation and assessment of Areas of Search maps

Consultation activities will include:

- A website with an on-line survey
- Press releases

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<sup>10</sup> South East Wales Regional Waste Group, *Consultation Draft Regional Waste Plan 1<sup>st</sup> Review*, October 2007, [http://www.sewaleswasteplan.org/assets\\_oct\\_07/02.pdf](http://www.sewaleswasteplan.org/assets_oct_07/02.pdf)

- A high level stakeholder meeting
- An industry day
- A series of three public focus group meetings
- The offer to each Unitary Authority of one meeting within their area with a group of their choosing
- Random postal survey

Comments can be made, questions can be asked, and postal surveys can be requested by:

- Emailing [ourwasteourchallenge@hyderconsulting.com](mailto:ourwasteourchallenge@hyderconsulting.com)
- Phoning 02920 925202
- Writing to Our Waste Our Challenge  
HCL House  
St Mellons Business Park  
Cardiff CF3 0EY
- An online survey can be accessed at the following website:  
[www.ourwasteourchallenge.org](http://www.ourwasteourchallenge.org)

Members may also be interested in the Search Area Maps that are embedded in this document, firstly for in-building facilities:



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and for out-building facilities:



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## **Annex 1 Welsh Assembly Government statement on revision of the Regional Waste Plans**

### **THE REVISION OF THE REGIONAL WASTE PLANS**

#### **Purpose**

1. This paper outlines the Welsh Assembly Government's objectives for the revision of the three Regional Waste Plans that the three Regional Waste Planning Group coordinators should seek to achieve (through best endeavours) as part of the review of the Plans. It revises the version of the paper produced on 14th June 2006

#### **Background**

2. The EU Waste Framework Directive lays down a requirement for Member States to establish an "integrated and adequate network of waste disposal installations". Article 7 of the Framework Directive also requires Member States to produce waste management plans that "relate to suitable disposal sites or installations". The devolution settlement means that the Welsh Assembly Government is responsible for ensuring that the requirements of the Framework Directive are met in Wales. The three Regional Waste Plans (RWPs) form an important part of Wales' compliance with the Directive.

3. The first three RWPs produced in early 2004 were a useful first step but their revision needs to better address the requirement in TAN21 for the identification of areas of search, locations or sites for regional or sub-regional scale facilities. Paragraph 2.16 of TAN21 specifies that: "*The identification of areas or types of location for future facilities will be of particular importance. The RWP would not allocate sites for facilities, but it will indicate areas of need and search for potential sites for future facilities, and where possible, a choice of locations that once agreed in the due political process and in recognition of existing contractual arrangements, would serve the region. In some cases (for instance if the waste to be treated is of an infrequently arising type) a facility might serve other regions also.*"

4. The Audit Committee and EPC Committees' inquiries into waste both made recommendations in relation to the revision of the RWPs. In particular, Recommendation 3 of the Audit Committees report advised that: "*Regional waste plans are revised in order to indicate the types of locations where regional facilities could be situated.*" The Assembly Government in its December 2005 response accepted the need for RWPs to be revised to indicate types of location where regional facilities could be situated. The response added that a Geographic Information System (GIS) waste mapping model has been developed by the Assembly Government that will help inform the process further by defining areas of search for suitable waste facilities.

5. Recommendation 9 of the EPC Committee's inquiry into waste advised that "...Regional Waste Plans should be revised to ensure they identify suitable geographical locations for regional facilities and that the Welsh Assembly Government provides local authorities with clearer guidance to deliver this objective." The Assembly Government's response on 8<sup>th</sup> March 2006 identified that "...it is seeking greater clarity and rigour in the revised regional waste plans that will be produced in 2007. The current plans already have the status of material considerations in the planning process and the revised plans will be expected to identify with more certainty the types of sites that will be considered suitable for waste management facilities."

6. One of the key aims of the Regional Waste Groups is to identify the need for additional waste facilities serving more than one local authority area and ensure appropriate land use provision. It is anticipated that there is likely to be a need for of the order of a hundred or so waste facilities across Wales serving more than one local authority area. Whilst this figure is by no means prescriptive, it does give a broad indication of the total number of facilities required and an indication of the task ahead. A more accurate figure should be determined by each of the Regional Waste Groups during the revision of its plan.

7. The next 3-4 years will be critical in determining whether Wales establishes the necessary infrastructure in time to meet EU and Waste Strategy targets and to provide the alternatives to landfill that are required. The revision of the RWPs thus comes at a critical juncture and it is considered essential that a choice of locations for waste facilities is identified so that more certainty can be provided to the market.

### **Welsh Assembly Government stance on the revision of the Regional Waste Plans**

Outcomes sought

8. The Assembly Government seeks the following outcomes in each revised RWP:

i). The identification of the indicative number of different types of additional waste facilities (for each type of waste) required to be provided in the region that will be needed to serve (see point 9 in relation to shared residual municipal waste treatment facilities):

- a single authority;
- more than one authority (ie. for facilities with capacity for greater than one local authority area).

ii). The identification of a list providing a choice of locations/ sites (eg. named industrial estates, business parks etc) suitable for the location of additional "within building" waste facilities with capacity for greater than one local authority area (i.e. in relation to the facilities identified in i) above). Each local

authority should identify a list providing a choice of preferred potential locations or sites for additional waste facilities with capacity for greater than one local authority area for inclusion in the RWP. There needs to be a degree of over-provision – just because a site is identified it does not mean that it will definitely get a facility, nor does it have to be safeguarded necessarily. The degree of over provision should be agreed by the Regional Waste Group – a figure of 150% of the figure derived in i.) would seem reasonable, but is not prescriptive. Each authority should then be required to identify an appropriate proportion of this number. Preferred locations/ sites should be chosen on the basis of their suitability for waste facilities, including giving consideration to the nature of existing business already on the site/location, the presence of existing waste facilities, the existence of suitable site infrastructure (e.g. water, sewerage and electricity supply), the existence of planning permissions and/ or waste licences already in place for waste facilities, the availability of suitable business units and/or unoccupied premises and/or undeveloped land at the locations, and other factors deemed relevant by the Regional Waste Group. Any existing sites with facilities that currently serve more than one local authority can count towards the total number of alternative locations for that authority, providing they can accommodate additional capacity, or new facilities of a different kind.

iii). The identification of existing sites and areas of search for new “open air” waste facilities with capacity for greater than one local authority area.

iv). The inclusion of a set of detailed criteria for the identification of suitable locations or sites that can be used by each constituent local planning authority when identifying a choice of locations and sites for waste facilities in their local developments plans. The detailed criteria can be devised at an all Wales level in consultation with the Welsh Assembly Government (i.e. similar to the approach on the Hazardous Waste Supplements).

v). The more accurate determination of the new additional capacity (in tonnes per annum) required for the new waste facilities needed to deliver the preferred option and to meet EU Directive and Waste Strategy targets. This is dependent on more accurate information on current capacity being provided by the Environment Agency.

vi). The inclusion of an implementation plan within the RWP that includes the steps that will be taken by each local authority to ensure that the necessary land is identified in their Unitary and Local Development Plans for all types of waste facilities, including those that only serve an individual local authority (referred to as “local” facilities).

9. It should be up to the Regional Waste Group to identify the numbers of different types of new facilities that will be required across the region to deliver the preferred option and meet targets. It is proposed that, as a guide, the types of facilities should be broadly grouped under categories of scale. It is

also proposed that each local authority identify in their Unitary or Local Development Plans several choices of locations or sites suitable for facilities with capacity for greater than one local authority area ensuring that there is an over-provision of locations/sites to provide market flexibility for the private sector.

10. The identification of the number and scale of facilities required for municipal waste must take into account evolving collaborative ventures between local authorities within and outside of the regions.

**Andy Rees, Head of Waste Strategy Implementation Branch**

**Chris Morgan, Head of Environmental Planning Branch**

**7 August 2006**

## Annex 3

## Y Pwyllgor Deisebau

### Petitions Committee

Jane Davidson AM  
Minister for Environment, Sustainability  
and Housing  
Cardiff Bay  
CF99 1NA

Bae Caerdydd / Cardiff Bay  
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-095

21 April 2008

Dear Jane

#### **PETITION: REGIONAL WASTE PLAN 1ST REVIEWS**

At its meeting on 6 March 2008, my Committee considered a petition in relation to the consultation process for the Regional Waste Plan 1st Reviews.

The Committee agreed to write to you to ask that you consider reopening the draft Regional Waste Plan 1st Review reports to a further round of consultation. I enclose a copy of the petition and the verbatim transcript of the meeting is also available on the Petitions Committee website.

Thank you for your consideration of this matter, I look forward to receiving your response.

Yours sincerely,

Val Lloyd  
Chair, Petitions Committee

Enc. Petition Wording

## Annex 4

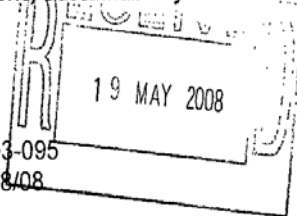
Jane Davidson AC/AM

Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai  
Minister for Environment, Sustainability and Housing

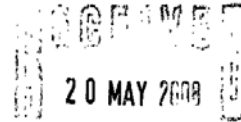


Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Eich cyf/Your ref PET-03-095  
Ein cyf/Our ref JD/00538/08



Val Lloyd AM  
Petitions Committee  
National Assembly For Wales  
Cardiff Bay  
Cardiff  
CF99 1NA



APSD

15 May 2008

*Dear Val,*

**PETITION: REGIONAL WASTE PLAN FIRST REVIEW**

Thank you for your letter of the 21 April 2008, in which you present a copy of a petition presented to the Petitions Committee in relation to the above Review.

I note your request that the consultation exercise on the Regional Waste Plan First Review be re-opened to permit further public consultation.

In response, it is important that I clarify first of all the status of, and process for, the Regional Waste Plans and the First Review. Regional Waste Plans form part of the implementation for Wales of the requirement within the Waste Framework Directive to produce waste management plans. Technical Advice Note 21 (Waste) requires local authorities to work together to prepare regional waste plans. This is a process driven and managed by the constituent local authorities, which make up the Regional Waste Groups. Whilst the Welsh Assembly Government sponsors the review process (and is a stakeholder in the three Regional Waste Groups), it does not have a remit to instruct the Regional Waste Groups, as these are independent bodies undertaking work under the terms of a voluntary arrangement as laid out in Technical Advice Note (TAN) 21 (Waste).

The details of the public consultation process were set out and agreed by the Regional Waste Groups prior to engaging the contractors responsible for delivering the process. During the 10 weeks of the consultation process [15<sup>th</sup> October – 24<sup>th</sup> December 2007], the contractors undertook the following work :-

- Held three Public Focus group meetings in each Region.
- Held three Strategic Stakeholder group meetings in each Region.
- Held a Community Group meeting in each local authority.
- Undertook three media briefings, with contact made to 106 separate media bodies.
- Produced 27,000 briefings and surveys to summarise the Regional Waste Plan First Review and supporting documentation.

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CF99 1NA

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Ffacs \* Fax 029 2089 8129  
PS.minister.for.ESH@wales.gsi.gov.uk

Printed on 100%

*Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)  
recycled paper*

- Sent 11,100 of these briefings and surveys by post to householders in Wales. [The remaining briefings were kept for dissemination at meetings and following contact via a web-based survey.]
- Hosted a web-site for the duration of the consultation which contained an electronic copy of the survey and links to the supporting documentation.
- Provided a telephone hotline for the period of the survey to enable consultees to have easy access to advisors.

Following the consultation period, the contractors summarised the outputs of the meetings, the returned surveys, the internet surveys and written and verbal representations made in relation to the Consultation Documents, and presented these in the form of three Regional Consultation Reports. Each of these reports was subsequently accepted by the relevant Regional Waste Planning Group to which it relates, and these groups are satisfied that the consultation process followed met with their requirements.

If I may consider the points raised in the petition :-

- a.) Extension of closing date to 29<sup>th</sup> February 2008 or until such time as the people of Caerphilly Borough have been properly consulted*** – the Regional Waste Planning Groups considered that the initial 10 week consultation period was adequate. The North Wales Group subsequently allowed an extension to their consultation of an extra month, but this was not copied by the other two Groups. The extended consultation period did not significantly alter the number of responses received by the North Wales Group.
- b.) Ensuring that public meetings concerning the plan are held in the North, East, South and West of Caerphilly Borough*** –The holding of a series of open public meetings was considered by the Regional Waste Groups but was not felt by the Groups to be a productive use of resources. If such public meetings were held as suggested in the Petition, then this would require nearly a hundred such meetings across Wales. Given the low turnout at meetings to which stakeholders were invited in advance (and these invites followed up with further reminders by email and telephone), it is not considered that the expenditure involved in hosting these meetings would have led to an enhanced consultation response, nor would it have represented value for money.
- c.) Ensuring that the rights of the people of Caerphilly Borough are preserved under the formal planning system, so that planning applications for waste facilities are not given approval by use of the Certificate of Lawful Use Procedure (CLOPUD) as suggested in the draft SE Regional Waste Plan (October 2007) document*** - the draft South East Regional Waste Plan outlines the CLOPUD procedure in Section 11.3.5. An application for a lawful development certificate is solely a means of establishing whether the development, which is the subject of the application is, or would be, lawful. For planning purposes the development would be lawful if enforcement action could not be taken against it – either because it didn't need planning permission, or planning permission had been granted for it or because of the passage of specified periods of time. The nature of the development is irrelevant to these considerations as all that may be taken into consideration are the legal and technical issues of whether the development is lawful. It is because of this that there are no requirements for applications for lawful development certificates to be notified to other owners or publicised.

In determining an application for a lawful development certificate the planning merits of the development are not at issue, are not relevant and may not be taken into consideration.

d.) ***Ensuring that Caerphilly County Borough Council make provision for the development of waste management facilities in its Local Development Plan –***

In preparing its LDP, local planning authorities must, amongst other things, have regard to national policy. This is one of the criteria that the Planning Inspectorate will use for assessing the soundness of the LDP when it is submitted for independent examination. The Welsh Assembly Government is one of the statutory consultees which local planning authorities are required to consult at pre-deposit and deposit stages of LDP preparation (prior to submission for examination). The Assembly Government will scrutinise pre-deposit documentation and deposit plans to identify whether they are consistent with national policy or whether any conflict is justified by robust evidence of local circumstances; any concerns will be lodged as objections.

e) ***In view of the noise, smells, traffic impact and perceived health hazard associated with waste facilities, ensures that the SE Regional Waste Authority precludes them from all business or industrial parks within Caerphilly County Borough –***

in July 2004, the Assembly Government issued a policy clarification letter (CL-04-04). This stated that sites on general industrial estates would be suitable for many types of waste management processes. It was acknowledged at this time that further work would be required by the Regional Waste Groups to reach agreement on the siting of national or regional-scale waste management facilities. The Regional Waste Groups consider that this position is still germane. The First Review consultation draft plan states that due to advances in technology and the introduction of new legislation, policies and practices, many modern waste management / resource recovery facilities are no different to many other modern industrial processes in terms of their operation or impact. For this reason, many existing land use class B2 'general industrial' (and similar) employment sites, existing major industry areas, and new B2 sites allocated in development plans will be suitable locations for the new generation of in-building waste management facilities. In addition to this, the Regional Waste Planning Groups have undertaken an 'Areas of Search' land use mapping exercise. The purpose of the mapping was to identify Areas of Search at a strategic level for use by Local Planning Authorities during the Local Development Plan preparation process – as a starting point for more detailed local level assessments to identify appropriate sites for waste management facilities in Local Development Plans.

It will be a matter for Caerphilly County Borough Council in preparing its Local Development Plan to decide on the appropriate locations for waste management facilities as part of its contribution towards fulfilling EU obligations to make adequate provision for a network of waste management facilities.

I have also read with interest the relevant part of the verbatim transcript of the Petitions Committee meeting of 6<sup>th</sup> March that covered the Regional Waste Plan consultation. I see there was much useful debate about the nature of the consultation process. In respect of the reference made to one of my officials expressing his opinion in correspondence that "it [the consultation] does seem to be an extensive process that goes well beyond the usual statutory minimum", my official was referring to the fact that, in respect of many statutory consultation exercises, there is only a statutory requirement to "consult" or at best "publicise" the consultation. The method of consultation is rarely prescribed in statute, or indeed in any statutory guidance. In this case it is considered that the Regional Waste Plan consultation process meets the requirements of the Public Participation Directive which applies to plans and programmes relating to the environment and specifically includes plans required by the Waste Framework Directive.

Having therefore considered the above issues, I do not consider that it is appropriate to request that the SE Wales Regional Waste Planning Group re-open the consultation exercise. I would also add that the public consultation exercise across Wales to date has cost over £222,000, and that re-opening this would add to this figure. I do not consider that this offers value for money given the issues raised in the petition, which I believe have already been addressed for the reasons given above.

Yas,



**Jane Davidson AM**

Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai  
Minister for Environment, Sustainability and Housing

