



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

**Y Pwyllgor Deisebau
The Petitions Committee**

**Dydd Mawrth, 9 Mehefin 2009
Tuesday, 9 June 2009**

Cynnwys
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cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg..

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.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Andrew R.T. Davies	Ceidwadwyr Cymreig Welsh Conservatives
Michael German	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Bethan Jenkins	Plaid Cymru The Party of Wales
Sandy Mewies	Llafur Labour

Eraill yn bresennol
Others in attendance

Richard Cole	Uwch-swyddog Cynllunio, Cyngor Caerdydd Senior Planning Officer, Cardiff Council
Stephen Phillips	Cyfarwyddwr Corfforaethol, Amgylchedd, Cyngor Caerdydd Corporate Director, Environment, Cardiff Council

Swyddogion y Cynulliad yn bresennol
Assembly officials in attendance

Alun Davidson	Clerc Clerk
Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser
Gareth Thomas	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 9.35 a.m.
The meeting began at 9.35 a.m.

Ethol Cadeirydd Dros Dro
Election of a Temporary Chair

[1] **Mr Davidson:** Good morning, everyone. Welcome to this meeting of the Petitions Committee. Unfortunately, the Chair of the committee, Val Lloyd, is unable to be with us today and will not be able to chair the committee for several meetings this term. Therefore, under Standing Order No. 10.19, I call for nominations for a temporary Chair to stand in for Val Lloyd, whenever she is absent, until the end of the current Assembly term in July 2009.

[2] **Andrew R.T. Davies:** I nominate Sandy Mewies.

[3] **Mr Davidson:** Thank you. Are there any other nominations? I see that there are none. Therefore, I declare that Sandy Mewies has been duly elected temporary Chair of the committee.

Penodwyd Sandy Mewies yn gadeirydd dros dro.
Sandy Mewies was appointed temporary chair.

[4] **Sandy Mewies:** Thank you very much indeed.

9.36 a.m.

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

[5] **Sandy Mewies:** I remind people that all electronic devices should be switched off—mobile phones, Blackberrys and so on. I have not been informed of any fire drills planned for today so if there is an alarm, we will make our way out of the building by following the ushers.

[6] I have received no apologies for absence; I think that we are complete. There are no substitutions, except for me.

9.36 a.m.

**Sesiwn Tystiolaeth: Deiseb P-03-197 Achub y Vulcan
Evidence session: Petition P-03-197 Save the Vulcan**

[7] **Sandy Mewies:** I have looked at the papers and I can see that this petition has been looked at a number of times. However, we have Cardiff Council here today. We are joined by Stephen Phillips, corporate director, environment and Richard Cole, senior planning officer. Welcome. I think that Members all understand that this is not a discussion of anything but the principles of listing. It is not a discussion about a specific explanation. Would you like to say anything to start?

[8] **Mr Phillips:** We are in your hands, Chair. I am happy to give an analysis of the council's powers in relation to this matter, or answer questions that members of the committee may have.

[9] **Sandy Mewies:** Could you give an introduction and then Members will ask questions?

[10] **Mr Phillips:** Fine. Essentially, the council has what has already been described to you as 'local listing powers', which date back to Welsh Office circular 61/96, which is still extant. That considers buildings that are not the subject of statutory listing. I am aware that Cadw has given you a briefing, or a note, on that particular exercise. However, we are talking here about another category of local listings beneath statutory listings. The guidance was issued to local government and talks about the protection of buildings of historic significance in conservation areas. The first important point to note is that Adam Street, where the Vulcan pub stands, is not a conservation area. That said, that particular guidance offers local authorities the opportunity to draw up lists of what are described as 'locally important buildings'. So, we are not solely limited to considering such buildings that are located in conservation areas, although the guidance is primarily targeted at those areas.

[11] I will give a little bit of the history. The council drew up its local list in the mid 1990s. That was part of a wider process across Wales, where Cadw chose to rationalise various categories of listings—statutory and non-statutory. I think that it is ex-grade 3 listed buildings that formed the core of the local list at the time. That process was supplemented by additions to the list that were proposed by local councillors or conservation groups, and so on, and they were considered. In 1997, Cardiff Council approved the local list. Subsequently—without going into all of the details—there have been various attempts by the authority to strengthen its powers in this area to afford buildings greater protection from demolition.

9.40 a.m.

[12] However, essentially—and we can go into more detail if you wish—those attempts

have been unsuccessful. For example, we sought what is called a ‘direction’ from the Assembly to remove certain permitted development rights and the Welsh Office at that time, or the Assembly—I cannot remember which it was—refused to extend the authority’s powers in relation to the local list because it became clear that that local listing did not afford buildings on the list any substantive protection from demolition.

[13] Subsequently, in around 2000, Members may recall that there was an issue relating to the Red House pub on the Ferry Road peninsula, Grangetown, where we went through a similar process. The council sought to protect that building against demolition, but the developers successfully appealed against the refusal of planning permission which included its demolition. Consequently, the council was found to be acting unreasonably by the inspector. Costs were awarded against us, so we have had to proceed carefully in such arenas since then.

[14] However, that was then. We currently retain the powers that I described on local listing. It is open to the council’s executive or cabinet to add to or subtract from the list. There are certain other relevant considerations. Today is the closing date for comments on the deposit copy of the council’s local development plan, which includes a section on built heritage, which is designed—and I am obviously paraphrasing here—to protect, manage and enhance Cardiff’s distinctive heritage assets, including listed buildings, parks, gardens and locally listed buildings and other categories. So, in relation to our overarching strategic policy framework, which is what the LDP represents, this is most certainly on the council’s radar. A range of supporting texts supplements that LDP deposit copy.

[15] We are also aware that there is a draft heritage protection Bill. I was going to say that it is currently going through Parliament, but we understand that it has been effectively put on the back burner for a while. That essentially would provide, as we understand it, greater protection against demolition in these circumstances. My understanding is that it is unlikely to reach the statute book for at least another year, but that is based on events.

[16] To summarise, we have local listing powers, as I have described, but they do not provide protection per se against demolition. The council has, over the years, through one means or another, sought to extend these powers to protect the built and historic environment—not with a huge amount of success, it has to be said. We are aware of the Vulcan pub campaign. We are also aware that Cadw’s latest consultation closed two or three weeks ago. We assume that the Minister will receive advice on the outcome of that consultation and will make an announcement in due course. There is the option for the council to apprise its members on a position and to deal with matters as members see fit.

[17] **Sandy Mewies:** Thank you for that introduction. Before Members begin with their questions, I welcome people in the public gallery. We operate through the media of Welsh and English. If you need to access the translation, it is on channel 1 on the headsets; if anybody needs the sound amplified, use channel 0.

[18] I think that you have more or less answered my first question, and the information is in our papers, as to what protection local listing gives to a building. One of the issues is that it does not prevent it from being knocked down. If you would like to expand on that, you may do so. Secondly, what process or processes would have to be observed before alterations could be made to a locally listed building?

[19] **Mr Phillips:** I will answer the second question and then see whether Richard wants to supplement what I have said on that and on the first. The process of supplementing the local list is basically a decision for the council’s executive or cabinet, in consultation with our planning committee. That position has changed slightly since the original exercise in the 1990s. I will not go into all the background, which is essentially to do with the change in the

way that local government operates, courtesy of the Local Government Act 2000—it was the committee system back then and we have the executive/cabinet system now. As officers, we collect all the relevant information, including information from the Assembly Government and Cadw, and take account of the Minister’s views on the matter. We then put a report to members who will take their view on the matter. Do you want to add to that, Richard, or add anything in answer to the first question?

[20] **Mr Cole:** In answer to the first question, the local listing of a building does not produce any enhanced powers in respect of the process of its development. If planning permission were required for a development to a locally listed building, the council’s current unitary development plan, which seeks to protect locally listed buildings, would be a material consideration. However, if a development were proposed that was a permitted development that did not require planning permission, then the state of play would continue.

[21] **Sandy Mewies:** Am I clear then that if alterations were required, it would go to the executive?

[22] **Mr Cole:** It would go to the list.

[23] **Sandy Mewies:** You would report, and go through it. Okay. Would you have to have that sort of permission for alterations to a locally listed building?

[24] **Mr Cole:** If planning permission were required, it would go through the normal planning application process.

[25] **Sandy Mewies:** Thank you very much indeed. Mike, we will now move on to you.

[26] **Michael German:** I want to look at the removal of permitted development rights—matters that you have mentioned in your opening comments, Steve. Before I do that, could you outline for me what happens if you have a locally listed building and there is an application to demolish it? What are the processes that you have to go through before any decision can be taken on demolition?

[27] **Mr Cole:** The planning application would be determined in the normal way. Normally, any recommendation to our planning committee would have to have due regard for the policies in our development plan and be made in accordance with them. We have a policy within the unitary development plan at the moment and, as Stephen has indicated, there is a proposed policy that seeks to preserve and protect locally listed buildings within the local development plan. That, therefore, becomes a material consideration in the determination of the application. We would say that given our past experience and inspectorate decisions, such as that on the Red House, the fact that a planning application has been presented to us for determination does not prevent the owner of the building from demolishing it at any time, if he or she wishes to do so.

[28] **Michael German:** So, there is no protection at all. Let us assume that a developer wishes to demolish a locally listed building and has not applied for planning permission because no-one knows what is going to happen next. Am I right that, in that case, the council on its own has no powers to influence, in any way, the demolition of a locally listed building?

9.50 a.m.

[29] **Mr Cole:** I am not aware of any such planning powers.

[30] **Mr Phillips:** You used the word ‘influence’. We would deploy the policies that I have been talking about with regard to the LDP to seek to influence events—indeed, I did not

mention this at the outset, but we are contemplating putting together what is called supplementary planning guidance to further enhance the sections that deal with historic buildings. It is a matter of influence. Richard is right; the answer to the basic question of whether it affords protection is ‘no’, but we can influence, through this range of policies, the way in which applications or development proposals are presented.

[31] **Michael German:** Is anybody who wants to demolish a locally listed building required to notify the local planning authority or the local authority at all?

[32] **Mr Cole:** I would suggest that there is a requirement to notify our building control division, but there is no requirement under planning legislation for anyone to tell us that they want to demolish such a building.

[33] **Mr Phillips:** This is, effectively, what I was describing earlier in terms of our unsuccessful attempt 10 years ago, or whenever it was, to extend the efficacy of the power of local listing.

[34] **Michael German:** In his letter, Neil McEvoy points out that they sought

[35] ‘confirmation for article 4 directions from the Assembly Planning Division in respect of previously locally listed buildings’.

[36] He then states that the ‘Welsh Office Planning Division’—I do not quite understand that, because he talks about the National Assembly in the first sentence and he then talks about the Welsh Office planning department in the second—

[37] ‘were not supportive of the Council’s application for Article 4 directions to remove statutory rights to demolish buildings on the local list.’

[38] Could you outline some of the reasoning? Either the application was to the Assembly or to the Wales Office—or were there two different applications made? In which case, what was the reasoning behind not approving your application?

[39] **Mr Cole:** To clarify a few issues, the local listing of a building, as we have said, does not benefit it by offering any protection from demolition. The demolition of a building is normally a permitted development within most circumstances other than those scenarios where there is a residential element to a building, in which case we follow a separate set of procedures, called a prior approval procedure, whereby the applicants are allowed to use their permitted development rights to demolish the building but the council has control over how that land is made good. The council might, for example, ask for a particular landscaping scheme or for an adjacent building to be made good.

[40] The mechanism by which you could remove that permitted development right to demolish the building is by applying to what is now the Assembly Government’s Planning Division—the Welsh Office planning department as was—to ask for an article 4 direction to remove the permitted development right. In effect, that would make it a requirement to apply for planning permission to demolish the building, in which case, development plan policies would come into play in terms of the determination of that application.

[41] The reason given by the Welsh Office planning department as was, to which we had applied for the article 4 directions, was that there has to be an exceptional reason to remove what are otherwise nationally given rights by regulatory order. It was of the opinion that the half a dozen to a dozen buildings—I cannot remember how many it was—on the local list that were outside conservation areas were not so significant as to warrant the removal of the permitted development rights.

[42] **Michael German:** So you could treat the Vulcan as an exceptional case. You could make an application for the removal of article 4 directions if you could make the case for its being exceptional. Even then, however, all that that would mean would be that the developer would have to make an application for demolition.

[43] **Mr Cole:** Yes.

[44] **Sandy Mewies:** Before you go on, Mike, Andrew has a question on this area.

[45] **Andrew R.T. Davies:** Richard and Stephen mentioned the case of the Red House pub and how that set a precedent in 2000, because the council was deemed to be acting unreasonably and had to pay costs. How does the case regarding the Vulcan mirror or refer back to that case?

[46] **Sandy Mewies:** I am not sure that we should go into that area, should we, Joanest?

[47] **Andrew R.T. Davies:** It is case law about how the decision is played out.

[48] **Ms Jackson:** I think that I am right in my understanding that this session was intended to impart information to Members on the process of local listing, and that there would not be specific questions on matters which may currently be under consideration by Cardiff County Council.

[49] **Sandy Mewies:** It is a matter of what they feel comfortable with, but I will not let the witnesses answer if they do not wish to do so. If you are happy to answer, please do so.

[50] **Mr Phillips:** I am grateful for that, but I think that I can answer Mr Davies's question without prejudicing the guidelines that you have set out, Chair. I have the extract from the inspector's report before me, so I will quote what he said on the case of the Red House pub:

[51] 'I am of the view that the council acted unreasonably in seeking to achieve something over which it had no control. I consider that its evidence did not provide respectable or sufficient evidential basis for the stance taken'.

[52] So, in my view, that does not allow much wriggle room—it is a fairly clear statement that our attempt to, effectively, expand the council's remit in this regard did not find favour with the inspector. Without wishing to speculate on the future of how that would apply to the Vulcan, as I said earlier, we would have to be very clear. Every case is different and we must look at each one on its merits, but my analysis of the position, which Richard has expanded on, is that the council has local listing powers that are constrained. We have attempted to clarify or magnify those powers where we felt it appropriate, but that did not find favour. We are in the business of exercising our discretion, and we have a duty to the council tax payer to achieve best value, so the bottom line is that we are not going to pursue a position where we have no prospect of success and every prospect of repeating what happened in the Red House case, where we had to pay costs. That is not to say that we would do it, but we would have to treat each case on its merits. However, the precedents that Richard and I have cited are fairly clear, I would argue.

[53] **Andrew R.T. Davies:** I will not pursue it further.

[54] **Sandy Mewies:** Thank you, Andrew. Mike, it is back to you.

[55] **Michael German:** I think that we may ask more questions about the article 4 directions to the Minister for planning here. However, are there any examples that you can

think of where adding a building to a local list has led to its preservation?

[56] **Mr Phillips:** Not in Cardiff in the last 10 years—not in the sense of protecting it from demolition, if that is what you mean.

[57] **Michael German:** I mean that the actual act would have been of benefit to its retention. In other words, as a result of the local listing, people decided not to proceed because it was too cumbersome an approach to make the argument, or whatever. If you cannot think of an example, then—

[58] **Mr Cole:** The local list is used as an encouragement to building owners and developers to try to accommodate what is special about a building on the local list in terms of their development proposals for any site, but I cannot think of an example where the use of that list has resulted in a building not being demolished.

[59] **Bethan Jenkins:** We have already touched upon the listing, but I want to discuss the aspect of why the local listing seems to use the same criteria as the national listing. In a letter from Neil McEvoy to Jenny Randerson, he implied that the criteria were, effectively, the same apart from the fact that the buildings may not be of national significance. Do you know whether the Welsh Assembly Government has a reason for that, or why there would be a requirement for it to be the same or almost identical?

10.00 a.m.

[60] **Mr Cole:** We would have to go on the advice in the circular, which is, essentially, that we are talking about buildings of architectural and historic interest. That is the nature of the circular and its remit, while extending into conservation areas. It is only natural to follow the same criteria in respect of buildings of local significance as Cadw uses for buildings of national significance.

[61] **Bethan Jenkins:** I am not quite sure how to frame this question, but surely there are local influences that are not of historic importance, such as the Vulcan's social importance. Do you not think that those aspects could come into play if there were different criteria, more than merely the architectural influence and importance of a building?

[62] **Mr Cole:** There has to be some essential element of architectural and historic interest for us to look at putting a building on the local list. National significance is a criterion that Cadw uses to judge the value of a building to Wales. If you were to depart from those criteria and look at having alternative criteria for a local list, you would be departing from the point of the list, in essence.

[63] **Bethan Jenkins:** You mentioned earlier that the local listing was done in the 1990s and was approved in 1997. Have any new criteria been issued or has there been any amendment to it since then?

[64] **Mr Cole:** No, not that I am aware of. There was talk of Cadw issuing a clearer interpretation of those criteria in respect of local listing if the White Paper on the historic environment Bill went any further through the national process. There was a suggestion that the buildings on the local list might benefit from some statutory protection from demolition at a later stage. The reason the criteria were aired was because a number of local authorities have local lists of one sort or another. Their consultation process with building owners was based on the fact that, statutorily, there was no significant difference between a building appearing on the list and a building not appearing on the list, other than the fact that it was recognised as being of some particular architectural or historic interest to the local scene. That would be different from central Government coming forward and, effectively, injecting

statutory protection from demolition to a list that had not been consulted on in that way.

[65] **Andrew R.T. Davies:** Thank you, gentlemen, for coming in this morning. The evidence that we have taken over several sessions—and we even visited the pub for an informal evidence session from Cadw, so that we could appreciate the building physically—indicates that, from Cadw’s point of view, the building has no national significance and so falls outside its remit, and thus is a local issue to solve. The powers that the local authority had—or that any local authority would have if the situation were presented to it—were sufficient to protect the pub or a similar facility. Cadw was of the opinion that it fell to the council to act more proactively to try to save the pub, as it was in this instance. In the evidence that you have given, you indicate that you are not, but are you happy that your powers give you that duty of care over a local asset, especially a conservation asset? If not, what would you like to see happen? While we are dealing with this specific petition on the Vulcan Hotel, there is a wider issue that we, as committee members, have uncovered, namely that there are anomalies in the system. We have been told that the Minister is going out to consultation on this issue, and that, sometime in November or December, hopefully, some formal proposals will come forward. What would you like to see put in place to strengthen your hand to strike the right balance between conservation and development?

[66] **Mr Phillips:** The short answer to your question is, ‘No, I am not happy’. I was not at the previous meeting but, if that is how Cadw represented the position to you, I would have to say that, with the greatest respect, I do not share that analysis. This morning, we have described the limitations on the council in relation to its local listing powers, and the fact that we have unsuccessfully tried to extend those powers through various means in the past.

[67] **Andrew R.T. Davies:** Have you done that in isolation, as a council, or have you done it on a broader basis, through the Welsh Local Government Association? It would not give special powers to Cardiff, for example; it would give guidance to all local authorities. Would that be correct for all local authorities?

[68] **Mr Phillips:** In the first instance that we were discussing, the article 4 directions were taken pretty quickly after the local list was adopted in 1997, although I cannot remember the precise date. It became abundantly clear that the local list did not provide the sort of protection that we were looking for. Secondly, the Red House was a specific proposal in Cardiff, which, I dare say, was quite right. I do not think that Cardiff Council would seek any preferential or bespoke arrangements for this city compared with any other parts of Wales, so maybe there is a discussion to be had with the likes of the Welsh Local Government Association. I think that you are right in saying that you have identified a few loose ends, as it were, in the course of this inquiry.

[69] However, although Cadw has made it fairly clear that it does not believe this pub to meet the criteria for the statutory listing, as far as I am aware, the Minister has not determined that definitively as a consequence of the latest consultation and whatever advice he has had. We are not privy to that advice, so I cannot comment on it. However, it is an oversimplification for anyone to argue that this is not a building or a structure that can be listed nationally and so it falls to the local authority to sort it out. That is not how it works, as we have made very clear this morning. However, you used the words ‘duty of care’ and, in the context of the wider policy framework in which the council operates, we accept that there is a duty of care on the local authority to identify these buildings and to act reasonably within the powers that we have. To that extent—and I mentioned the fact that we are considering supplementary planning guidance and other means—the council takes that very seriously. The bottom line, from the council’s perspective, is that we are faced with a fairly limited set of tools in our toolbox.

[70] **Andrew R.T. Davies:** From your answer, I take it that there has not been dialogue on

the WLGA level to come forward with a united view. Am I right to say that you, as a council, have been working on this independently, in the light of your own experiences?

[71] **Mr Phillips:** I think that you are right. The WLGA co-ordinates local authority opinion on a whole range of subjects, including the built environment. I dare say that it has had a dialogue with the Welsh Assembly Government on these matters, but I am not aware of any specific details. We are into some quite specific primary and secondary legislation here. I am not aware of any dialogue between the WLGA and the Assembly Government, or the WLGA and its constituent authorities, on this matter, but we can certainly ask.

[72] **Sandy Mewies:** Thank you very much for coming here this morning to give that evidence, which we will discuss later. Thank you for an interesting discussion and for the points that you have clarified for us today.

10.10 a.m.

Deisebau Newydd New Petitions

[73] **Sandy Mewies:** We have five new petitions. The first is P-03-209 on the abolition of top-up fees in Wales. Do Members have any comments on that?

[74] **Andrew R.T. Davies:** I think that we are all aware of the extensive dialogue, debate and reporting on this issue. The usual procedure for us, when we receive a petition, is to seek the Government's position on it for clarification. This petition is calling on the National Assembly for Wales to urge the Government to abolish tuition fees, and so I recommend in the first instance that we make contact with the Minister to ascertain the Government's position and, on that basis, consider it at our next meeting.

[75] **Bethan Jenkins:** To clarify, the petition title refers to abolishing top-up fees while the petition wording itself refers to tuition fees. However, there is a difference, because we do not currently have top-up fees, and so we would be getting ahead of ourselves to talk about abolishing them.

[76] **Sandy Mewies:** That is useful. Thank you, Bethan. Andrew suggested that we write to the Minister for Children, Education, Lifelong Learning and Skills on the issue that we have before us. I presume that you would like to conform to the action that is before us.

[77] **Andrew R.T. Davies:** We can see what the Government position is, and then debate the petition.

[78] **Sandy Mewies:** As everyone is happy with that, I will move onto the next petition, P-03-217, which is about the National Library of Wales and the fact that it no longer opens on a Saturday. It calls on the National Assembly for Wales to ensure that sufficient funding is made available to enable the NLW to reverse that decision. Would Members like to comment?

[79] **Michael German:** Again, Chair, I think that we should write to the appropriate Minister to find out his position on the matter, seeing whether he can make the appropriate investment to allow this stupendous national library of ours to open to the public on Saturdays, particularly since some parts of the library are extremely well used, for example, by people researching their genealogy. Perhaps we should also write to Andrew Green, the librarian, and ask whether he will review the library's position on this matter, as well as asking how much the library hopes to save by not opening on Saturdays.

[80] **Andrew R.T. Davies:** To add to that, if I may, I have heard this matter raised several times in Plenary during questions to the Minister for Heritage, and, on that basis, I suggest that we ask the Minister in his reply to outline the discussions and dialogue that he has had with the national library, so that we get the whole picture rather than a standard response.

[81] **Sandy Mewies:** That is fine, Andrew. The third new petition, P-03-221, calls for improved NHS chiropody treatment in Wales, and it is from one of the 50-plus older people's fora. Does anyone have anything to say on that?

[82] **Michael German:** To begin with, we need to know the current situation in respect of the provision of foot care and see whether there is consistency of service across Wales. I suppose that we should start by writing to the Minister for that information, and then returning to the petition to see where we go next.

[83] **Sandy Mewies:** Fine. So, we will write to the Minister for Health and Social Services. Do you want to add anything, Andrew?

[84] **Andrew R.T. Davies:** That action would be looking at the matter on a Wales-wide basis, but the petition is about Rhondda Cynon Taf, and specifically the Cynon valley. We might therefore address our concerns to the local health board regarding its commissioning of services, so that, as well as the national picture, we get the local picture of the area to which the petition refers.

[85] **Sandy Mewies:** Thank you. The fourth petition, P-03-224, asks the National Assembly for Wales to intervene to halt the closure of the Stepping Stones nursery on the Ebbw Vale campus of Coleg Gwent.

[86] **Michael German:** Chair, I have supported this petition and so will not take part in any voting on the matter. However, this issue has been aired considerably in the National Assembly, and it is a matter of great concern that, in the poorest area in Wales, we cannot offer nursery provision to people seeking to improve their education and gain qualifications. I wonder whether we ought first to contact the Minister for Children, Education, Lifelong Learning and Skills, not just in her education role, but also in her role as Minister for children. Then, given that this is also a matter of economic regeneration in the area, it that may involve more than one Minister, so perhaps we ought to find out each Minister's position, and whether there are alternative sources of funding which the National Assembly would recommend the college could apply for in order to retain this much-needed facility.

[87] **Sandy Mewies:** That seems like a sensible way forward. Are we all agreed on that? I see that we are.

[88] The fifth new petition is P-03-227, from the residents of Llanmaes, Millands Park, and the surrounding rural areas, who object to the proposed new northern access road for the proposed defence technical college and the proposed new Tremains Farm housing estate.

[89] **Andrew R.T. Davies:** May I suggest, Minister—sorry, I mean Chair. [*Laughter.*]

[90] **Sandy Mewies:** Thank you. You have made my day.

[91] **Andrew R.T. Davies:** There are two situations to consider in this. Obviously, the Welsh Assembly Government has a role in this, but Metrix is the developer, which has been developing the plans—through comprehensive consultation, I might add. I have had the good fortune to attend some of the public consultation meetings. So, I think that we need to take a twin-track approach, addressing this petition to the Metrix development to see whether it

wants to respond and give its observations on the concerns of the residents of Llanmaes. Above all, obviously, the Welsh Assembly Government has a role, because it has been acquiring land to facilitate the development, of which access is an important part. The Department for Economy and Transport has a role to play in informing us how it has gone about the development plan for this area, which has caused concern to the residents of Llanmaes. So, can we also address this to the Minister for Economy and Transport so that his officials can respond to the concerns raised?

[92] **Bethan Jenkins:** Perhaps you will know the answer to this. Would these petitioners have had a chance to express their concerns through the public consultation? If so, is it worth our trying to find whether the results of that are available online or asking the company for that response by the petitioners?

[93] **Andrew R.T. Davies:** My understanding of what has gone on is that Metrix has carried out a comprehensive consultation. Everything is still subject to planning approval, and residents could take further action if they wished at that stage, but the consultation process was exhaustive. Undoubtedly, concerns have been raised because of the scale of the development.

[94] **Bethan Jenkins:** Has the consultation ended now? Could we get a copy of the responses?

[95] **Andrew R.T. Davies:** Yes, I believe that the consultation process has now ended. I do not know whether Metrix has compiled the responses into a dossier for the public, because, obviously, it is a private development company. I would have thought that such work would be undertaken at the planning stage, when observations could be registered. However, again, we can ask the question of Metrix.

[96] **Sandy Mewies:** Shall we explore the twin-track approach then? We can find out what has happened along the lines that Bethan has suggested. I am sure that there will be some results somewhere by now.

10.18 a.m.

Trafodaeth o Dystiolaeth Discussion of Evidence

[97] **Sandy Mewies:** We are now going to consider the evidence that we received from Cardiff Council.

[98] **Michael German:** Can we investigate with the Minister with responsibility for planning, who is not the Minister we have been discussing this with so far, the issue of article 4 directions? It seems that, in the past, the council has sought to get more powers of protection as tools in its toolbox. It seems to consider article 4 directions as the principal method for doing that. What I would like to know from Jane Davidson is what her policy is on article 4 directions, whether these should be dealt with on a case-by-case basis—in other words, whether block applications are the norm in this—and what criteria she would suggest to her officials for approving article 4 directions removing development rights. I would also like to ask her whether she is intent on any modification or amendments to the regulations on those matters. There are other issues, but that is one that came out this morning—the tools in the toolbox issue. It is one that we did not have available to us at the time.

[99] **Sandy Mewies:** I am sure that that will be fine.

[100] **Michael German:** There will be other issues that we could deal with. We could ask

when the Minister is going to make his decision. If we agree to write to Jane Davidson, it might be worth while, when we write to Alun Ffred asking him when he is going to make his decision, to point out that we are still seeking advice on the article 4 issue, in case it is a relevant consideration, and that he may wish to wait until we have spoken with Jane Davidson. When we went on our site visit, we heard evidence from Jonathan Adams that it would be relatively straightforward to incorporate the Vulcan into any future development. We could ask the developer whether it thinks that that is a sensible solution to this major issue.

10.20 a.m.

[101] **Andrew R.T. Davies:** I would be supportive of the actions that Mike has proposed. This petition opens up a wider context in that the evidence taken today and the evidence that we have received from Cadw have indicated that there is a discrepancy of opinion—other members of the committee can correct me if I am wrong on that. It was certainly firmly put to the local authority that it was deemed that it has enough power. There is also a need to ascertain the level at which the Welsh Local Government Association is working to raise this issue. Surely the WLGA should be the interface with the Welsh Assembly Government and should be bringing these proposals forward, given that people feel that the regulations are not meeting local requirements. We have had evidence that has said that there is going to be a consultation at the tail end of this year, in November and December. I am supportive of Mike's proposals, but when we pull the report together, we need to ensure that we keep a closer eye on these things in a wider sense and that the WLGA is challenged on what it is doing on a wider Wales basis, to ensure that it is engaging with the Assembly.

[102] **Sandy Mewies:** So, we should ask for information, basically. So, there are four actions.

[103] **Bethan Jenkins:** I have a point of clarification from previous committee meetings. Would we ask the Minister to postpone any decision in light of the fact that Cadw will be going out to consultation on new criteria? Did we include that in the letter that we wrote previously?

[104] **Mr Davidson:** No, we did not include it in the previous letter.

[105] **Bethan Jenkins:** I asked about the local criteria and whether they would change. It seems to me that, if the criteria change at a national level in November, for example, it would follow that the local criteria will change. There would then be an argument for this to be stalled. If things will be changing at the end of the year, this may not be the best time to make such a decision.

[106] **Andrew R.T. Davies:** I think that a consultation process was going to be opened at the end of the year—

[107] **Bethan Jenkins:** So, a decision is not going to be made by then.

[108] **Andrew R.T. Davies:** A decision is not going to be made at the end of the year. The Minister was going to consult, which would take three or four months, taking us to spring 2010, and the Minister would then consider the consultation process.

[109] **Bethan Jenkins:** So, it would be too long a period of time for us to call for that.

[110] **Andrew R.T. Davies:** I would have thought so. It is your call.

[111] **Bethan Jenkins:** I was just thinking that, if there are loopholes or discrepancies, the

Minister should not be making a decision on this until all those loopholes have been closed, but if it is too long a time—

[112] **Sandy Mewies:** I do not suppose that the run-in time stops us making a suggestion that it could be considered.

[113] **Mr Davidson:** We could incorporate that into the other two actions: the letter to the Minister for Environment, Sustainability and Housing and the letter to the Minister for Heritage.

[114] **Sandy Mewies:** We might say that we realise that there is a time factor.

[115] **Andrew R.T. Davies:** There is a piece of work here. When the Minister opens his consultation, all the work that we have undertaken should be presented to that consultation. I would like to ask for a Members' research service briefing on the heritage development protection Bill that was talked about this morning. I was not aware of that. It looks as though that has been kicked into the long grass. I am not sure whether it is relevant to Wales; I thought that we had those powers in Wales. A briefing would give us a background to what is involved with it.

[116] **Sandy Mewies:** I am sure that we can ask for that to be circulated by e-mail. So, we are happy with those recommendations.

10.24 a.m.

Hynt y Deisebau Blaenorol Updates to Previous Petitions

[117] **Sandy Mewies:** The first petition to be discussed is P-03-144, from the Guide Dogs for the Blind Association. I was at the recent shared streets event—I think that many of us attended it. Are there any comments on this?

[118] **Michael German:** We have had a petition from Sustrans on shared spaces. I do not know whether we have passed it on to another committee and that it has not come back to us yet, but it is still open, I believe. At the last meeting I asked whether this clarity—

[119] **Sandy Mewies:** We will get an update on that.

[120] **Michael German:** Fine. The clarification that the Guide Dogs for the Blind Association says that it has provided is rather strange. In the penultimate paragraph of its briefing note on this matter—on page 50 according to my notes, but I do not know where that has come from—it says:

[121] 'Guide Dogs and Disability Wales are represented on the walking and cycling strategy's steering group, and we are pleased to note that it does not condone the use of shared walking and cycling paths'.

[122] Is the 'it' the cycling strategy steering group? What does the 'it' refer to? Does it refer to the strategy itself? Is there a walking and cycling strategy? I do not know the answer to that. Therefore, is this the policy of the Government or not? It is not clear from that whether it was the group's view—the 'it' referring to walking and cycling strategy steering group—or whether it referred to the walking and cycling strategy of the Assembly Government. I do not know the answer to that, and I would value an answer as to whether we have a dispute between two different bodies on whether we can have shared spaces for

cycling and walking.

[123] **Sandy Mewies:** I will ask the clerk to clarify what has happened to the Sustrans petition, which has moved on, and what we can do to clarify the issue.

[124] **Mr Davidson:** The Sustrans petition is entirely separate from this one. I understand that the Enterprise and Learning Committee has decided to take that forward and is going to be proposing a legislative competence Order in relation to that—

[125] **Michael German:** So, it is definitely still an open petition.

[126] **Sandy Mewies:** Yes.

[127] **Mr Davidson:** On this issue, we can go back to Andrea Gordon, the author of the paper—

[128] **Michael German:** Surely we can go to the Government, Chair. This is a Government strategy, is it not?

[129] **Sandy Mewies:** I have been looking at the Sustrans position, and trying to think where this sits. It does resonate slightly in my brain, although I cannot say that I wholly recall it.

[130] **Andrew R.T. Davies:** My reading of the matter is that the ‘it’ refers to the walking and cycling strategy published by the Welsh Assembly Government.

[131] **Sandy Mewies:** I thought that it referred to the group, so there is perhaps some confusion there.

[132] **Andrew R.T. Davies:** Yes, but the group is working out the strategy. Do you remember, Sandy, when we were on the Enterprise and Learning Committee, that we held the petition over? The Minister came to give evidence, and he said that the Government, even if the committee took it forward, would block the application for powers, because he believed that the powers to do what he needed to do existed here already. He referred the committee to the walking and cycling strategy, which was ‘imminent’—I think that that was the word that he used.

[133] **Sandy Mewies:** I think that we still need to clarify that. The clerk can send out a note.

[134] **Michael German:** That has a material influence on the Sustrans petition, which is still open. That is why I am raising it. We have had this situation of having two petitions before, with one arguing for a ‘yes’ vote and one arguing for a ‘no’ vote, both at the same time. In the past what we did was to put them together. For example, there were two petitions relating to Llanbedr airfield: one from those in favour of the development and one from those against. We put them together at the end. We may need to get an update on the Sustrans petition and to put the two together so that we can see whether we need to resolve two conflicting petitions.

[135] **Bethan Jenkins:** I am sure that the Government gave evidence in relation to the Sustrans petition to put forward its side of the argument. It has already rehearsed that, has it not? It has had its chance to be involved in that process.

[136] **Michael German:** Yes, but the Sustrans petition is still open; it has not yet been resolved. We have not closed it.

[137] **Mr Davidson:** I will have to look at that, as I am not sure whether the committee closed its consideration of the Sustrans petition when it referred it to the Enterprise and Learning Committee in the autumn of 2007.

[138] **Michael German:** We do not do that; we do not close petitions until they come back to us and the actions of the other committee involved are known to us.

[139] **Mr Davidson:** I think that, on that occasion, it may have been done on the basis that it was calling for legislation, and that the Petitions Committee did not have the power to introduce that type of legislation. It was, therefore, referred wholly to the Enterprise and Learning Committee. I can double-check as to the decision that was taken and get back to you on it.

[140] **Bethan Jenkins:** We did not do that with the petition on plastic bags even though we did not have the relevant powers. We did not close the petition on plastic bags until it came back here.

[141] **Sandy Mewies:** We will clarify it and send a note to Members. So, on this petition, will we write to the Deputy First Minister?

[142] **Michael German:** Yes.

10.30 a.m.

[143] **Sandy Mewies continues:** Are Members happy with that? I see that you are. We will move on to P-03-172, on the restoration of the Swansea-Cork ferry.

[144] **Michael German:** We have received a letter. We have found out more through this committee than it seemed the Deputy First Minister knew the last time we discussed this. In the last letter we received from the Deputy First Minister, dated 24 April and received 28 April, he says that it looks as though it is all going well and that they had asked for €400,000. The letter does not say whether he has given any money, but he is going to make a contribution to the press release when it is formally announced. My guess is that if you contribute to a press release, you are prepared to give support. I think that it would be useful to clarify whether the Government is supporting this or whether it is going ahead without Government support.

[145] **Sandy Mewies:** It looks quite positive, does it not?

[146] **Michael German:** Yes. When we were here last time, we knew more than the Deputy First Minister because we were told that it is being bought, where it is being brought from, where the ship is coming from and when it would be ready to start operating. Now we have a date: it looks as though it will start in June—

[147] **Sandy Mewies:** That would be now.

[148] **Michael German:** Yes.

[149] **Sandy Mewies:** So, we will keep a watching brief and keep an eye on progress, but in the meantime we will write to ask for clarification on that.

[150] **Michael German:** We need clarification on how much the Government has put in and whether any support is being offered.

[151] **Sandy Mewies:** That will be part of the watching brief because it will be nice to know what is happening in June.

[152] **Michael German:** Perhaps we could ask the Deputy First Minister to give us a date, if he knows when it is going to start.

[153] **Mr Davidson:** Just to clarify, I think that that letter pre-dated the evidence that we took from John Hosford. He informed the committee that plans to re-open the route had been put back—I think that it was put back to spring 2010.

[154] **Sandy Mewies:** Right. I was not at the last committee. We will just keep a watching brief on that. We will move on now—

[155] **Andrew R.T. Davies:** Before we move on, could we just go back one step? Have we sent the evidence that we received to the Deputy First Minister? There is a contradiction here and it was only when we were cross-examining that we got that time delay out of the witness. I think that it might be worthwhile, when we get clarification on the letter dated 24 April, for us to seek the Welsh Assembly Government's view on the evidence that we received. I am sure that officials were watching or listening in. There was definitely a contradiction in what we heard that day compared to the picture that was being portrayed.

[156] **Mr Davidson:** We sent all the information that was gathered and copies of the transcript of John Hosford's evidence to the Deputy First Minister for consideration.

[157] **Andrew R.T. Davies:** Have you asked him to comment on that?

[158] **Mr Davidson:** Certainly.

[159] **Sandy Mewies:** We will move on to P-03-185, which calls on the National Assembly for Wales to support the appeal of the Boverton road regeneration scheme for Llantwit Major. Are there any comments on that?

[160] **Michael German:** There is no more that we can do.

[161] **Bethan Jenkins:** The petitioners seem to be happy.

[162] **Sandy Mewies:** Shall we close the petition? I see that you are in agreement; thank you. The next one is P-03-188 on the special care baby unit at the Royal Glamorgan Hospital. Are there any comments on that?

[163] **Michael German:** I think that it is right that we should ask the Welsh NHS Confederation whether it can offer any support in recruiting middle grade doctors. This is becoming quite an issue, not just in this one hospital. We could write to the Minister for Health and Social Services and ask her what the current position is on shortages of middle grade doctors across the piece, and to see what action she intends to take in order to try to help out, not just in that trust, but across Wales, where it is becoming a wider issue.

[164] **Sandy Mewies:** That is fine. The fifth update is on P-03-190, No Ely Valley Airport Road—

[165] **Michael German:** Sorry, Chair, but I also wanted to mention the immigration laws. The Minister for Health and Social Services raised the issue of not being able to get overseas doctors. Can we include that in a letter, to establish whether that is still having a material impact on our ability to fully staff our NHS with middle grade doctors in Wales?

[166] **Sandy Mewies:** Fine. So, we are now moving on to the No Ely Valley Airport Road petition and the additional paper—P-03-218—that I had on Wenvoe. May we consider both at the same time?

10.35 a.m.

[167] **Andrew R.T. Davies:** I declare an interest. Like Mike, I have supported the petition. I would like to comment, though I will take no part in the decision-making process. There has been comprehensive dialogue—the Petitions Committee has been working extensively on this petition, along with the Wenvoe petition. Questions have been asked in Plenary. I note that there is talk of the decision perhaps being put back to the summer, which would be a third delay. At first it was going to be decided at the tail end of last year or early in the new year, then it was going to happen in the spring, and now it looks as though it will be the summer.

[168] I believe that the petitioners have received various pieces of the evidence that the committee has gathered—and in particular the Members' research brief—highlighting concerns about the way in which the Government carried out the consultation exercise in pulling the strands together with regard to this road. I therefore think it appropriate at this juncture for us to invite the petitioners to give evidence on their concerns and on the evidence that they have received to date, given that we are unable to find out definitively when the Deputy First Minister will make his decision based on the outcome of his deliberations. In Plenary last week, the Deputy First Minister indicated—and it is in the Record—that he is still taking consultation submissions, which are arriving by the day on this issue. That struck many Members as being somewhat odd, given that, if you have an official consultation period, you surely consider the submissions that arrive during that period, and you do not just keep taking pieces of evidence as they arrive.

[169] **Sandy Mewies:** Are you are suggesting that the petitioners come in to talk about the consultation process in particular and their concerns about it, as well as about the general principles?

[170] **Andrew R.T. Davies:** That is correct.

[171] **Mr Davidson:** Just to clarify, was it the NEVAR petitioners, or the NEVAR petitioners and the Wenvoe petitioners.

[172] **Andrew R.T. Davies:** I am referring to the NEVAR petitioners, but we can take the two together.

[173] **Michael German:** In talking about the same principled issue of that relationship, would it be sensible to ask both sets of petitioners to come here?

[174] **Mr Davidson:** Would you like two panels of witnesses, or shall we ask them to present together?

[175] **Andrew R.T. Davies:** I should ask the petitioners how they wish to proceed. There is a common purpose, but equally, there are differing interests at play.

[176] **Michael German:** If we are to ask them about the process of engagement and consultation, it would probably be better to have a single panel, but with the time split appropriately according to the petitioners' wishes.

[177] **Sandy Mewies:** We shall leave the matter with the clerk to discuss it with those concerned. Although I do not see any objection to having both groups presenting their evidence together, there may be an objection; however, I would not think so. Unless we hear

otherwise, we can go ahead with one panel.

[178] **Andrew R.T. Davies:** The only issue I am worried about in having one panel dealing with both groups is that you get only a set time to deal with the matter, because we are quite rigid with our rules, are we not? Depending on the evidence that they wish to present, they might feel constrained by the 15 minutes that they will have to make their presentation.

[179] **Sandy Mewies:** Shall we leave it with the clerk?

[180] **Michael German:** We can always extend our time. We make the rules, so we can always change them.

[181] **Andrew R.T. Davies:** You are revolutionary today, Mike.

[182] **Sandy Mewies:** Last, but not least, we have P-03-205 on the Abergavenny livestock market.

[183] **Michael German:** It would be helpful if we could get the evidence on this matter because, in his reply, the Minister for Social Justice and Local Government says that he has no view as to whether he should exercise his powers in this matter. Perhaps we ought to have some clarity as to why the petitioners believe that the Minister should not exercise any power but put the matter in the bottom of his briefcase and go home.

[184] **Sandy Mewies:** Shall we invite the petitioners?

[185] **Bethan Jenkins:** You say that, but in the first paragraph, he says that it is clearly important, but in the last paragraph, he says, 'I have no view'. He seems to contradict himself. I agree, however, that we should have the petitioners in.

[186] **Sandy Mewies:** Okay; we will invite the petitioners. That completes the updates to previous petitions and with that, the meeting is concluded. Thank you for attending; see you in two weeks.

*Daeth y cyfarfod i ben am 10.39 a.m.
The meeting ended at 10.39 a.m.*