



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

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

**Dydd Iau, 5 Mawrth 2009
Thursday, 5 March 2009**

Cynnwys
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Gwaredu) (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 6
The Proposed Playing Fields (Community Involvement in Disposal Decisions)
(Wales) Measure—Stage 1, Evidence Session 6

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
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

Mohammad Asghar	Plaid Cymru The Party of Wales
Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Rosemary Butler	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Ann Jones	Llafur Labour
Huw Lewis	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

David Lloyd	Aelod Cynulliad, Plaid Cymru (yr Aelod sy'n gyfrifol am y Mesur arfaethedig) Assembly Member, The Party of Wales (Member in charge of the proposed Measure)
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Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Keith Bush	Prif Gyngorydd Cyfreithiol a Chyfarwyddwr Gwasanaethau Cyfreithiol Chief Legal Adviser and Director of Legal Services
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Bethan Roberts	Cyngorydd Cyfreithiol Legal Adviser
Graham Winter	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Liz Wilkinson	Clerc Clerk

Dechreuodd y cyfarfod am 12.30 p.m.
The meeting began at 12.30 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Rosemary Butler:** Good afternoon, and welcome to Legislation Committee No. 1. Before we move on to the formal agenda, I need to remind people to turn off their mobile phones or any other items of electronic equipment—as long as that would not end your life instantly. I remind people that we have translation equipment available, which can also be used to amplify the sound if people have difficulty hearing what is happening. I also remind you not to touch the microphones, because they are switched on and off automatically.

12.31 p.m.

Mesur Arfaethedig Caeau Chwarae (Ymgysylltiad Cymunedau â Phenderfyniadau Gwaredu) (Cymru)—Cyfnod 1, Sesiwn Dystiolaeth 6
The Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure—Stage 1, Evidence Session 6

[2] **Rosemary Butler:** We are here this afternoon to discuss the Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure, introduced by Dai Lloyd. We have Dai Lloyd with us again this afternoon so that we can ask him a series of questions arising from the evidence that we have been given. Dai is accompanied by the chief legal adviser, Keith Bush. We have a series of questions to ask you, Dai, and, when we have finished, if there are any that you would like to put to us, please do so.

[3] I will start the questioning. The committee has received evidence to suggest that the proposed Measure seeks to address a problem that does not exist. Indeed, it has been reported that there has been a net gain in playing fields over the past five years and, in cases where a disposal had occurred, there had been a positive gain for the community as a result of replacement leisure provision. In view of that, can you explain why you believe that the loss of playing fields is a problem? Can you remind the committee why you think that there is a need for your proposed Measure?

[4] **David Lloyd:** Thank you, Chair. I do not agree fundamentally with the premise that the proposed Measure is not required; I strongly believe that it is required. This is all about involving the local community in a meaningful decision, informing them of a potential decision, and getting community involvement before a final decision has been taken, either way, on the possible disposal of a playing field. At the moment, that does not happen. So, the proposal is novel, as I outlined during my previous appearance before this committee, in involving and informing the community. In addition, a summary of the impact assessment will be provided to each household in the ward in question, which will involve people in the process before a final decision has been taken. That is the step before planning law kicks in.

[5] It is a significant augmentation of current procedures, where the only requirement, under sections 123 and 127 of the Local Government Act 1972, is to place an advertisement in the local press for a fortnight. The proposed Measure builds significantly on that by ensuring—as the title says—community involvement in disposal decisions before the actual decision has been made, so that the community's view can be taken on board and given its rightful significance. In other words, this is a meaningful involvement of the community. Later on, when communities are involved in consultations on planning decisions, the decision has already been made about the disposal of a playing field, and, in all the campaigns that I have been involved in down the years, given my history in local government, communities have always felt that such consultations on planning law are a stitch-up. They are considered a sham. This is what is novel about this: before any decision has been made, the community knows about the matter and is in a situation to be able to influence the decision.

[6] **Rosemary Butler:** In evidence to the committee, the Welsh Local Government Association asserted that it does not see how the proposed Measure differs from, or adds value to—which was important—existing arrangements aimed at safeguarding playing fields. Can you remind the committee what the proposed Measure will provide that is not provided for through existing legislation or by way of current practice? I think that you covered that point a little just now, but I would like a formal answer to that question.

[7] **David Lloyd:** As I said, the novel context of this proposed Measure is to provide for meaningful consultation with local residents at a stage when it would be meaningful, before a final decision is taken vis-à-vis the proposed disposal of a playing field. At present, the Local

Government Act requires a local authority only to advertise in the local press for two weeks, and there is no statutory requirement to follow that up in any way. As I mentioned before, I was staggered to learn that, unlike trees or historic buildings, playing fields have no statutory protection whatsoever.

[8] The proposed Measure has nothing to do with planning law, as such; this is about the stage before any planning decision kicks in. This is about informing the local community about a way forward and about the people in that community having a very real role in influencing it before the local authority takes a final decision on disposal.

[9] **Eleanor Burnham:** The committee has received evidence to suggest that, while there may be separate regulatory regimes relating to planning and disposal, in real terms, they are interlinked and do not operate in isolation. How would you respond to that?

[10] **David Lloyd:** Hardly anything operates in isolation, but this proposed Measure would kick in at the stage before a sale. This is about pre-sale consultation. So, before a sale can happen, and therefore planning law can kick in, this would be the stage prior to any sell-off. Local residents in the ward involved would get a letter with a summary of the impact of such a sell-off. It is, therefore, a balanced view, and not just a letter from the council telling people that it is thinking of selling off a particular playing field. A summary of the impact assessment will be included, outlining the pros and cons of such a development so that people are not only informed, but are also able to make an informed decision. That should be helpful for the local authority, so that the rationale behind any decision can be explained.

[11] This pre-sale consultation is, I feel, separate to planning law, because it comes under the local government field in Schedule 5 to the Government of Wales Act 2006, and not under the planning field. However, in this world, nothing is completely separate from anything else. I am quite happy to engage in a philosophical debate about how separate things are, but, to be frank, this is about pre-sale consultation, which is outwith planning law.

[12] **Eleanor Burnham:** In what circumstances would you envisage a local authority taking forward the disposal of a playing field without any involvement in the planning process?

[13] **David Lloyd:** I cannot foresee such a situation, but, as I said, this proposed Measure does not involve planning law. This is pre-sale consultation. In preparing the impact assessment that this proposed Measure would require, one would presume that the local authority will have thought about the way ahead rather than just rushing headlong into decisions on a mere whim. As to what happens when the community has been consulted on the pros and cons of such a way forward, planning and disposal are separate issues.

[14] **Eleanor Burnham:** What are your views on the suggestion that the proposed Measure may undermine a local authority's planning policy and development plan? Would it not be far wiser just to tidy up the planning laws and regulations?

[15] **David Lloyd:** This proposed Measure has nothing to do with planning law. I may have said that before.

[16] **Rosemary Butler:** Yes, six times. [*Laughter.*]

[17] **David Lloyd:** This is about pre-sale consultation. It has nothing to do with planning law. As I also mentioned previously, local residents may well agree that it is a great idea to sell off a particular playing field, so I am not pre-empting the decision. This proposed Measure is to allow the community to have a meaningful role in deciding about the disposal of a playing field. The local community may agree that it is a great idea to do something

constructive with that playing field.

12.40 p.m.

[18] **Rosemary Butler:** A number of questions will overlap, or you may have answered them previously, but we need to get a specific answer to these questions. So, if you feel that you have replied to them before, you do not need to go into great detail again, Dai.

[19] **Nick Ramsay:** Good afternoon, Dai. You have made the point that the proposed Measure is separate from planning law. How do you respond to the suggestion that there could be simpler ways of achieving your ends, for example, by strengthening sections 123 and 127 of the Local Government Act 1972?

[20] **David Lloyd:** In effect, that is what the proposed Measure would do. Keith, do you want to bring some legal expertise to bear?

[21] **Mr Bush:** Section 123 of the Local Government Act addresses a similar issue, namely the disposal of open space. Subject to that distinction, that one is dealing with open space generally and that the other is dealing with playing fields, it is undoubtedly the case that an elaboration or strengthening of sections 123 and 127 could go part of the way towards achieving the aims of the proposed Measure. The issue is how far you go. As Dai Lloyd mentioned, at the moment the requirements of section 123 are limited to advertising the proposal and considering objections to the proposal. What the proposed Measure does is to provide a much more complex but, as Dai Lloyd would argue, much more effective method of ensuring that the views of the community are taken into consideration.

[22] **Nick Ramsay:** You will be aware of Circular 09/98: Town and Country Planning (Playing Fields) (England) Direction 1998 issued under the Town and Country Planning (General Development Procedure) Order 1995—it probably makes more sense to Keith Bush—which currently applies only in England. Do you consider that the exercise of the existing equivalent powers by Welsh Ministers would provide a more straightforward means of safeguarding playing fields?

[23] **Mr Bush:** I do not wish to reiterate the point about the difference between the planning system and the disposal system, but to address the practical implications, yes it would. Welsh Ministers would have the power, because planning law is basically the same in England and Wales, to impose the types of restriction that exist in England by issuing a direction that, where an application is made for planning permission to change use from a playing field to another use, and there is an objection by the Sports Council for Wales, it should be notified to Welsh Ministers with a view to the application being called in. So, there is clearly scope in relation to the planning side of the overall package for a change to be made along those lines, but that is a matter entirely within the control of Welsh Ministers.

[24] **Ann Jones:** Dai, we have received evidence to suggest that your proposed Measure should extend beyond playing fields to include all public playing space, especially that used by children, or even wider still to include areas of open space used by local communities. Can you explain why you chose to restrict the proposed Measure to playing fields?

[25] **David Lloyd:** It was chosen for ease of definition. We looked at the whole scenario, and I received evidence that open green spaces are the lungs of the community. However, it becomes difficult to define what you mean by an open green space, and in terms of being tight and focused as regards what would be encompassed by the proposed Measure, I went after a definition of a playing field that is marked, delineated and 0.2 ha in size. The delineation can be official or unofficial, but the area needs to have a tradition and needs to be recognised as being a playing field; I list all sorts of sports that I recognise as being suitable

for the usage of such a marked and delineated playing field. The reason why it is ‘playing field’ as opposed to ‘open space’ is straightforward: it is a tighter legal definition. Asking how to define an open space would be like asking how long is a piece of string—it could run to half the county in certain areas. That is why I came down on the side of a fairly rigid definition of a playing field, based on its size, delineation, traditional uses and the sports that I would expect to see being played there.

[26] **Ann Jones:** North Wales Play Association suggests that strengthening the safeguards in your proposed Measure for protecting playing fields may make other playing spaces more vulnerable to disposal. Do you have a view on that?

[27] **David Lloyd:** I do not have a particular view; having decided to go for playing fields, because of the ease and necessary focus of such a tight legal definition, other things inevitably fall outside that definition. That is life. At present, playing fields and open spaces in general have no statutory protection, but we are, at least, trying to embark on producing an additional hurdle for the playing fields aspect. At the moment, neither aspect has any statutory protection, so the proposed Measure is at least trying to do something about ensuring meaningful community involvement and consultation before playing fields are sold, which does not happen now.

[28] **Ann Jones:** Do you not think, however, that the proposed Measure, which looks for community involvement pre the disposal of a playing field, would make other open spaces, or other spaces where informal play takes place, more vulnerable to disposal?

[29] **David Lloyd:** I do not accept that premise. The impact assessment summary that will fall through each resident’s letterbox will include an open-space assessment of what else is lying around locally and which needs to be a part of any decision. I do not accept the premise that providing this additional safeguard of involving the public in the consultation, but not the planning or the disposal—this is about community involvement through knowing what is going on—makes it more likely that any other open space will be built on. As I have said, the proposed Measure is not about planning; it is a meaningful consultation with the community.

[30] **Ann Jones:** Can you remind the committee why you decided to limit your proposed Measure to the disposal of local-authority-owned playing fields and did not include the change of use of such playing fields?

[31] **David Lloyd:** Again, that is down to the distinction of it being a pre-sale consultation.

[32] **Mr Bush:** At the risk of repeating ourselves, the planning system looks at change of use, but change of ownership is not covered by the planning system. That is why the proposed Measure deals with change of ownership, rather than change of use.

[33] **Mohammad Asghar:** In evidence to the Finance Committee, you stated that the proposed Measure is purely aimed at county councils in their capacity as planning authorities. In view of that, why have you chosen to make community and town councils subject to the requirements of the proposed Measure?

[34] **David Lloyd:** It is primarily aimed at county councils, but some town and community councils, as we heard in the Finance Committee, also own playing fields. I recall Joyce Watson most eloquently relating a romantic tale of playing fields in some township in the middle of Pembrokeshire that have, sadly, been lost, due to the local town council selling them off. Town and community councils own playing fields in their own right, and that is why they are included, although the major thrust of the proposed Measure is aimed at county councils, because, when you want to do something about a local playing field, you naturally

look to the next—separate although linked—step of planning, and only county councils are planning authorities.

[35] **Mohammad Asghar:** In evidence to the committee, One Voice Wales stated that certain requirements in the proposed Measure do not correspond with the way in which community and town councils are administered, such as the requirement to make impact and decision statements available for inspection at the authority's principal office. How do you respond to this?

12.50 p.m.

[36] **David Lloyd:** Matters of detail can certainly be dealt with.

[37] **Mr Bush:** That is a very good point, if I may say so. Undoubtedly, if the proposed Measure goes forward, it would require an amendment so that it covers the position of town and community councils that do not have a principal office. It is a matter of detail. Now that it has been pointed out by those who represent town and community councils, it is a matter that could, and certainly should, be dealt with by a suitable amendment.

[38] **David Lloyd:** As I mentioned previously, I am a flexible, reasonable type of guy—as the Chair and others around this table would be aware—so any reasonable amendment will obviously be considered at the appropriate stage. However, I do not think that town and community councils can escape from their responsibilities, particularly if they own playing fields.

[39] **Mohammad Asghar:** On the same type of question, what are your views on the suggestion from One Voice Wales that a more general duty to assess the impact of playing field disposal on the community, and to consult the community, should be placed on community and town councils, with the specific requirements reserved for county and county borough councils as planning authorities?

[40] **David Lloyd:** What we have now is basically a general duty, which can be vaguely defined by county or town and community councils. There can be adverts for a fortnight in the local press, and, under planning law later on perhaps, laminated pink planning application forms posted on lamp posts. That constitutes a general duty. I want to strengthen the general duty by way of having meaningful consultation—one to one, if you like—with residents, by sending them a letter telling them of what will potentially happen before the final decision is made. Therefore, I think that my proposed Measure greatly strengthens current practice and involves the community in meaningful engagement at a time when it can justifiably expect to be able to influence the final decision. Rather than some general duty, I am talking about specifics and proper, meaningful community engagement, which everyone is talking about. I read glossy documents all of the time, as does the Chair and others of you, I am sure, about being citizen-centred, citizen-focused and so on. This is what this proposed Measure is about. That does not currently happen. Despite all the talk about being citizen-focused and citizen-centred, when something is likely to happen, people do not know about it.

[41] With regard to the social inclusion agenda, some of the playing fields that I am aware of as being under threat are in socially and economically deprived communities, such as Ely in Cardiff, but people do not know about what is happening on their doorstep until it is too late. Therefore, the current general duty is not sufficient.

[42] **Huw Lewis:** Dai, I want to stick with the worries and concerns of town and community councils, and more specifically the financial worries that have been voiced in evidence. One Voice Wales told us that the average precept for community councils in Wales is some £36,000, with half of them operating on about £10,000. Are you not just asking for

something that is cost prohibitive for them?

[43] **David Lloyd:** No; I disagree. Thank you for the question, Huw. I am grateful for the platform to be able to explain my point of view. When I appeared before the Finance Committee we went into the detailed costings. I am quite happy to run with the costings that we had from some of our county councils as regards what this would potentially cost. Those of you who are also members of the Finance Committee will recall that Torfaen County Borough Council was my major researcher on this, as the only authority that gave my consultation the fundamental respect of a detailed reply. We must also bear in mind that we are talking about fairly rare events, because potential sales of playing fields do not happen every day of the week, or even every year. If you balance out Torfaen's average costings with the frequency of such events, the cost amounts to £88,000 for the whole of Wales—all 22 authorities—per year. That is the worst-case scenario. I am quite happy to run with that figure, or with a figure of £100,000 if you want to round it up. That would be, at most, the cost for the whole of Wales per year.

[44] I am also happy to argue that there should be little cost, if any, because this work should already have been undertaken. The summary of the impact assessment that would be sent in a letter to each household incorporates an open-space assessment, which county councils should have undertaken already as part of the requirements of TAN 16. The other aspect of the assessment is covered by the health and wellbeing strategies that they should already have in place. A summary of that could be sent along with the next mailshot from the county council or community council to the residents in a particular ward. As I have said, the potential disposal of a playing field is an infrequent occurrence. The letter informing residents could be timed to go out with the next glossy newsletter from the council, and when it comes to county councils, they could also combine it with the next council tax reminder or electoral roll reminder.

[45] **Rosemary Butler:** May I ask about that? It is all very neat if the proposal comes at the time that the letters are going out. What happens if this application comes in, or a suggestion comes in, the week after the circular has gone? It all seems a bit too neat. Did you say that the information that was given to Finance Committee on the £88,000 is available? Might we might be able to have that?

[46] **David Lloyd:** Absolutely.

[47] **Rosemary Butler:** That might be helpful.

[48] **David Lloyd:** Torfaen said that each disposal would cost £10,000. Multiply that by 22 local authorities and you have £220,000. Factor in the infrequency of potential sales—they happen between every two and five years—and the £220,000 becomes £88,000 per year, for the whole of Wales.

[49] **Eleanor Burnham:** I asked this question of One Voice Wales, and the gentleman was adamant that, although you are talking about county councils, there would be a burden upon small community and town councils. As Huw pointed out earlier, they only have small amounts of money at their disposal. They are concerned about this, but you seem to think that it would be up to the county council to undertake all the work.

[50] **David Lloyd:** Most of the time, it would be the county council. However, if a community council owns playing fields, and is thinking of selling them off, it owes a duty of concern to local residents to go through the same sort of formal procedure that I expect county councils to carry out—that is, meaningful engagement, in a citizen-focused way, with their local residents. So, yes, there would be a cost implication, but as I said, these things happen every two to five years. The Chair made an eloquent contribution about what happens

if you have just missed the last newsletter. I know of 24 playing fields that are currently under threat, they have all been under threat for several years, and that situation likely to continue. In other words, these are rare events, and will not happen the week after the newsletter goes out. That goes for community councils as well. Joyce Watson spoke about an unnamed community council in the depths of Pembrokeshire that succeeded in disposing of its playing field to an unnamed supermarket or developer; it would have recouped any outlay in terms of costs thousands of times over. My priority is that the residents should know what is going on, and frankly, community councils, town councils and county councils need to get their act together to meaningfully involve their communities at a time when those communities can influence the decision.

1.00 p.m.

[51] **Huw Lewis:** If I caught it right, Dai, you mentioned a sum of about £10,000 for a disposal, as per the Torfaen estimate. Let us remember that Torfaen is a sample of one of the 22 local authorities. If half the community councils in Wales are operating on a budget of about £10,000 annually, surely any move down the road of disposal would just knock them out for a year. They would not even be able to pay the costs of photocopying their minutes any more. Would it not be realistic simply to exclude small town and community councils from this?

[52] **David Lloyd:** Unless they own a playing field, basically, they will be excluded. They will be involved only by virtue of owning playing fields. As I said, this proposed Measure is aimed primarily at county councils, because—despite the fact that this is about pre-sale consultation, with planning kicking in at a later stage—they are also planning authorities. You would not be intimating to the local population the potential to sell off a playing field unless you had some clear idea of what, as an authority, you were going to do with it afterwards in planning terms. Therefore, the proposed Measure is aimed primarily at county councils, but those community councils that own playing fields certainly need to be involved. Communities such as the one that Joyce Watson represents in Pembrokeshire, which is still feeling sore about the loss of its playing field and the huge profits made, would certainly concur with the idea that town and community councils need to be part of the mix and not exempted in any way.

[53] **Huw Lewis:** Okay; you are not giving any ground on that one. Moving on to look at the exemptions in section 1(2) of your proposed Measure, in giving evidence to us, you have explained that the exemptions apply to ensure that the playing field continues as a playing field. Do you accept that, although those you have chosen to exempt from the requirements may have an abiding community interest, they would not necessarily want to retain the land as a playing field? They might not want to continue that use.

[54] **David Lloyd:** I was trying to be philosophical at the time, but, as you have realised, Huw, I am a flexible, amenable type of guy. Charitable organisations have an abiding community interest, and we are all aware of the huge health and wellbeing agenda here, which incorporates most of the charitable sector, with 24,000 voluntary sector bodies in the health field alone in Wales. Therefore, everybody is aware of the part of physical inactivity in causing the huge health problems that we now have. Therefore, I was prepared to interpret charities and their abiding community interests, and part of that community interest would obviously be a preparedness to retain a playing field. However, I am flexible to an amendment referring to charities that have a sporting, leisure or health-promoting angle to their activities. That said, charities in general seem to have that sort of agenda, and I would hesitate, although I am quite willing to suggest that preservation of a playing field would be right up there as regards the issue of an abiding community interest.

[55] **Huw Lewis:** So, you accept that, as currently drafted, the list of exemptions needs a

bit of work?

[56] **David Lloyd:** I am quite happy with it as it is, but I am also prepared to be flexible if it is flexibility that is required to ensure that the proposed Measure is passed.

[57] **Huw Lewis:** Are you talking about a restrictive covenant perhaps that would deal with restriction of the use of land subsequent to disposal?

[58] **David Lloyd:** Yes, I would not think that there would be any legal reason to prevent that. I look to Keith on that.

[59] **Mr Bush:** It would be perfectly possible to include in the exemptions some qualification that would only exempt bodies such as registered charities if the disposal incorporated a restrictive covenant to ensure that the land continued to be used as a playing field. So, if Dai Lloyd felt that there was a good argument to restrict the exemptions, that would certainly be one of the possible ways of doing it.

[60] **Huw Lewis:** So, obviously, thought is required to get to where you want to go, Dai.

[61] I would like to probe you a little further on these exemptions. What are you saying about youth organisations that might have aims in relation to recreational and sporting activities? They are not part of the drafting as it stands, are they?

[62] **Mr Bush:** I think that they would be covered by 1(2)(c), as,

[63] ‘a body or association whose aims include the promotion of sporting or recreational activities’.

[64] So, a youth organisation would fall within that.

[65] **Eleanor Burnham:** I would like to look briefly at principal definitions. In your evidence, you have provided an example of what you believe constitutes a playing field. Can you clarify whether you intend to cover unofficial playing fields that have traditionally been used as playing pitches, and, if so, are you content that the definition provides for that, given that it specifically requires the area to be ‘delineated’ and ‘marked for use’? I know that you have covered that a bit, but, as the Chair says, we would be grateful if you could help us with this.

[66] **David Lloyd:** The definition employed is 0.2 ha in a recognised playing field, marked and delineated for that purpose, and there is a list of the sports included in the definition, namely rugby, football and allied sports, and we have expanded the list to include tennis, so it does not just cover team sports. However, it does not only apply to posh, marked-out pitches at places such as the Liberty Stadium or the new Cardiff City Football Club stadium; it applies to pitches where there are two goalposts in an area that has always been used as a playing field. In other words, the delineation does not have to be of soccer premier league level. ‘Delineation’ means what it says on the tin. Any delineation counts, but the area also has to be recognised as a playing field. Ann Jones asked at the start why we do not go for all open spaces. These are playing fields. They may not be the most posh playing fields and they may not have the best markings, but they will have some sort of marking, there will be a couple of goalposts, and it will be recognised locally and traditionally as a playing field as opposed to just any old open space.

[67] **Eleanor Burnham:** I will probe a bit further. In the general development procedure Order of 1995, which I am sure that you are very familiar with, the definition of a playing pitch is a pitch used for specific sports rather than a pitch that is marked for use, which is the

term used in your proposed Measure. Why did you choose to use the term ‘marked for use’ as opposed to the term used in the other definition?

[68] **David Lloyd:** This is for accuracy. Keith, do you have anything to say on this?

[69] **Mr Bush:** At the risk of going over ground that we have already covered, I can tell you that planning law is to do with change of use, and that is why the general development procedure Order focuses on what land is being used for. This proposed Measure is to do with ownership, and it therefore does not have to be limited to use. The way in which the proposed Measure has been drafted follows quite closely the definition in the general development procedure Order, but it attempts to introduce certainty in relation to the kinds of land that would be involved. To develop the point that Dai Lloyd was making, the concept of marking is necessary so that one can tell the difference between a public park where people put down a few coats and have a game of football and somewhere where there is some regularity, perhaps some goalposts, and a recognised area where the ball goes out of play—something of that kind. This is a drafting point essentially, but the idea behind it is to distinguish between totally informal, knock-about sport and something that has some degree of organisation to it. It is the latter that the proposed Measure seeks to deal with, not the former.

1.10 p.m.

[70] **Eleanor Burnham:** I am sorry to press you further, but the committee has received evidence suggesting that it is important that the definitions in the proposed Measure be consistent with existing definitions. Given that the definition of a playing pitch differs from that provided in TAN 16 and in the Town and Country Planning (General Development Procedure) Order 1995, which we have been discussing, do you consider that there is any potential for confusion?

[71] **David Lloyd:** There is none whatsoever. Obviously, we are aware of those two definitions, and this definition built upon the Town and Country Planning (General Development Procedure) Order 1995. It built upon that, and modified it. The 0.4 ha stated in the Order went down to 0.2 ha, because we fully anticipated the definition that would come out in TAN 16.

[72] **Eleanor Burnham:** Why do some think that there is potential for confusion, but you do not?

[73] **David Lloyd:** That is a question for those who think that there is potential for confusion, rather than for those who have total clarity about the matter. There is no potential for confusion; it is a matter of reading the regulations, which are set out in quite minute detail in 2(e) of the proposed Measure.

[74] **Ann Jones:** In your evidence to this committee, you stated that you did not believe that you were limiting the definition of a playing field by providing a list of a wide breadth of sports. You went on to acknowledge that there may be certain sports—someone mentioned lacrosse, I do not know who—

[75] **David Lloyd:** It was the Chair, I think.

[76] **Ann Jones:** Was it the Chair? Sorry about that, Chair.

[77] **David Lloyd:** It was about her previous sporting excellence, I think.

[78] **Rosemary Butler:** What do you mean, ‘previous’? [*Laughter.*]

[79] **Ann Jones:** Sports such as lacrosse, for example, were excluded from the list. Have you given any further consideration to providing an illustrative list of sports as opposed to an exhaustive list? Are you prepared to look at taking account of changing trends? Sports go in and out of fashion. Football will always remain, but other sports come and go.

[80] **David Lloyd:** I am a flexible type of guy, as I have said, and am willing to consider any amendments. The intention of the list was to create an idea of the sports that would be allowed. It is an attempt to be prescriptive but accurate with regard to the legal definition of 'playing field', and the sort of sports that I would expect to see being partaken of on the said playing field, which has already been delineated by size. Did you want to add anything to that, Keith?

[81] **Mr Bush:** I would underline the fact that the purpose of listing the sports is for the sake of clarity. One thing that might be done to guard against the possibility that a new sport, which is not listed, becomes popular is the inclusion of some kind of power to amend the list by Order, and that is something that we would be happy to look at.

[82] **Rosemary Butler:** It is inclusive as opposed to exclusive.

[83] **Mr Bush:** Yes. The alternative might be that, if one simply stated 'for the playing of sport', there could be endless arguments about what constitutes a sport, and so on. There would also be the practical difficulty that, where you have recognised sports such as football, rugby and so on, there are people who can speak on behalf of those who have an interest in them, but if there are very unusual, little-followed activities, which might arguably be considered sports, the consultation process might not work. However, the basic point is that there should be certainty and definiteness as opposed to something open-ended, which might give rise to difficulties.

[84] **Ann Jones:** May I tease something out of that? What you are saying is that you are trying to include a wide breadth of sports. However, if a sport is not included in the list, does it not allow local authorities to say, 'Lacrosse is played there, but, as it is not in your list, we do not have to go through pre-consultation before disposal'?

[85] **Mr Bush:** That would certainly be its effect. If the sport is not listed, where it is played does not count as a playing pitch.

[86] **Ann Jones:** So, should you list all sports?

[87] **David Lloyd:** That is our dilemma: what constitutes a sport. So, in terms of tiddlywinks, table tennis and so on, then, yes, absolutely, but they are not on the list. At the moment, if the sole use of a playing field is, say, to play marbles or tiddlywinks, it is not listed and therefore does not count.

[88] **Rosemary Butler:** It is a bit of a dilemma, really, because if you are not on a list then you are excluded. However, your list is just for illustration. So, we shall have to hone in on that.

[89] **David Lloyd:** As I mentioned, I am amenable to any other sports being included, but this is the most expansive illustrative set of sports you will find, because we have expanded it from the illustration in the previous 1995 Order, which just applied to football, rugby and so on. We have encompassed tennis and bowls, for example, which are new additions and are named in 2(e)(ii) and 2(e)(iii). So, there are some sports that are new to the list in planning terms and I am quite happy to incorporate others if someone feels excluded.

[90] **Mr Bush:** Or, alternatively, there could be a power to amend the list at a future date.

[91] **Rosemary Butler:** That is important. Oscar, do you want to come in on this point?

[92] **Mohammad Asghar:** I have a question along the same lines, Chair. It is possible to classify indoor and outdoor sports under the same specification, which is what you are trying to do with regard to playing fields. It is about whether it is outdoor or indoor and the level of the sports involved.

[93] **Rosemary Butler:** This relates specifically to outdoor pitches.

[94] **David Lloyd:** Playing fields are generally outdoors. Coming back to 2(e), in legal terms, you need to have precise definitions, which is why it is set out as it is:

[95] '(e) "playing pitch" means a delineated area which, together with any run-off area—

(i) is 0.2 hectares or more in area which has been marked for use for athletics or for playing association football, baseball, cricket, hockey, netball, rounders or rugby, or set aside for use for the playing of golf,

(ii) is 0.1 hectares or more in area, which has been marked or otherwise set aside for use for playing bowls, or

(iii) is 0.06 hectares or more in area, which has been marked for use for playing tennis'.

[96] That is the most accurate and detailed definition of what constitutes a playing field in terms of a list of sports so far anywhere, I think. That is what we have tried to do here. I would not claim that it is absolutely exhaustive, obviously, but it certainly seems to encompass most of the sporting interests that I am aware of in terms of playing field usage.

[97] **Rosemary Butler:** I do not think that we can pursue that one much further. Ann, have you completed your questions?

[98] **Ann Jones:** I have finished.

[99] **Nick Ramsay:** I will move us on to some questions about the impact statement. Some evidence that we have received has suggested that there is confusion about the type of information and the level of detail needed to satisfy the section 3(1) requirement. You have said previously that you do not think that producing an impact statement will be either onerous or costly for the authority. Can you therefore clarify whether you envisage that local authorities could adequately meet the section 3(1) requirement by using information already available in their open-space assessments and health and wellbeing strategies?

[100] **David Lloyd:** Yes, I have total confidence in local authorities. As I have mentioned, I have previously been a county councillor in Swansea; local authorities are adept at information management. With regard to the long lead-in time that we have had into technical advice note 16, authorities should already have prepared an open-space assessment, and there is evidence to suggest that most authorities in Wales have done so. There has also been a requirement for local authorities to have health and wellbeing strategies in place for a few years now, so those should also exist. In other words, the work is there, the information is there, summaries of the information should be there, and the summary in letter form to each individual resident would just need to be drawn from that and stuck in an envelope, stamped and posted to a local resident in a clearly defined ward. That could be done using the infrastructure that is there already with little or no additional cost.

[101] **Nick Ramsay:** You have said that the information is there—and you have mentioned

the different strategies that contain it—and yet you still think that an impact statement is necessary.

1.20 p.m.

[102] **David Lloyd:** Indeed. It will give better quality information to the householder. If the householder is just going to receive a letter saying, for example, ‘We are thinking of flogging off Ely playing fields, what do you think?’, people will respond, ‘Argh—no’. To get a rational response from local residents, the letter should include a summary of the impact assessment, which is a coming together of the open-space assessment—that is, some sort of assessment of the number of local playing fields, the usage, the level of demand for various sporting activities along the lines suggested, including the shortfall in capacity to deal with all the youth teams that want to play football, rugby, rounders and netball, and all those who want to play tennis and so on—and the health and wellbeing assessment in terms of the local health statistics for the area. That information should already be readily available.

[103] All the local authorities that I know of have excellent information systems—it is a matter of tapping a button, getting the information on paper, getting the franking on the envelope and getting the Royal Mail involved to send the letters out, and then all the local residents are aware of what is going on. That does not happen at the moment, despite all the brave talk about being citizen-focused and citizen-centred. The first time that the average citizen discovers the potential selling off of their local playing field is when they wander down the street one morning and wonder what the pink, laminated notice is on the lamp post. Any consultation at that point is at the stage of a stitch-up.

[104] **Nick Ramsay:** When the Minister for Environment, Sustainability and Housing gave evidence, she suggested that open-space assessments served a different purpose to the impact statement. I take it that you share that opinion.

[105] **David Lloyd:** I would share that opinion. Obviously, an open-space assessment is part of the impact statement in terms of the level of demand and the level of provision of playing fields locally. The other part of the impact statement is the health and wellbeing of the local population.

[106] **Nick Ramsay:** So, to clarify, you feel that an impact statement is necessary in addition to the open-space assessment and other strategies that the council might have, but you do not think that it is onerous for a local authority to collate that information and to distribute it among the public.

[107] **David Lloyd:** No, I agree with you on that. The open-space assessment should already be in place as part of the preparation for TAN 16 being introduced. If it is not in place, we are entitled to ask why not, because it should be there. The health and wellbeing strategy should also be in place—it has been in the guidance for a couple of years and if it is not there, then, as elected representatives, we are entitled to ask where it is. An impact assessment is a summary of those two elements; the idea being that it provides the householder with better quality information. As I keep saying, this is not anti-planning as such. Local residents, after taking a balanced view of the pros and cons, may well agree that to dispose of a playing field is the right way ahead. This proposed Measure is not about stopping authorities from doing something; it is all about meaningful engagement of the public. Local authorities claim to be doing that, but the consultation responses that I received to the draft of my proposed Measure suggest otherwise. Sorry, Chair, I appear to be going on.

[108] **Rosemary Butler:** No, far from it.

[109] **Nick Ramsay:** It is useful for you to clarify this. My last question is on the impact

statement. You touched on that in your answer. You said that the guidance has included the need for local authorities to have an open-space assessment and a health and wellbeing assessment—that has been in the guidance, but providing the impact statement is not mandatory, is it? So, some authorities in this situation may not have one. In which case, regardless of whether or not they should have it, if those authorities do not have the impact statement, there will be a financial cost to providing it.

[110] **David Lloyd:** Yes, and there is probably no getting away from that. However, Lisa Francis, a former Conservative Assembly Member, had a Standing Order No. 31 debate about open spaces and playing fields; we all signed up to that and thought that it was a wonderful idea and that we should do something to preserve playing fields. Out of that came an absolute commitment to amend TAN 16 so that having an open-space assessment would be mandatory.

[111] So, for the past couple of years, since Lisa Francis's successful application vis-à-vis the old Standing Order No. 31 requirement, I have been expecting an open-space assessment to be mandatory under TAN 16. In fact, I am sure that that was also the expectation of all local authorities, because the response to the feelers that we put out was that an open-space assessment would be mandatory under TAN 16. It is a source of great disappointment to me, frankly, that it is not. It is a significant weakening of the amendment to TAN 16 that it is not mandatory to have an open-space assessment. I am grievous about that and, frankly—

[112] **Rosemary Butler:** We are not here to discuss TAN 16.

[113] **David Lloyd:** I will just set it in context. The fact that it is not mandatory in TAN 16 makes the provisions in my proposed Measure even more necessary.

[114] **Rosemary Butler:** I think that you need to come back to Nick Ramsay's question about the cost and how that affected your overall cost estimate. Did you include it in the cost estimate originally?

[115] **David Lloyd:** Sorry, what? Do you mean the impact assessment?

[116] **Rosemary Butler:** Nick, do you want to repeat your question and the last part in particular about how it affected the overall cost estimate? I am just wondering whether Dai Lloyd included it in the overall cost estimate.

[117] **Nick Ramsay:** Yes, sure. What are the particular financial implications of preparing an impact statement for those authorities that have not undertaken an open-space assessment, and how does that affect your overall cost estimate?

[118] **David Lloyd:** There is an estimate of the cost of completing an impact assessment from scratch, which, I think, was £35,000. That estimate also came from Torfaen.

[119] **Rosemary Butler:** Did you include it?

[120] **David Lloyd:** It has not been included up until now because—

[121] **Rosemary Butler:** It has or has not?

[122] **David Lloyd:** It has not. My assessment of £88,000 was made at a time when I fully expected an open-space assessment to be made mandatory under TAN 16. Now that it is not mandatory, if some authorities have not completed an open-space assessment, that £35,000 would presumably apply to them. However, good practice—and I am quietly confident of the good practice of local authorities, as I come from a local authority background—means that

they will be at least part of the way down the road of getting that sorted. If not, why not? As I also mentioned to the Finance Committee, the overriding *raison d'être* for local government is the greater health and wellbeing agenda. Most of the determinants—

[123] **Rosemary Butler:** However, that is local government, not community councils, which was a point made quite strongly by One Voice Wales.

[124] **David Lloyd:** Most of the determinants of ill health relate to matters that come within the remit of local government at whatever level, whether in the provision of facilities to promote physical activity, in looking after environmental health, in planning or in public transport. Those are some of the factors that have the greatest impact on the nation's health and those matters are within the remit of local government, from town and community councils upwards. Some people in local government realise the huge impact that they could have on the wider health agenda; some do not. Some will quibble about these costs, saying that they should not be doing it, but I remind the committee of the responses to the consultation on my proposed Measure. We had 18 responses and everyone outside the local authorities and the WLGA thought that it was an absolutely fantastic way ahead. They said that it was all about the meaningful engagement of the public at the pre-sale consultation level. However, everybody involved with the local authorities and the WLGA felt that it was costly, bureaucratic and unnecessary as they were doing it all already. All the evidence from everyone outside the local authorities says that it is not happening now and that it is about time that it did.

[125] **Mohammad Asghar:** Are you satisfied that the level of detail provided in a local authority's health and wellbeing strategy would allow the authority to adequately identify the impact of a proposed disposal of a playing field on the health and wellbeing of residents of the locality generally and of children and young persons in particular?

[126] **David Lloyd:** Yes, I am quite happy to trust local authorities. They should have these health and wellbeing strategies in place. If they are thinking of disposing of a particular playing field in a particular ward, and if they feel that their local health and wellbeing strategy that is aimed at that particular ward is perhaps not the best, this would be an opportunity for them to strengthen it.

[127] **Mohammad Asghar:** In evidence to the committee, the Minister for Social Justice and Local Government suggested that health and wellbeing strategies would assist in informing the impact statement to varying degrees, but that the strategy may not be tight enough for a particular locality. How do you account for that divergence of opinion?

1.30 p.m.

[128] **David Lloyd:** I do not think that I agree with the Minister. Again, you have to trust local authorities. They have been asked to complete health and wellbeing strategies that are meant to be robust and accurate, using up-to-date information, and having drilled down to the local ward level. I would fully expect that to be the situation, and that could easily be applied and adapted to the needs of an impact assessment along the lines of what I want sent to each household that is potentially affected by any decision to dispose of a local playing field.

[129] **Mohammad Asghar:** In giving evidence to the committee, you reported that the phrase 'social inclusion' had been unintentionally omitted from section 3(1)(c) of the proposed Measure and that you would seek to amend it to take account of that. Can you clarify how a local authority would meet the requirement to identify the impact of a proposed disposal on 'social inclusion'? What are the financial implications for local authorities of meeting that additional requirement?

[130] **David Lloyd:** The omission of 'social inclusion' is an error, for which I have apologised. I will amend the proposed Measure at a later stage. All the passion about meaningful community involvement, namely that a letter is to be sent to each household, is purely for the purposes of social inclusion, so that people know what is going on, regardless of how they access the internet, meetings and newspapers. Getting a letter through the door gets over that, so that the people who really need to know, particularly in our more socially deprived communities, do know. For example, the people involved in the Ely playing fields campaign, whom I have addressed on several occasions, did not know that things were about to happen because they were not informed individually by letter. That needs to happen, and that is behind the major argument for sending a letter to each household, with a summary of the open-space assessment and the health and wellbeing strategy wrapped together in an impact assessment, so that those people can plan an informed response. At least they would know what was going on, and that is the very essence of social inclusion.

[131] On the costs, that work is being done or should have been done through the health and wellbeing strategies. Any issues of social inclusion should already have been taken up in the health and wellbeing strategies.

[132] **Huw Lewis:** Dai, consultation is central to your proposal. During evidence, a number of witnesses talked about the proposed level of consultation as being excessive, overly prescriptive, incredibly costly, and so on. Why should we go along with this level of consultation for playing fields when we do not for other, perhaps equally important, local issues? I am pretty sure that you could close a school without this level of consultation, as the situation stands. Why do you think that this is absolutely necessary?

[133] **David Lloyd:** It goes back to the social inclusion agenda: involving everybody at the stage when they could meaningfully influence a decision. Everybody talks about being citizen-focused and citizen-centred, but that just is not happening. I am accused of proposing something that is over the top, bureaucratic, unnecessary and prescriptive, but this kind of consultation does not happen at the moment. People do not know what is happening until it is too late, and the planning application to flog off their beloved playing field has gone up. This is about community involvement in its purest and most passionate form, so that the local community gets involved.

[134] The responses to my consultation show that the people who do not like this proposal are those on the other side, as it were, namely those in local authorities, which is my own background. Even though everybody in local authorities signs up to being citizen-focused, citizen-centred, caring, passionate and all that sort of stuff, they still do not like truly communicating with the public locally and sharing with their local communities when doing so would make a difference. Local authorities and the WLGA say all that twee philosophical stuff about involving and engaging the public, but they never do it, according to the evidence from the other side, namely local residents. This consultation would be at a time when local residents can meaningfully influence the result. When it comes to the later planning stage, there is a consultation, but people say that it is a stitch-up and a sham, because the decision has already been made. Let us be fair to local authorities who are landed in that situation as well as to local residents. Let us involve people and engage with them at a stage when it is meaningful.

[135] **Huw Lewis:** A moment ago, in answer to a question from Oscar, you said that we should trust local authorities, but you are saying now that you cannot trust local authorities to consult as they see fit.

[136] **David Lloyd:** That has been the evidence so far. We trust local authorities about the level of information in their health and wellbeing strategies, and to have up-to-date information in their open-space assessment. They are the ones that do the surveys, conduct

the research and maintain the database. That is where there is the level of trust. However, all the evidence suggests that authorities do not meaningfully consult with people at a time when it is relevant to the local population. That is the novel consequence of the proposed Measure: before a sale of land, local residents know about it, have been consulted about it, and have some idea of the rationale and the thinking behind it via the impact assessment. That does not currently happen; at present, there is only a general duty. I have been trusting local authorities with that general duty up to now. It means placing a plaque on a lamppost and paying for two weeks' worth of advertising, but it has failed our population everywhere. That is what people are telling me, and that is what the proposed Measure hopes to address in a novel way.

[137] **Huw Lewis:** Okay. Moving on, you have a list of statutory consultees in section 4 of the proposed Measure, which include some third sector organisations. You probably know what I am going to ask you: what is the rationale behind this? You include organisations such as the British Heart Foundation, but someone might ask why you have not included the British asthma society. What is the thinking behind that list?

[138] **David Lloyd:** The list has been amended. We began with an initial list, then we went out to quite extensive consultation, and the list that we now have is based on the consultation feedback. I am perfectly willing to amend it again, as I am a flexible, reasonable type of guy. As regards the British asthma society, the organisation is called Asthma UK. I want to have consultees that exist, so I would be happy to include Asthma UK or any other such organisations.

[139] **Rosemary Butler:** It was suggested that the list was biased towards people who would agree with what you are saying.

[140] **David Lloyd:** That is what was in the consultation responses. We wrote to all 22 local authorities, and I received six replies back on the financial costs, and so on.

[141] **Rosemary Butler:** It was suggested that you chose health organisations that would come down on your side.

[142] **David Lloyd:** It is what was in the consultation responses. I am not averse to anyone being on the list, be it Wimpey Homes or someone who does tarmac costing. Anyone who wishes to lay tarmac on playing fields can be on the list, if they so wish. I am a flexible type of guy.

[143] **Ann Jones:** You have made it clear, Dai, that you want to see a requirement to notify all households in the electoral ward. Section 4(1)(c) of the proposed Measure says,

[144] 'an entry in the register of electors for each local government electoral division which includes any part of the playing field or which has a common boundary with any part of the playing field'.

[145] It has been suggested that a more appropriate alternative to section 4(1)(c) would be a requirement to notify households within a reasonable distance of the proposed disposal, and to provide a copy of the impact statement on request. Are you amenable to that?

[146] **David Lloyd:** We thought about what constitutes 'locality', and I have decided to have a fairly rigid and prescriptive definition. The local ward is the local ward. There is also an issue as to what constitutes a 'reasonable distance'. You will always miss out the next street, or whatever, if you follow that definition, so, I have gone down the local ward route to ensure rigidity and accuracy of definition. One person's reasonable distance may be the next person's unreasonable distance.

1.40 p.m.

[147] **Ann Jones:** To return to the cost of sending this notification to individual households, you said that you think that local authorities can tie it in with their other notifications. How do you account for the difference between your cost estimate and that of the Welsh Local Government Association? The WLGA says that it will cost between £16,000 and £64,000 per disposal. What has the WLGA included that you have left out?

[148] **David Lloyd:** The WLGA figures refer to school closures, so I do not think that there is a direct read across there. As I mentioned previously, I am happy to have latitude on this by assigning £88,000 as the cost per year for the whole of Wales, or even to round it up to £100,000, or even to chuck in £35,000 for an impact assessment that should already have been made. I am happy to argue more strongly that the cost will virtually be nil, because all that work should already have been done and the infrastructure is in place to send notifications out to all householders in all 30 county council wards. So, in other words, I do not accept that the costs are restrictive for one ward.

[149] There is more detailed evidence in front of the Finance Committee. It is interesting that I specifically wrote, as part of the consultation, to all 22 local authorities about the costs and that only Torfaen had the good grace to respond in detail. All 22 local authorities had the opportunity to respond in detail; one did respond in detail, and only six replied in any way, with the others saying, basically, that it would be costly and bureaucratic. In view of the huge and overwhelming health agenda, an awful lot of which is caused by physical inactivity and social exclusion, we must tackle this. Local government is best placed to do that, and local government needs to get on with it.

[150] **Ann Jones:** You are aware of the Assembly's commitment to the principle of promoting sustainability, and the extent of the consultation that you are keen to see in sections 4(1) and 6(2) of your proposed Measure has been raised in evidence. How does the requirement that every household in the local ward receives an impact statement conform with the Assembly's commitment to promoting the principles of sustainability?

[151] **David Lloyd:** It does so in terms of meaningful engagement, which has to happen in every field, whether it is sustainability or any planning decision, or whatever. I cannot understand the fuss about ensuring that every householder in a ward gets a letter with a summary and a further letter informing them of the result of the consultation. That kind of citizen-centred and citizen-focused engagement should be happening, but it does not happen anywhere. The WLGA is most unhappy at the prospect of it happening here, but I do not share its concerns. I also do not share the concerns of all those local authorities that do not want to see this happening because they claim that it is already happening. All the evidence suggests otherwise: it is not happening at all and people are most unhappy about that. The only consultation responses that were against the proposed Measure were from the six local authorities that bothered to reply and the WLGA. Everyone else was fantastically in love with it, and I am happy with the current state of affairs.

[152] **Eleanor Burnham:** You make an interesting point, because in recent elections for a local ward, the electors had no clue what was going on. On the decision as to whether to proceed with a proposed disposal, as we have discussed, concern has been raised that the section 6 requirement adds little value to the process, since householders will already have access to disposal decisions either through the press or via local authority websites. In view of this, why do you think that the section 6 requirement is necessary?

[153] **David Lloyd:** It is necessary for social inclusion. Increasing numbers of people do not read newspapers and do not have access to a PC; they deserve a letter.

[154] **Eleanor Burnham:** Some of those giving evidence suggest that, although the principle of informing people about the outcome of disposal decisions is sound, the section 6(2)(b) requirement is arguably excessive and disproportionate. You obviously disagree.

[155] **David Lloyd:** I do not agree. To send a letter saying that the result of the consultation is x, y or z to every householder in the ward is not excessive or disproportionate.

[156] **Nick Ramsay:** I will ask about section 7, which deals with directions by Ministers. Concern has been raised in evidence that the powers provided to Welsh Ministers under that section will enable them to intervene in disposal decisions. Can you clarify the purpose of section 7, and why you feel that it is important?

[157] **David Lloyd:** The purpose of section 7 is to adjudicate in the process, not to intervene in the decision. The adjudication should ensure that the process is fair and transparent.

[158] **Nick Ramsay:** The Minister for Social Justice and Local Government told this committee that he feels that we should not forget that local authorities are independent, statutory bodies. Do you know of any other legislative provision that provides Ministers with similar powers of intervention?

[159] **David Lloyd:** It is not intervention; I will disagree with you there. This is a power to adjudicate on how the process has been run at a local authority level. If anything, it strengthens the local authority role. This is not Ministers meddling, but Ministers adjudicating and ensuring that the local authority has performed the process well.

[160] Do you know of any other examples, Keith?

[161] **Mr Bush:** In the planning field, Welsh Ministers have a wide power to intervene in decisions and to direct that a local authority does not determine an application. This perhaps goes a step further, in that it lays down certain conditions under which the Welsh Ministers can stop the process, although the power is limited to that of a failure to follow the right procedure in order to process a decision to dispose of a playing field.

[162] If you are asking whether there is anything exactly like this, the answer is 'no'; it has been drafted to meet Dai Lloyd's policy priority, which is to provide a means of redress for someone who feels that the process has not been followed properly, but without giving Welsh Ministers the right to intervene in the merits of the decision.

[163] **Nick Ramsay:** Looking at what you said, Keith, it would seem that it is a power of intervention at the end of the day.

[164] **Mr Bush:** Perhaps we are getting into the semantics here. From the legal point of view, when we talk about a power of intervention, we can include something that might be temporary in order to delay a decision, or cause a decision to be taken according to a different process. In that sense, it is an intervention in the process because it stops the disposal decision from proceeding in the way that it would otherwise have done. However, in the sense in which I think that Dai Lloyd was using the word, in the sense of an intervention that would take the decision out of the hands of the local authority, it is not an intervention. So, it is a matter of how you define the word 'intervention'.

[165] **Nick Ramsay:** However, it is unique to this proposed Measure.

[166] **Mr Bush:** In its full detail, yes.

[167] **Rosemary Butler:** What are your views on the suggestion that the powers for Welsh Ministers to make direction would create unrealistic expectations among objectors to disposal about the role of the Minister?

1.50 p.m.

[168] **Mr Bush:** That is a danger in all kinds of different situations, as I am sure you are aware. For example, at the moment, if a local authority grants planning permission, there is no right of redress other than to go to the courts. Sometimes, people who are dissatisfied with the outcome of a planning decision have unrealistic expectations, because the courts do not look at the merits of the decision; they look only at the legality of it. Therefore, because of that example, I can understand that there is some danger that people would see the power of the Welsh Ministers as a way of reversing a decision or getting a different decision, rather than what it is clearly spelled out as being, which is purely a power to review the procedure that has been followed. Of course, the alternative to having something of this kind would be to have nothing at all. Then, people would have no expectation, other than through going to the courts, of having redress if a local authority failed to follow the rules set out in the proposed Measure.

[169] **Rosemary Butler:** I see that there are no further points. We have asked you lots of questions, Dai. I hope that you do not have any for us.

[170] **David Lloyd:** No, none at all. I am grateful for your kind consideration, Chair.

[171] **Rosemary Butler:** If you do have any questions or wish to make any further points, please give them to the clerk. That would be helpful. Thank you for coming today to answer questions. A draft transcript will be available to you for comment.

[172] That brings today's meeting to a close. The next meeting is on 19 March, when we will meet in private to discuss the key issues that have emerged and the evidence. We will also have an opportunity to look at the Finance Committee's report, which came up this afternoon. Thank you.

*Daeth y cyfarfod i ben am 1.51 p.m.
The meeting ended at 1.51 p.m.*