



**Cynulliad Cenedlaethol Cymru  
The National Assembly for Wales**

**Pwyllgor Deddfwriaeth Rhif 1  
Legislation Committee No. 1**

**Dydd Iau, 12 Chwefror 2009  
Thursday, 12 February 2009**

**Cynnwys**  
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Gwaredu) (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 4  
Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales)  
Measure—Stage 1, Evidence Session 4

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg. Mae hon yn fersiwn ddrafft o'r cofnod. Cyhoeddir fersiwn derfynol ymhen pum diwrnod gwaith.

These proceedings are reported in the language in which they were spoken in the committee. In addition, an English translation of Welsh speeches is included. This is a draft version of the record. The final version will be published within five working days.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur Labour
Ann Jones	Llafur Labour
Huw Lewis	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives
Mohammad Asghar	Plaid Cymru The Party of Wales

**Eraill yn bresennol**  
**Others in attendance**

Heledd Bebb	Swyddog Polisi ar gyfer Hamdden, Diwylliant ac Iaith, Cymdeithas Llywodraeth Leol Cymru Policy Officer for Leisure, Culture and Language, Welsh Local Government Association
Eifion Bowen	Ysgrifennydd, Cymdeithas Swyddogion Cynllunio Cymru a Phennaeth Cynllunio, Cyngor Sir Gaerfyrddin Secretary, Planning Officers Society for Wales and Head of Planning, Carmarthenshire County Council
Peter Gomer	Cyfarwyddwr Cynorthwyol ar gyfer Cymunedau a Gwasanaethau Hamdden, Cyngor Bwrdeistref Sirol Caerffili Assistant Director for Communities and Leisure Services, Caerphilly County Borough Council
Dr Chris Llewelyn	Cyfarwyddwr Dysgu Gydol Oes, Hamdden a Gwybodaeth, Cymdeithas Llywodraeth Leol Cymru Director of Lifelong Learning, Leisure and Information, Welsh Local Government Association

**Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol**  
**Assembly Parliamentary Service officials in attendance**

Claire Griffiths	Dirprwy Glerc Deputy Clerk
Bethan Roberts	Cynghorydd Cyfreithiol i'r Pwyllgor Legal Adviser to the Committee
Liz Wilkinson	Clerc Clerk
Graham Winter	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

*Dechreuodd y cyfarfod am 1.03 p.m.*  
*The meeting began at 1.03 p.m.*

**Ethol Cadeirydd Dros-Dro**  
**Election of Temporary Chair**

[1] **Ms Wilkinson:** Good afternoon, everyone. Welcome to today's meeting of Legislation Committee No. 1. In the absence of Rosemary Butler, the committee Chair, I call for nominations for a temporary Chair under Standing Order No. 10.19.

[2] **Huw Lewis:** I nominate Christine Chapman.

[3] **Ms Wilkinson:** Thank you. Are there any other nominations? I see that there are not, therefore I declare that Christine Chapman has been duly elected temporary Chair of the committee.

*Penodwyd Christine Chapman yn Gadeirydd dros dro.  
Christine Chapman was appointed temporary Chair.*

### **Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions**

[4] **Christine Chapman:** Thank you very much, everyone, and good afternoon. Prynawn da.

[5] I welcome all of you to the meeting today. We have received apologise from Eleanor Burnham and Peter Black is substituting for her. Rosemary, of course, sends her apologies, and I am standing in as temporary Chair. I also welcome Mohammad Asghar to the committee, following his election to this committee in Plenary yesterday.

[6] I have a few reminders. I remind you that the committee operates bilingually, and you can use the headsets to listen to the translation of contributions made in Welsh. They can also be used to amplify the sound. I remind you to turn off any mobile phones, pagers or other electronic devices, as they interfere with the broadcast and translation equipment. In the event of a fire alarm, the ushers will escort you from the room.

1.05 p.m.

### **Mesur Arfaethedig Caeau Chwarae (Ymgysylltiad Cymunedau â Phenderfyniadau Gwaredu) (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 4 Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure—Stage 1, Evidence Session 4**

[7] **Christine Chapman:** The purpose of today's meeting is to take oral evidence from the Welsh Local Government Association and the Planning Officers Society for Wales in connection with the Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure. I welcome Dr Chris Llewelyn, the director of lifelong learning, leisure and information from the Welsh Local Government Association. I also welcome Heledd Bebb, a policy officer for the WLGA, Peter Gomer, the assistant director for communities and leisure at Caerphilly County Borough Council, and Eifion Bowen, the secretary of the Planning Officers Society for Wales and the head of planning at Carmarthenshire County Council. I welcome you all; we look forward to your input to this discussion.

[8] We have quite a few questions for you, and I will start with a general one. In your written evidence, you assert that the proposed Measure is unnecessary in view of the protection afforded to playing fields through the existing planning regime. Could you expand on that, and tell us which of the existing arrangements you consider to address the objectives of the proposed Measure? Chris, would you like to start?

[9] **Dr Llewelyn:** Yes. I know that you have some specific questions to ask, but I would like to make a few general remarks before I ask my colleagues to come in with more detail. Eifion and Peter are here representing the various networks, but they also act as professional advisors to the WLGA, and in preparing our response we liaised with the 22 authorities and various professional networks, so ours is the collective view of the whole of local government. While we are sympathetic to the aims of the proposed Measure in terms of consultation and public engagement, our view is that, as you mentioned, the existing mechanisms suffice and cover adequately the intentions of the proposed Measure. In the current economic climate, anything that we can do to ease bureaucratic and administrative burdens, and to use resources as effectively as possible, should be done. In this instance, we do not think that the proposed Measure would help in that regard.

[10] There is also the issue of what the proposed Measure is trying to achieve. The proposed Measure seeks to address a problem that we do not recognise—we do not accept that the problem exists. Our research and that of the Sports Council for Wales supports that view. I suspect that that issue will be developed in the course of the discussion.

[11] After those few, general remarks, I will ask my colleagues to come in on the specifics of your question.

[12] **Mr Bowen:** I will start with the basics of the planning system. I do not want to teach a grandmother to suck eggs, but I will start with the basic purpose and function of the system. It exists to regulate the use of land in the public interest. The use of playing fields is clearly a public interest issue. The fundamental principles of the planning system have been in place since 1947, and, quite simply, they took away the right of individual landowners, including local authorities, to do what they wanted with their land irrespective of what other people thought.

1.10 p.m.

[13] Every planning authority is obliged to produce a local development plan, as detailed in the most recent Act. In those local development plans, and in the unitary development plans that preceded the work on the LDPs, there are specific policies that protect recreational areas. You can see examples in the evidence of policy from several planning authorities that identify, for the purposes of the development plan, certain land uses that require protection. Those include recreation.

[14] Starting from that policy level, if an authority is minded to grant planning permission contrary to that policy and development plan, there are certain requirements that it must meet, including notifying the Welsh Assembly Government, setting out its reasons. That is the first step that would allow the Welsh Assembly Government to enter into the discussion and reflect public concerns about a planning application that may result in the loss of a playing field. That is at the strategic level.

[15] Turning to the specific planning applications, there are clearly requirements to consult, which includes advertisements in the press and direct consultation with neighbours. To cite an example, last year, we dealt with an application that involved the redevelopment of Stradey Park. It was not owned by the local authority, but the playing field facilities were certainly used by local people, which, incidentally, led to a village green inquiry. We sent out 301 letters as part of the consultation on that planning application, targeting those who abutted the site. We advertised it in the press, which cost £650—and I will come to the cost of implementing the proposed Measure in a moment. We obviously took on board some of the comments. The Minister exercised her right to call in the application, which was contrary to the development plan because that field and the associated training fields were identified as a recreation area. The call-in led to a public inquiry at which evidence was given to support the

fact that there would be replacement facilities provided. There were also other factors that came into the equation, all of which led the authority to support the proposal.

[16] The key issue there was that there was an independent assessment of the scheme by a planning inspector. From what I understand of the proposed Measure and the requirement on a local authority to prepare this statement, advertise it and consult on it, it would still be open to the authority to proceed with a sale of the facility. There is no independent assessment of the issues required by the proposed Measure. The planning system provides for that independent assessment, either through the call-in process or through the planning appeal decision process. I have brought the details of two appeal decisions with me, which I may refer to later. In both cases, the issue of the appeal related to the loss of open space. Therefore, the planning system is a robust, proven system that provides an opportunity to carry out an independent assessment of the issues where local people feel that the authority, for whatever reason, is going against their wishes.

[17] **Christine Chapman:** Thank you for that introduction. I think that we can tease out some of those issues through questions from Members. I am keen to move on with those.

[18] **Ann Jones:** I have eaten dinner today so I shall not be as hard on you as I was in the Finance Committee. In written evidence to the committee, Jane Davidson, the Minister for Environment, Sustainability and Housing, states that the planning mechanisms are peripheral to the thrust of the proposed Measure. Given what you have just said, what is your view on the Minister's observation?

[19] **Mr Bowen:** I disagree. As I said, the planning system is there to regulate the use of land in the public interest. The planning system places the responsibility on local planning authorities to designate land for recreation, places to live and places to work. It is required to back up policies that allocate that land with specific pieces of work. The soundness of the plan will be a key test of the new local development plan planning process. To my mind, the technical advice note published this week reinforces the fact that it is not peripheral to the planning process; it is a material consideration when arriving at decisions on individual planning applications, and it is a requirement under the Planning Act 2008 to ensure that adequate land is set aside for leisure purposes.

[20] **Mr Gomer:** All local authorities follow the six-acre standard that Fields in Trust Cymru and the TAN document refer to, so the question about the local development plan process is quite sound and, as a leisure department, our advice to planning departments developing an LDP is based on what is in place at the time and what we would have for the future. So, I would have to disagree. It is an integral part of our overall planning process, and I could give particular examples later of issues that have occurred in our authority over the past two years that clearly demonstrate that fact.

[21] **Ann Jones:** When Dai Lloyd, the Member in charge of this proposed Measure, gave evidence to this committee, he asserted that the legislation is concerned with providing an additional safeguard before disposal decisions are made and, as such, is separate and distinct from the protection afforded to playing fields through the planning system. What is your response to that?

[22] **Dr Llewelyn:** I can see why he thinks that it is an additional safeguard or a safety net, but our issue is that we do not recognise that the problem that he is trying to address really exists. Even if it did exist, the existing process is pretty robust, as Eifion has indicated, and we do not see the added value of the proposed Measure. We do not quite see what it brings that is different from what is already in place or how it adds value. However, we do see added bureaucracy and, potentially, added cost and complexity to a process that we think works already.

[23] **Mr Bowen:** There is also the possible danger of undermining the planning policy and the development plan. Another fundamental principle is that if there is an existing system to control development—for example, pollution control through the environmental permit system—the planning system is advised not to get involved with that. There is the possibility of this proposed Measure being seen as a way of bypassing the strong development plan objections to a change of use of a playing field, as you could say, ‘Do not worry about that; we will undertake this assessment and you will not have to bother with that for the planning application’. So, I would go further than saying that it is not necessary; I think that there is a strong possibility that it could undermine existing planning provisions to protect open spaces.

[24] **Ann Jones:** We have seen examples in years gone by of local and unitary development plans being totally ignored for the sake of the development of public open space or of a playing field. Given that the planning authorities can sometimes hide behind various bits of planning law and regulations, does Dai Lloyd’s proposed Measure not have some merit?

[25] **Mr Bowen:** If you follow the proposed Measure to the letter, the authority would be required to undertake the assessment, publish it and take on board the consultation responses, but it could still find reasons for the development to proceed. That is done internally. It is prepared by the local authority. It undertakes the consultation process and arrives at a judgment, unlike in the case of a village green, where you would have an independent legal viewpoint on it, or a planning issue, where there would be a planning inquiry. I maintain that, where planning authorities go against their development plans, the opportunity for the Minister to call in the application would be there, for that very reason. I have quoted Stradey Park as an example of that.

1.20 p.m.

[26] **Mr Gomer:** One issue for me is that we have not seen a specific example from the evidence that we have gathered over a fair few months—that is, the information that the Sports Council for Wales has gathered or that we have gathered independently with the Welsh Local Government Association. So, it may be helpful for us to see one, because, in all the communities that we have looked at, where there has been a disposal of a playing field, there has been a huge gain for the local community with new leisure provision. There has never been a like-for-like situation: if a playing field has had to be replaced under the planning process, the new playing field has met the new playing standards of the Sports Council for Wales and has replaced what might previously have been a rolled piece of clay. So, it would have been helpful had we been given a specific example, because we have not been able to find one, of there having been a detrimental effect on a local community or a team by such a disposal. The evidence that we presented indicates a clear, positive move forward.

[27] **Christine Chapman:** Thank you. Ann, do you have a final question?

[28] **Ann Jones:** In her written evidence, Jane Davidson, the Minister, suggests that the current legislative provisions governing the disposal of land by local authorities, namely sections 123 and 127 of the Local Government Act 1972—and I take it that she has the right sections, as I have not checked them—are the most important safeguard in relation to disposal decisions. Do you agree with the Minister’s view?

[29] **Mr Bowen:** My understanding is that the purpose is to ensure that, for any land that the authority disposes of, whether it is an open space, fields, or even a piece of commercial land, provisions have to be made and a proper price has to be given for it. My understanding is that the purpose of those sections is to ensure propriety and public value, rather than to deal with the merits of any disposal. The stress is on the financial side.

[30] **Ann Jones:** What about the argument put forward by Dai Lloyd that the provisions in sections 123 and 127 of the Local Government Act 1972 are inadequate and disproportionate, given the importance of playing fields to local communities and the wider health and wellbeing agenda? What are your views on that?

[31] **Mr Gomer:** Could you clarify something about the issues to do with health and wellbeing in relation to the disposal of a playing field? You are saying that the present rules and regulations do not take into account—

[32] **Ann Jones:** Sorry, my point was that Dai Lloyd—the Member who proposed the Measure—argues that the provisions in sections 123 and 127 of the Local Government Act 1972 are inadequate and disproportionate, given the importance of playing fields to the wider health and wellbeing agenda. I think that he is trying to argue that sections 123 and 127 relate, as Eifion said, to the financial mechanisms and the way in which disposal is carried out.

[33] **Christine Chapman:** I just want to bring Bethan Roberts in to clarify this point.

[34] **Ms Roberts:** I will clarify the sections and the important safeguard referred to in question 4. This refers to the two-week advertisement procedure that is currently considered under those provisions. So, it is not just the Best Value consideration that was raised, but the two-week advertisement procedure as well. I just wanted to bring that to your attention.

[35] **Mr Gomer:** There are two separate parts. In addition to that, there is also health and wellbeing. I will come back on health and wellbeing, if that is all right.

[36] **Christine Chapman:** Okay, thank you.

[37] **Mr Bowen:** I would not disagree, but I contend that there is an adequate system to deal with those concerns. This proposed Measure focuses on local authority playing fields. The planning system protects all recreational space, whether informal open spaces or formal space owned by the local authority, the community council, private schools or clubs. I reassert my view that the planning system provides more specific protection from that perspective.

[38] **Christine Chapman:** Peter wants to come in on this.

[39] **Peter Black:** I would like clarification. In the legal framework, there is a requirement on local authorities to advertise publicly the disposal of open space. Would that include formal open spaces, or just playing fields?

[40] **Mr Bowen:** I am not sure about that.

[41] **Dr Llewelyn:** We can follow up that issue and write to the committee.

[42] **Christine Chapman:** It would be good if you could follow that up, Chris. We will now move on to Oscar's few questions.

[43] **Mohammad Asghar:** In your evidence, you refer specifically to the work being undertaken by local authorities in preparing their local development plans. What is the main purpose of a LDP?

[44] **Mr Gomer:** I will speak about it purely from a leisure perspective. The purpose is to identify the present land use from the old unitary development plan, as that took into account all our formal and informal recreational space. So, as an authority we would look at the green space that we have. The old National Playing Fields Association standards—and the NPFA



has now been superseded by FIT Cymru—include what everyone calls the ‘six-acre standard’, and playing fields come within that standard. I have not yet read the new TAN 16 that is out, as I received it only last night, but, I understand that it is coterminous with FIT Cymru’s standards, and the need to preserve the six-acre standard. The LDP will be different from the old UDP in that the public and private investors will have a much bigger say in how it is developed. We are inspected on what we are doing to comply with the guidance on the six-acre standard, and so we are careful to put that in the paper. As an authority, when we develop the LDP, we would look at every area and we would make a calculation on what we currently have and on what we could achieve for the future.

[45] It is important that local authorities do that because when we come to discuss any sort of development with developers, such as the section 106 agreements, under planning regulations, we have to have already developed a robust argument in the LDP as to why we needed a new playing field, for example, in another community. It could be because we are building x number of houses and therefore we need playing field provision to go with them. Our argument has already been rehearsed and is already in the document, so it underpins what we are trying to do as a local authority. So, as part of the LDP, each local authority would have to develop a paper just on leisure, and that would be on playing fields and other leisure activities such as play strategies and so on.

[46] **Mohammad Asghar:** Would a local authority be expected to include proposals for future playing field disposals in its LDP?

[47] **Mr Gomer:** Not as disposals. Most local authorities include a requirement in their LDPs for additional playing fields, formal open space or open space provision protection, based on the six-acre standard, because we recognise that it is based on population and we may expect the population in a particular area to expand. We would want to consider how we could deliver new playing field provision. Therefore, the plan does not really look at disposal, but at a requirement for an additional playing field. That is where we get the evidence to go forward with any developer to claim the section 106 agreement to fund that development.

[48] **Peter Black:** When considering long-term use, Stradey Park is a good example, as is the Vetch Field in Swansea. You would include in your LDP the future zoning of that land, would you not, which, effectively, amounts to planning for disposal?

[49] **Mr Bowen:** Yes, I can envisage a situation in which existing playing fields may be allocated for development, but that is a clear statement of what the authority intends to do. There is a clear opportunity to object to that, and then it goes through the due process to examination. The point that needs to be emphasised is that you need to look at open space in its totality when you look at local development plans, and you are required to provide robust evidence to show that you have looked at any subject. Whether it is the allocation of housing land or employment land, you have to demonstrate that you have the evidence on which to base your policies. In Carmarthen, for example, we have a strong modernising education programme, which may result in schools being closed, so you would need a clear indication in the development plan of the aspirations in land-use terms for those sites.

[50] **Christine Chapman:** I think that Oscar wants to come back on that.

[51] **Mohammad Asghar:** Do you know how many local authorities have so far carried out an open-space assessment exercise as part of preparing the LDP?

[52] **Mr Bowen:** I can give you the experience of Carmarthenshire, which is based on an approach taken by three authorities in the Valleys. We are carrying out a green space assessment. I know that you are looking again at the local authority issue of playing fields, but TAN 16 is quite clear that you need to consider all sports and leisure facilities.

1.30 p.m.

[53] We have recently commissioned a green space assessment. Working with the Countryside Council for Wales, our leisure department, our technical services department, which is responsible for maintenance, and our housing department, we have commissioned a piece of work where every piece of open space—whether it is informal or formal, in private ownership or public ownership—will be noted in a database, on which we will base our open-space policies in the LDP. That is costing £50,000 and demonstrates the commitment of local authorities to investing in an evidence base on which they can take policies forward. As I said, it is a tool that is used by three authorities in the Valleys—Blaenau Gwent is one of them. There is a methodology for indicating parks and gardens, natural habitats, amenity green space, provisions for children, outdoor sports facilities and also allotments, which come into that equation as well. So, there is a fairly robust, scientific approach to this assessment. I would say that every authority will have to carry out that evidence-gathering process, if it is to be able to justify and demonstrate its decisions at a public inquiry.

[54] **Ms Bebb:** The new TAN 16 guidance was issued only two days ago and local authorities would not have been looking to develop their open-space assessments without knowing exactly what the guidance for the future was going to be on carrying out those assessments.

[55] **Mohammad Asghar:** You have only given me part of the answer. I asked how many authorities had done the assessment. You said that it cost £50,000 and that you can share that information anywhere among the authorities. How many have done the assessment so far? Is it just three?

[56] **Mr Bowen:** We can share the methodology. As I said, I can only relate Carmarthen's experience. The point is that every authority has to have an LDP in place and that process of evidence gathering will be tested whether it is employment-land allocation, housing-land allocation or recreation-land allocation. That is where the authority will be required to have the evidence base.

[57] **Dr Llewelyn:** I would like to add something. Eifion and Heledd have reflected the position as we understand it. It is not information that we would ordinarily gather, but if it would be useful, we could write to the authorities to try to find that information for you.

[58] **Christine Chapman:** That would be useful. Thank you. Before we move on to Huw Lewis's set of questions, because we have a lot of very specific questions, I would ask both Members and witnesses to be as succinct as possible, so that we can try to get through all the questions. This is quite a rigorous exercise with this new proposed Measure. Huw, would you like to come in?

[59] **Huw Lewis:** Yes, thank you, Chair. Dai Lloyd has a point, has he not? I am following on from your answers to Oscar. It is possible, is it not, for a local authority to go straight to a disposal decision without ever bumping into the planning regime?

[60] **Mr Bowen:** Not if the disposal involves a change of use.

[61] **Huw Lewis:** But through the LDP—

[62] **Mr Bowen:** If it is allocated for a different use, the opportunity is there for the public to comment.

[63] **Huw Lewis:** Yes, the opportunity is there for the public to comment, but how many

members of the public might choose to do that is another issue. That leads me on to my second question—

[64] **Mr Bowen:** Stradey Park was a good example, where quite a few—

[65] **Huw Lewis:** Stradey Park is quite an extreme example, with all due respect.

[66] **Mr Bowen:** I have examples in other villages, where—

[67] **Huw Lewis:** I am sure that you do. We are all aware of examples in our own areas, as well as the more nationally notable ones like Stradey Park. In your submission, you referred to the extensive consultation with the local community that takes place as part of the planning process. I have no doubt that an extensive consultation could take place with the community, but you are only obliged legally to put an advert in the local paper for a fortnight, are you not?

[68] **Mr Bowen:** We are obliged to consult with the community council and to notify the local Member. We are obliged to put an advert in the paper or write to specific properties that about the site. That is an either/or situation. Sticking to the issue of open space, we are also obliged to notify the Sports Council for Wales.

[69] **Huw Lewis:** So, the legal requirement is an advert in the paper for a fortnight and a couple of letters.

[70] **Mr Bowen:** I think that you have encapsulated the legal requirement there. The proposed Measure has the same requirement, as I understand it.

[71] **Dr Llewelyn:** On that specific point, the issue is to ask what the proposed Measure offers in addition to that and how much added value it brings. Also, what is the trade off between the added value and the cost burden? Some of the evidence submitted shows a tendency to say that the additional burden is not significant, in which case one should ask what it adds to the current arrangement. If it is significant, then we need to consider the implications of that burden.

[72] **Christine Chapman:** Huw, do you want to come back?

[73] **Huw Lewis:** I will leave it there.

[74] **Christine Chapman:** Okay. Let us move on to Nick's set of questions.

[75] **Nick Ramsay:** Thanks, Chair.

[76] In your evidence, you state that the proposals in the proposed Measure:

[77] 'appear to be exceptionally bureaucratic, duplicate other processes and fail to acknowledge that unused playing fields can represent a significant asset which if realised can help deliver real community benefit'.

[78] Can you expand on that remark, and specifically on the statement that unused playing fields are an asset that, if their potential is realised properly, can deliver more benefits for the community?

[79] **Mr Bowen:** I refer you the 'One Wales' aspiration to provide 6,500 additional affordable houses within four years. It states that it will enable local planning authorities to use allocated land for affordable housing purposes. That is a specific commitment in 'One Wales' on that particular issue.

[80] **Nick Ramsay:** In other words, an unused playing field, you believe, potentially has another use that you think that this proposed Measure does not acknowledge.

[81] **Mr Bowen:** Yes.

[82] **Nick Ramsay:** Moving on, in his evidence to this committee, Dai Lloyd AM emphasised that the proposed Measure is not about opposing all proposed disposals, but that its aim is to secure the rights of the local community to be consulted. What are your views on Dai Lloyd's comments?

[83] **Mr Gomer:** Does it need a whole new proposal or does it need to strengthen what is already in place? I take the point about the need to advertise, but through our processes, local authorities' constitutions compel us to consult the community, and not just on the issue of playing fields, but on libraries, leisure centres and so forth. As this proposed Measure would be important for playing fields, do you then have to introduce a separate Measure specifically for leisure centres or libraries? Should we not be using the normal processes that we already have through planning and in our own commitments to consult the public to deal with this issue? My question back is: why just playing fields? If it needs that level of consultation, surely it should be part and parcel of the present system.

[84] **Nick Ramsay:** In your evidence, you seem to be disparaging about some of the statutory consultees. You say that some of the consultee groups in the proposed Measure have:

[85] 'considerable vested interest in the issue of playing fields, without knowledge or understanding of the 'bigger picture' locally'.

[86] I notice that you pick out Fields in Trust Cymru, which, you say:

[87] 'would be obliged to oppose any disposal of a playing field, even if there were strong and sensible reasons for the disposal'.

[88] Do you stand by that statement about Fields in Trust Cymru?

[89] **Dr Llewelyn:** There was no intention to be disparaging of any of the proposed statutory consultees. If it reads like that, then we are sorry. There are instances where organisations have a national and strategic role to fulfil that may not always be aligned to a local or community interest.

[90] **Nick Ramsay:** I raise the point because, from my knowledge of Fields in Trust Cymru, that is not what it stands for at all. In fact, it is willing to support the disposal of a playing field so long as it gets a playing field in another position that it thinks can satisfy the community's needs. Thanks for your answer.

[91] In your evidence, you report a net gain of playing fields in local authorities over the past five years. However, it has been suggested that, while loss of playing fields is not necessarily an issue at the all-Wales level, or at local authority level, that does not detract from the effect that the loss of a specific playing field has on a locality—we have discussed this issue with witnesses a lot during recent meetings. Do you accept that the proposed Measure addresses the specific local need that a local development plan, which I accept takes into account the bigger picture, might not adequately address?

1.40 p.m.

[92] **Dr Llewelyn:** I will come in initially, and my colleagues may also wish to comment. I am not convinced that the proposed Measure deals with this issue, because it is rather complex. As far as we can tell, there is no evidence to back up what the proposed Measure seeks to address. Conversely, I can think of one example in my community of a community-focused school having been built on a playing field. That playing field has been replaced by another playing field nearby, and a community facility has been gained, with community access to outdoor multi-surface facilities, new changing rooms and gyms. So, in that instance, there has been a significant gain for the immediate community, let alone the wider community. I suspect that that example is repeated in many instances. In the absence of research or evidence to the contrary, I suspect that we are talking about a problem that does not exist.

[93] **Peter Black:** This is getting a bit technical. Section 1(2) provides that the requirement of the proposed Measure:

[94] ‘does not apply to a disposal if the person to whom the estate or interest is granted by the disposal is—

(a) a local authority,

(b) a registered charity, or

(c) a body or association whose aims include the promotion of sporting or recreational activities’.

[95] What are your views on those exemptions and, in particular, does that section address your concern relating to the ability of local authorities to arrange long-term leases or transfer of titles of their playing fields and facilities to sports clubs, community councils or charitable trusts?

[96] **Mr Gomer:** My reading of the proposed Measure, as it stands, is that it would disable the majority of clubs in Wales. If you were to look at previous Sportlot applications, Welsh Assembly Government funding and funding from other funding bodies, which is currently a little thin on the ground, funding is not provided unless an organisation has a 25-year lease as a minimum. However, the proposed Measure, as it is worded, means that we could not even dispose—I do not like the word ‘disposal’ in terms of the lease, although the land does not necessarily remain the property of the local authority, which is something that I will come back on—of land for the Welsh Rugby Union’s new grass-roots scheme, which is looking to invest to improve the quality of playing fields to get more people to use them. At the moment, some of our playing fields may only be used for two hours a week, because they have no lighting or they may only be used on a Saturday afternoon. The quality of the field might not be such that it can be used on a more regular basis. So, unless we can lease the field to a club, the proposed Measure stops all that type of investment.

[97] Something that has not emerged so far is that many fields, particularly in the Valleys, are not owned by the local authority. Many of the fields are in trust, and the local authority acts as a trustee. When the local authority makes a decision on those fields, it makes a decision as a trustee and not as the local authority. It presents a whole new ball game in terms of charitable trusts and so on, and getting their approval.

[98] So, the proposed Measure does not allow us to empower clubs to move forward and be masters of their own destiny to improve fields. The replacement action plan for ‘Climbing Higher’ points towards working with clubs to get more participation and better health and wellbeing. The proposed Measure goes against what we are trying to achieve.

[99] **Peter Black:** If the club has sporting and recreational activity as its principal aim, should it be exempt from the proposed Measure?

[100] **Mr Gomer:** It depends on your reading of the proposed Measure, because it talks about seven years as opposed to—

[101] **Peter Black:** It talks about seven years in terms of the definition of a disposal, but in terms of bodies that you can dispose to, if a club has a principal activity of sporting or recreational activity, it is exempt. I am trying to ascertain whether or not that exemption will alleviate your concerns.

[102] **Mr Gomer:** I am sorry. To show my misunderstanding, I am not sure, therefore, why there is a reference to seven years.

[103] **Peter Black:** I think that the seven years relates to whether or not the land has to be registered.

[104] **Ms Roberts:** To confirm Peter's point in relation to the exemptions, that is correct. If a local authority disposes to a body or an association that has sporting and recreational activities as part of its aims or purposes, it is covered by the exemptions. That is right.

[105] **Peter Black:** On the length of the lease, if the lease is for seven years or less, it is a commercial lease and registered with the Land Registry. Long-term and short-term disposals are treated differently. Presumably, that is the thinking behind that part of it.

[106] **Ms Roberts:** I believe so. With regard to the point made earlier about section 123, it covers the two-week advertisement period. Peter raised that point, and I just wanted to confirm that it covers the two-week advertisement period.

[107] **Peter Black:** On the exemptions, Field in Trust Cymru has suggested that it may be more appropriate to exempt only those charities whose aims include the promotion of sporting and recreational activities, rather than all registered charities. Given that that is a narrowing of the exemption, would you find it difficult to work with?

[108] **Mr Gomer:** Yes. I can give a specific example of where we had a changing facility at a sports field. We wanted to extend the facility for a youth club provision, and although Fields in Trust wanted to work carefully with us, the covenant on the field meant that we had to find another piece of land to swap. I take the point made earlier about Fields in Trust always wanting to co-operate and go forward, but some of the covenants on land that we have do not allow us to do that. The exemption is a little narrow, and if it were to come in with the proposed Measure, we would need to extend it to youth organisations that had recreation and leisure as part of their overall aims, but which did not exist just for that purpose.

[109] **Ms Bebb:** The other point about the definition is who decides which charities have an aim of promoting sporting activities? Is there a national list of organisations with sporting and recreational aims? How do we recognise and define them?

[110] **Peter Black:** Presumably their constitutions would be the deciding factor.

[111] **Ms Bebb:** However, who decides whether the terms used are correct and follow the exemption?

[112] **Peter Black:** You have partly answered my final question, but can you confirm that you are not particularly happy with the definition of 'disposal' that is used?

[113] **Dr Llewelyn:** I think that you have clarified it. It needed clarification; that is all.

[114] **Christine Chapman:** We will move on to Oscar's questions.

[115] **Mohammad Asghar:** From your submission, you seem to be content with the definition of 'local authority', which includes community and town councils. Do you share the concern expressed about the capacity of community and town councils to meet the requirements set out in sections 3 to 6 of the proposed Measure, that is, in cases where they propose to dispose of a playing field?

[116] **Dr Llewelyn:** Our concern would be that there is an issue in that if town and community councils are exempted, the proposed Measure would have a patchy impact. In some authorities, almost all the playing fields within the boundary of the authority are either owned by community or town councils or by charitable trusts. There would be huge differences in the impact of the proposed Measure across Wales. If that were to happen, it would negate the intended impact of the proposed Measure.

[117] **Mohammad Asghar:** There is a suggestion in the proposed Measures that community and town councils should be excluded. What are your views on that?

[118] **Dr Llewelyn:** The implications need to be thought through. It would potentially exclude a significant number of playing fields from the proposed Measure. Even if one supported the proposed Measure, the potential exists to exclude a large number of playing fields by excluding town and community councils.

[119] **Mohammad Asghar:** In the same context, what are your views on the definitions of 'playing field' and 'playing pitch' in 2(d) and 2(e)?

[120] **Ms Bebb:** We are happy with the definitions in the proposed Measure. We have no issues with them.

[121] **Mohammad Asghar:** So, 'pitch' and 'field' are the same thing?

[122] **Ms Bebb:** There is a definition of a playing field, which, I think, is 0.2 ha, and that is in line with the TAN 16 definition. We are happy with the playing pitch definition.

1.50 p.m.

[123] **Ann Jones:** In terms of impact statements, in section 3 of the proposed Measure, you suggest that the duty on local authorities to prepare impact statements is unnecessary. Can you expand on why you believe that to be the case?

[124] **Dr Llewelyn:** In terms of the impact statements, we must ask whether there is an element of duplication here, if the parallel process would be, for example, an application for the change of use, under which you would require evidence to support the application. To go back to the issue of the development plan, seeking to develop on a playing field that is allocated for that purpose in the development plan means that you are going contrary to the unitary development plan or the local development plan, and you would need that evidence base to support that. In that statement, you would expect to see a proposal for replacement or enhancement of facilities. There is certainly an element of duplication in terms of preparing such statements where a concurrent planning application is being considered.

[125] **Ann Jones:** In your evidence you assert that consideration of the impact of selling playing fields is already vigorously considered as part of the LDP process. Does that happen in each of the 22 authorities? That is the \$64,000 question, Chris.

[126] **Dr Llewelyn:** I am sure that I have heard this kind of question before.

[127] **Ann Jones:** You probably have.

[128] **Dr Llewelyn:** As far as we know, it does happen in each of the 22 authorities. If that is not the case, then it needs to be pursued separately from the Measure itself.

[129] **Ann Jones:** What does 'vigorously considered' mean in practice?

[130] **Mr Bowen:** I can give you some insight in terms of the planning officers society. There are 25 planning authorities in Wales, and each one is required to produce a local development plan. The rigorous process mentioned in the document is encapsulated in the preparation of the development plan or evidence to support an application. When we discussed this proposed Measure, the society felt that there were strong, robust policies in place. I think that there are examples in the evidence of policies, including that of Swansea.

[131] **Ann Jones:** If you do not know how many local authorities have done an open-space assessment—but you will provide us with some information on that—how can you be confident that this is vigorously considered if they do not know what open space they have to play around with? Sorry about the pun; perhaps I should have said 'the open space that they have available'. If they have not done the assessment, how on earth will their local development plans make any sense?

[132] **Mr Bowen:** You have to bear in mind that the focus is now on the local development plan. A considerable number of authorities have unitary development plans in place, and there would have been—

[133] **Ann Jones:** Most of them tend not to be bothered about these plans. They write them and just leave them there in order to do something else.

[134] **Mr Bowen:** The legislation is quite clear. If you are minded to approve something contrary to a development plan, whether it is a local development plan, a unitary development plan, or even the old local plans, there is an obligation to advertise it and notify the Welsh Assembly Government.

[135] **Ann Jones:** What arrangements do local authorities have in place to assess the impact of a proposed playing field disposal in terms of the effects on the provision of sport and recreation in the locality and on the local community in general?

[136] **Mr Gomer:** We must all have strategies in place. As an authority—if it was a local town or community council—we would have to consult with the community partnership, clubs that use that particular facility, and local members. Therefore, the consultation processes are already in place in terms of what we would have to do. In addition, that would then fit into the overall normal planning mechanism in terms of advertising and so forth. Therefore, there are processes already in place that we have to follow as part of our constitution.

[137] **Christine Chapman:** We discussed earlier the issue of local members. I know that there are protocols within local authorities on the extent to which local members can get involved in talking about planning applications. Is that a hindrance to what you are arguing for here?

[138] **Mr Gomer:** In terms of a planning application, I agree with you, but ward members must be fully involved in discussions on the implications in terms of the teams, clubs and the



local community. So, we must have that discussion with them, and they must be made aware of the possibility that a field may be disposed of. I can give a specific example if you wish.

[139] **Christine Chapman:** I know from experience that there are protocols that prevent that from happening. So, with regard to what you were saying about local members, does it exist in reality and to the extent that you are arguing for?

[140] **Mr Gomer:** I can give you a specific example. The new £124 million hospital in Caerphilly had to be consulted on locally and the local members had to be fully informed, and there was a major consultation exercise that involved all the local clubs and the local community. The first consideration was whether it was the right place to put a hospital, and the second consideration was whether they wanted to get rid of three playing fields and how they would be replaced as part of that process. So, the local members had to be part and parcel of that discussion, along with the community partnerships, because it was such a major issue for that community.

[141] **Mr Bowen:** I have a point on the planning process. A key consultee on applications is the Sports Council for Wales. We were talking earlier about the definitions and the fact that the definitions in the procedure Order coincide given that '0.2 ha or more' is included in the definition. I know that the planning system in Wales is going down a different road in a number of areas, but the fundamental difference on this issue between Wales and England is the direction introduced in 2006 by the Government in England that stated that where it was minded to grant consent contrary to the sports council's comments on a proposal, it was directed to the appropriate regional office. That requirement is not in place in Wales, but I think that it would be far more effective if that kind of secondary legislation were targeted, because it means that you deal with all open spaces and playing fields.

[142] **Christine Chapman:** Ann, do you have anything to add to that?

[143] **Ann Jones:** No, that is fine.

[144] **Christine Chapman:** Peter, I think that a few of your questions may have been answered already.

[145] **Peter Black:** I was thinking that as well, Chair. The Minister for Social Justice and Local Government, in his evidence last week, asserted that open-space assessments serve a different purpose to impact statements, and that impact statements would not be an appropriate basis for individual land disposal decisions. What are your views on that?

[146] **Mr Bowen:** As I understand the proposed Measure, the purpose of the open-space assessment is to assess whether the local people or community feel that they are losing a facility. That is what has driven the issue. People will have the opportunity to say that they have played football for 10 years on a pitch where a new school, hospital or affordable housing is to be built. In terms of the complete scheme, provided that an alternative is provided and supported by a strong statement, for example, through a planning statement in support of an application. I think that that would deal with most reasonable people's concerns. Fields in Trust is fairly comfortable where adequate replacement facilities are provided. So, if you are talking about disposal from the point of view of a loss of an amenity, I think that the planning process deals with it. If you are talking about disposal in terms of the overall asset management plan of the authority, then I agree that it is slightly different, but then you are going into other areas.

[147] **Peter Black:** Do you think that the impact statement, which is provided for in this proposed Measure, provides a focus and brings together all of those issues to help the community understand it better? Do you think that that would be a good way forward?

[148] **Mr Bowen:** I do not think that the impact statement will bring all of the issues together; it will focus primarily on the objectives of the proposed Measure, which relate to the loss of a facility. It does not provide the opportunity for a wider and balanced decision when other factors come into play.

[149] **Peter Black:** Finally, TAN 16 is an advisory note and does not place a requirement on local authorities. Is it likely that all 22 local authorities will comply with it, or do you think that some of them will not because it is only advising them?

[150] **Mr Bowen:** It is an advisory note, but it will be a material consideration when you come to test the soundness of the local development plan. If local authorities have not done that work, I think that they will find themselves in a difficult position. Talking to colleagues around the 22 authorities, they are very much aware of this, and were waiting for the publication of the final version of TAN 16 to put some more flesh on the bones of their assessments.

2.00 p.m.

[151] **Peter Black:** So, if you did not have the open-space assessment, you could be challenged on appeal on that basis.

[152] **Mr Bowen:** In my view, yes, you could be challenged on appeal, but, more importantly, the inspector carrying out the examination of your local development plan could say that there was inadequate evidence, and he could recommend that that plan not be adopted.

[153] **Christine Chapman:** Thank you. We move on now to Huw Lewis's questions.

[154] **Huw Lewis:** I want to probe some of your evidence concerning the proposed impact assessments and your concerns around those. At one point, I believe that you said that you are worried about how a local authority could be expected to accurately measure the impact upon health and wellbeing of residents of a particular proposal. Should that not be part of what local authorities do as their core mission?

[155] **Mr Gomer:** It is very difficult. We know where we have pockets of great inactivity, obesity and poor health in our local authority areas. It is difficult to tackle that in terms of a correlation with local playing fields. There are obviously many other factors that affect health and wellbeing in a community. There are places where a playing field, a rugby club or a football club are central to the community, but the levels of health and wellbeing might be very poor. On the other hand, you could have a different community that would not have the access to playing fields that one would wish, but fitness levels could be good. You would have to take into account that many playing fields may only be used for two hours every Saturday or Sunday afternoon. That is not to decry playing fields, but you have to consider our climate, and in the evenings it may be too dark and children may not be allowed out. There are issues around children playing in the summer, but they may affect open spaces rather than playing fields. An impact assessment centred around a playing field, and only a playing field, is an extremely difficult scenario. You would have to take into account all sorts of other issues to do with local leisure provision, healthy living centres, and the general health of the population in that area. It would be extremely difficult to pin down the impact of a single playing field.

[156] **Huw Lewis:** Is it really so difficult? In 30 seconds you have given me a pretty good summary of what someone would need to do to put together such an impact assessment. It took you 30 seconds.

[157] **Mr Gomer:** Thanks for that, but it is difficult to pin down the impact of a playing field. I could do it in terms of the number of young people that use it, but if, through the planning law, we have already replaced that playing field, then there should not be a loss in terms of health and wellbeing. We would be providing a better quality facility, possibly with better drainage, that could be used more often and so on. So it would be difficult to say that the loss of a playing field would damage the health and wellbeing of a small community, other than local dog-walkers—and I do not want to get into that. If a playing field was replaced with an alternative facility, there should be no impact on sport, recreation and purposeful play.

[158] **Huw Lewis:** I see what you are saying, but I do not think that it is an adequate answer, frankly. You have, yet again, explained what you would need to do to create a good, balanced impact assessment from the work of the local authority. On the one hand you are saying that it is too complicated, and, on the other, you are doing it on the spot.

[159] **Mr Gomer:** I can give you generic statements.

[160] **Huw Lewis:** If the impact assessment is such that, as you said, there would not be much of an impact on the health and wellbeing of the local community, then that is an accurate impact assessment, and an honest one.

[161] **Mr Gomer:** What we were looking for here was something a bit more specific than a generic point. If we looked at the effect of losing a playing field, I might say that two or three clubs would have to transfer to another playing field that we will develop close by. In that scenario, I would have to say that the impact on health and wellbeing would be nil.

[162] **Huw Lewis:** But that is an impact assessment. Why is that too difficult?

[163] **Mr Gomer:** What I am saying to you is that in reality, the evidence that we have given would show that every impact assessment that I would carry out would demonstrate a positive gain, because we would not have disposed of a playing field without replacing it or putting something in place to compensate for its loss.

[164] **Huw Lewis:** So why are you so uncomfortable with this?

[165] **Mr Gomer:** It is an unnecessary Measure. I do not believe that the evidence exists that, in Wales, we get rid of playing fields.

[166] **Huw Lewis:** Never mind the proposed Measure for the moment; let us say that we had a time machine and we went forward six months and the proposed Measure had been passed. What would your concern be about having to do the impact assessment? Let us just focus on the impact assessment. What is the problem with it?

[167] **Mr Gomer:** The problem is additional bureaucracy more than anything else. I do not believe that the generic answer that I have given you would be enough to be inspected on. I would have to be much more specific.

[168] **Ms Bebb:** We are not aware of any specific indicators that you could use that would clearly demonstrate that the loss of a playing field would have a specific impact on the health and wellbeing of residents. You cannot specifically link the loss of a playing field to what has happened to someone's health and wellbeing. It would be almost impossible to measure.

[169] **Dr Llewelyn:** It takes us back again to the added value that the proposed Measure would bring. As you said, Peter made a generic assessment that could probably apply to every

playing field disposal in Wales, but how would the proposed Measure add value to the position that we are in?

[170] **Huw Lewis:** By providing impact assessments for one thing. You have not mentioned cost. Is it really the cost of preparing an impact assessment that is the issue? I would not necessarily see anything wrong with saying that if that is a concern.

[171] **Mr Gomer:** You made a comment in response to what was being said along the lines of ‘There you are, you have done your impact assessment in saying that, if you dispose of a five-acre field and the developer provides six acres elsewhere to compensate, you have a net improvement to health because there is more space available’. What confidence would that simplistic exercise give the public with regard to how closely, analytically and scientifically the authority has looked at the disposal?

[172] **Huw Lewis:** I have not suggested that we undertake simplistic impact assessments. I have not suggested any particular form that the impact assessments should take. What I am proposing to you is that local authorities are more than capable of putting impact assessments together for public discussion because, in essence, you have already—and Peter in particular has—outlined in bullet-point form precisely what I would have thought a local authority would need to do.

[173] Coming back to the issue of cost, I do not think that you have mentioned it with regard to the preparation of impact assessments, but is the cost of preparing such assessments, whatever they may look like, at the forefront of your concerns or does it not bother you too much? Is it an issue that you have neglected to mention or that you would like to raise now?

[174] **Dr Llewelyn:** From the discussion that we have had, I think that we have at least agreed that there is a difficulty in identifying exactly what is entailed in this sort of impact assessment. Therefore, until we have greater clarity on what the proposed Measure intends with regard to impact assessments, we are not in a position to estimate or make assumptions about the cost. We do not know about that element of the proposed Measure. There are other elements where we can make assumptions about probable costs.

[175] **Ann Jones:** In his evidence to the Finance Committee yesterday, Dai Lloyd was saying that he went out to pre-consultation on the proposed Measure and that only one authority responded with the financial implications as it saw them. So why did local authorities not take the opportunity to tell him that his proposed Measure was not going to be popular with local government? Why have you come here today with that suggestion in your evidence when only half a dozen authorities responded generally and only one responded on finance?

[176] **Dr Llewelyn:** Without knowing more detail about the exercise that was undertaken it is difficult to comment. However, had he liaised with us, perhaps we could have worked with him and sought a better response—

[177] **Ann Jones:** He wrote to all 22 local authorities, Chris. He had about six responses, one of which was from Denbighshire—praise to Denbighshire, which is not something that you will hear me say very often. Despite all the pressures that it is under, it responded. Only one authority provided him with guidance as to what financial pressure the proposed Measure would put authorities under. So, why did the others not respond? How can you come here with such concrete evidence that you are opposed to this proposed Measure if only six of the 22 authorities responded?

2.10 p.m.

[178] **Mr Gomer:** One reason why we did a co-ordinated response was because the chief leisure officers in Wales met in our normal meeting and discussed this proposed Measure, and it was felt quite strongly that we wanted to bring forward a co-ordinated response with the WLGA, rather than provide an authority-by-authority, bits-and-pieces response. None of us could identify in our authorities where there was a negative impact from what we have been doing to date. All of us reported that there had been a positive move forward in terms of playing fields in Wales, and, therefore, most local authorities—in fact, every local authority, I think—contributed to the WLGA’s response, and you will see in our representation that there is a note on what each local authority does. So, all the local authorities co-ordinated with the WLGA on this in terms of leisure.

[179] **Ann Jones:** Six local authorities did not respond to you. It would be interesting to see whether those six are the same six that did not respond to Dai Lloyd’s consultation. Perhaps we will do a bit of ferreting around on that. You have not got a whole view on it.

[180] **Ms Bebb:** The six that could have responded individually also responded to the WLGA’s response.

[181] **Ann Jones:** According to your evidence, six did not respond. You sent out this consultation exercise, and six councils did not respond.

[182] **Ms Bebb:** That was just a quick research exercise to try to ascertain what the situation was in terms of gains and losses.

[183] **Ann Jones:** So, 16 responded and six did not. When Dai Lloyd sent out his consultation document six responded, 16 did not, and one came up with financial information. So that is not a unified approach, is it?

[184] **Ms Bebb:** The problem with regard to the pre-consultation process for the proposed Measure is that the proposed Measure has now changed in terms of information needing to go to households, so there is now a completely different financial question to work out, because the proposed Measure itself has changed significantly. So, the financial detail that was provided for the pre-consultation stage is not linked to what the proposed Measure looks like at present.

[185] **Christine Chapman:** We will move on now. Nick has the first of the next set of questions.

[186] **Nick Ramsay:** We now have the all-singing, all-dancing TAN 16, which we keep referring to. In your evidence, you stated that you think that TAN 16 is an adequate amendment to the Town and Country Planning (General Development Procedure) Order 1995 and does everything that is required in relation to playing fields. The Sports Council for Wales has said that the number of times that it has been consulted as a statutory consultee as part of the planning process has been ‘variable’, yet you believe that consultation with the sports council is adequate. How can you marry your view with the fact that the sports council believes that there are gaps in the consultation?

[187] **Dr Llewelyn:** Was that in its oral or written evidence?

[188] **Nick Ramsay:** I think that it was in the written evidence.

[189] **Dr Llewelyn:** All I can say is that it has not highlighted that as a concern with us, and we engage with the sports council regularly. If that is the case, I am surprised. If it is an issue, we would be more than happy to pursue that with the council.

[190] **Nick Ramsay:** To be fair, it is not saying that it has not been consulted; it is just saying that it thinks that the consultation is variable. I assume that the point that it is making is that the proposed Measure would make the consultation more meaningful than it thinks it is at present. You obviously do not think that that is the case.

[191] **Dr Llewelyn:** I know that I keep repeating this point, but it is the question of the added value that the proposed Measure would bring. In this instance, if there is a problem in the engagement between local authorities and the sports council, my inclination would be to say, 'Let us look at what that problem is before introducing a Measure to address it'. There is an element of using a sledgehammer to crack a walnut to the proposed Measure in many ways. We think that the current arrangements are working reasonably well, and we are not convinced about the added value brought by the proposed Measure.

[192] **Mr Bowen:** It is a legal requirement to consult the sports council under the procedure order. The fundamental difference is that the Sports Council for Wales does not have the teeth that Sport England may have. When it objects, it has to be directed to the Minister. However, it is a legislative requirement. Section 10 clearly states who must be consulted when these issues arise.

[193] **Nick Ramsay:** I want to move on to discuss section 4(1)(a). In your evidence, you raised a concern about the time that it might take to elicit the views of the statutory consultees that have been listed. The Minister for Social Justice and Local Government has said that it may be more appropriate to limit the statutory consultees included in the Schedule to relevant statutory bodies. Would going along with what the Minister has said and limiting it to relevant statutory bodies go some way towards addressing your concerns?

[194] **Ms Bebb:** We would see that as a slight improvement, but local authorities would still have to prepare the impact statement and go through the process outlined in the proposed Measure. So, it does not make that much difference.

[195] **Dr Llewelyn:** The impact on the consultation of what has been suggested would be very small. As Helen said, the bulk of the work would have to be done anyway.

[196] **Christine Chapman:** Okay, thank you. We will move on to Peter Black's questions.

[197] **Peter Black:** In his evidence, Dai Lloyd asserted that the requirements to consult householders under section 4(1)(c) will not be overly burdensome given that local authorities already have established mechanisms for communicating with residents from time to time. How do you respond to that assertion?

[198] **Dr Llewelyn:** It goes back to a point that I made earlier. If it does not add anything significant, what is the point of it? If it does add something significant, there will be a burden. Within a local authority, every minute and hour that an officer spends dealing with a provision of this proposed Measure is an hour less spent on another aspect of service.

[199] **Christine Chapman:** Obviously, these are specific questions and we need to keep the responses succinct. We know your strong views on this, but we would like to tease out the specific issues.

[200] **Mr Bowen:** I want to raise a point about duplication in response to that. If, for example, I live next door to a playing field, and a planning application is submitted in relation to it, and the next day I get a letter about the impact assessment, what do I do? Which one do I comment on and what would I say?

[201] **Peter Black:** In the sequence of events, which would come first, the planning

application or the disposal?

[202] **Mr Bowen:** If you are undertaking a private finance initiative project in a school, or some form of registered social landlord affordable housing development, the developer would want to know that he has the certainty of that land being sold to him.

[203] **Peter Black:** Is your concern here about the cost or the additional burden? Is it the bureaucracy or the cost?

[204] **Mr Bowen:** It is bureaucracy leading to confusion.

[205] **Peter Black:** Have you done any work on how much it would cost to meet the requirement to consult households?

[206] **Dr Llewelyn:** Yes. As far as we can see, the only problem is the consultation on school closures. I will happily write to the committee with more detail, but the figure that we have come up with is around £16,000 per disposal. However, that analysis is based on the kind of consultation that takes place over school closures.

[207] **Peter Black:** There are a number of provisions in the proposed Measure about which you should consult. It talks about 'reasonable' distance, providing the impact statement on request, and so on. What would you consider to be reasonable if, for example, you were consulting on the disposal of the Vetch Field in Swansea, or Stradey Park?

[208] **Dr Llewelyn:** Determining the individuals who could potentially use a playing field is highly problematic. Without wishing to be flippant, my local rugby team, Amman United RFC, used a council-owned pitch and played against the Ospreys in Shane Williams's testimonial match over the summer, and there were players there from New Zealand. So, if you are looking at the players who use the facility, your consultation could go worldwide.

[209] **Ann Jones:** I would like to pick up on Eifion's point about living next to the playing field and receiving a letter, and on your point about someone from New Zealand using the playing field, which is a little over the top. Are local authorities not hiding behind this bureaucracy so that they do not have to consult properly?

2.20 p.m.

[210] **Mr Bowen:** Not in my view. I think that the process as it stands when you look at a planning application—

[211] **Ann Jones:** I just want to know. Are you hiding behind bureaucracy—yes or no? Do local authorities hide behind bureaucracy to avoid having to consult?

[212] **Mr Bowen:** Not in my opinion.

[213] **Ann Jones:** So, that is a 'no'—they do not.

[214] **Mr Gomer:** If this proposed Measure were passed, there would be more bureaucracy and it would confuse the situation, as has been stated.

[215] **Ann Jones:** Are you confident that no local authority hides behind bureaucracy in that way?

[216] **Mr Gomer:** Yes.

[217] **Ann Jones:** Okay. I will challenge you on that again, because I do not think that that is the case.

[218] **Mohammed Asghar:** Dai Lloyd says clearly that, because disposal decisions are so important, it is only right that every household knows of a given decision and of how it has been arrived at. Therefore, what arrangements are currently in place for local authorities to inform interested parties, including the local community, of disposal decisions?

[219] **Mr Bowen:** I do not want us to get confused about the issue with sections 123 to 127 again, but, going back to the planning process, as I said, there is an obligation to advertise a disposal decision for a week, allowing 21 days in which to respond.

[220] **Christine Chapman:** Could you answer the specific question?

[221] **Mr Bowen:** Which question are we on?

[222] **Christine Chapman:** This is on disposal decisions, which is slightly different. It is that one that we would like clarity on, please.

[223] **Mr Bowen:** Right. There is a direct parallel here with tying it in with this proposed Measure, because the authority already carries out that exercise. To be a reasonable authority, it would have to give the issue an airing, perhaps at committee, but the final decision remains with the authority. It raises the question of whether there is sufficient independent assessment of responses to meet the previous concerns. We talk about bureaucracy, but if it is simply a question of putting a tick in the box—

[224] **Christine Chapman:** These are quite specific. What are the arrangements for involving or informing the local community of disposal decisions? There must be guidelines on that.

[225] **Mr Gomer:** Based on my experience, I would say that a decision is made on a development at a council planning committee, and the public would be at that meeting if there were concerns about the issue. The public would know about that decision, particularly if it were on a playing field or a new hospital, and would be informed in the same way as everyone else about a planning decision that was made. If it were a high-level, controversial decision, the press would be there. However, we do not currently write to every home to give the outcome of our meeting, but through planning—and I defer to my planning colleagues here—the information from the planning meeting would go into the public realm. However, we would not write to every residence on playing field disposal.

[226] **Mohammad Asghar:** You go on to suggest that the section 6 duty relating to the production of a ‘decision statement’ and the arrangements to make known a decision,

[227] ‘appears to add little value and will do little to facilitate an informed local debate’.

[228] Can you expand on that?

[229] **Dr Llewellyn:** We are not convinced of the added value of informing every household of the decision that has been made, given that householders will already have access to that information. It would be covered by the press and it would also be available on council websites.

[230] **Mohammad Asghar:** You go on to suggest that,

[231] ‘There is a lack of a clear rationale as to why this methodology should be applied’.



[232] Can you clarify whether you are referring specifically to the requirements relating to the notification of the decision in section 6(2), or is your concern more generally about the need for a local authority to produce a decision statement and make its decision known?

[233] **Dr Llewelyn:** The proposed Measure in its entirety is disproportionate to the level of consultation that exists for other processes.

[234] **Mohammad Asghar:** What would be a more appropriate and reasonable requirement to make known the disposal decision? How could that be provided for in the proposed Measure?

[235] **Dr Llewelyn:** Again, our view is that the current arrangement of information provision suffices.

[236] **Huw Lewis:** I want to pick away a little bit at section 7 of the proposed Measure on directions by the Welsh Ministers. I want to ask specifically about the idea of Welsh Ministers being given the power to issue a stop direction. The WLGA, in its evidence, opposes the idea of Welsh Ministers being given those sorts of powers. Are you not being a little naughty here, because what you have said is that you oppose those powers being given to Welsh Ministers because they already have 'wide ranging call in powers'? However, the wide-ranging call-in powers that Welsh Ministers have relate to planning applications and have nothing to do with disposal decisions. We have been hitting this problem time and again this afternoon, namely that Dai Lloyd's proposed Measure is about disposal decisions not planning. He is at pains to keep repeating that. You oppose Welsh Ministers being given new powers, but then you have put out a bit of a smokescreen as to the reason why, have you not?

[237] **Mr Gomer:** I am trying really hard to think of an incident in which we have disposed of land without there being a planning issue.

[238] **Huw Lewis:** That is by the by. We are talking about proposed new powers for a Welsh Minister. We are not really concerned about what might have happened in A.N. Other local authority. Why are you opposed to the proposed new powers for Welsh Ministers to issue a stop direction?

[239] **Mr Gomer:** As we said earlier, a more simple methodology is available in the present rules. My colleague put it rather eloquently earlier that, if there was an issue around a disposal, a simpler method would be to follow the English model. If the Sports Council for Wales decided that it objected, there could be a call-in by the Minister to make the decision, rather than our having to go through what we see as a new bureaucracy to get there.

[240] **Huw Lewis:** Is that in your evidence, because that is a substantial point?

[241] **Mr Gomer:** I think that we have stated that verbally this afternoon, and I do not think that it has been presented in writing yet. The point was made earlier that if you were to follow the English model, using the Sports Council for Wales, you would very quickly achieve what you are trying to achieve without the need for a new Measure.

[242] **Huw Lewis:** This is important. This is the WLGA saying to us, as a committee, that it has a counter-proposal that blows Dai's proposal out of the water, because it has a better model, which is to do what is done in England. Is that the WLGA's considered view?

[243] **Dr Llewelyn:** No, that is not the view of the WLGA. We are saying that we think that the current arrangement works satisfactorily. Again, it comes back to the issue of added value. We do not see what added value the proposed Measure would bring as there are safeguards in

place currently. I think that what Peter is saying is that there are alternative models that could be considered, but, if they were to be considered, you would need a separate process to look at them in greater detail.

[244] **Huw Lewis:** Okay. Going back to the proposed powers for Ministers, do you accept what Dai is saying? Let us say that we have gone forward in time, Dai has been successful and the Measure has been implemented. Do you accept that your opposition to the Welsh Ministers being given the power to issue a stop direction, effectively, has no basis? If this is to work properly, they would have to have that power, would they not? We need your view to clarify that, for the sake of conducting a good investigation.

[245] **Mr Bowen:** I can see your point that, to be effective, the Minister has to have that power to issue a stop direction. That is what I understand you to be saying. However, if you go beyond that, all it will do is delay the decision. The assessment needs to be carried out, the stop notice will be reversed and the decision will be made. There is nothing in the proposed Measure that analyses and assesses the quality of the decision by the disposal authority. It is merely a stop power.

2.30 p.m.

[246] **Huw Lewis:** The Minister would just police the implementation of the Measure. If the implementation was wrong, it would be stopped.

[247] **Mr Bowen:** Yes, but the implementation is merely to carry out the assessment, carry out the consultation, collect the responses, consider those responses, and report to the Minister, to say, 'We've ticked all the boxes, and we're still of the view that we want to dispose of it'.

[248] **Huw Lewis:** The proposed Measure would not mean very much if you did not have someone policing it, would it? That is obviously a job for the Minister.

[249] **Mr Bowen:** I agree with that; you need to have that, but it does not deal with the merits of the disposal.

[250] **Nick Ramsay:** I have one final question on the subject of ministerial direction on the back of some of Huw's points. I am getting the feeling that you do not think that this proposed Measure is necessary. [*Laughter.*] I will try not to be repetitive, so I will ask specifically about judicial review. In his evidence, Dai Lloyd argued that, because of Welsh Ministers' ability to intervene, an aspect of his proposed Measure would be to mitigate the need at the end of it for a judicial review. Do you think that, on that specific point, the Member is right?

[251] **Mr Bowen:** No. Any additional legislation—[*Inaudible.*]—subject to judicial review.

[252] **Christine Chapman:** I will ask a final question. It has been suggested that the cost of the proposed Measure to local authorities would be balanced by the infrequency of playing field disposals. What are your views on that?

[253] **Dr Llewelyn:** I do not quite see the balance. The fact that it does not happen often does not mean that it does not incur a cost when it does.

[254] **Christine Chapman:** On that note, do you have any other comments to make? We have had a comprehensive discussion today, but I now give you the opportunity to make additional comments.

[255] **Dr Llewelyn:** Thank you, Chair. I think that we have covered everything that we would like to say. As I said at the outset, we are sympathetic to the proposed Measure, but we do not think that there is evidence to show that it is needed. Even if there were evidence, how the proposed Measure is formulated does not address that particular issue.

[256] With the issues on which you would like more information, we will liaise with the clerk and provide you with that additional information.

[257] **Christine Chapman:** I thank the four of you for your contribution. A draft transcript of today's proceedings will be sent to you by the clerk for correction before being finalised.

[258] I remind Members that the next meeting will be held on Thursday 26 February, when the committee will take evidence from One Voice Wales. Thank you.

*Daeth y cyfarfod i ben am 2.33 p.m.  
The meeting ended at 2.33 p.m.*