

ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE

Date: Wednesday 23 October 2002
Time: 9.00 am to 12.00 pm
Venue: Committee Room 2, National Assembly Building

REPORT BY MINISTER FOR ENVIRONMENT

COUNTRYSIDE

Conservation (Natural Habitats &c.) Regulations 1994

A consultation paper was issued on 23 August on proposed amendments to the Conservation (Natural Habitats &c.) Regulations to enhance transposition of the Habitats Directive. The proposals will also bring the protection arrangements for Natura 2000 sites into line with the stronger protection introduced by the Countryside and Rights of Way Act 2000 for Sites of Special Scientific Interest. The consultation period runs for 10 weeks, ending on 31 October 2002 and all Committee members have been sent a copy of the paper.

Sites of Special Scientific Interest – Code of Guidance

Consultation will begin shortly on a draft Code of Guidance on Sites of Special Scientific Interest, to be made under the Wildlife and Countryside Act 1981. The draft Code contains guidance for the Countryside Council for Wales, land managers, public bodies and others affected by the legislation.

Candidate Special Areas of Conservation in Wales

Over the summer, the Countryside Council for Wales has carried out consultations on proposed amendments to a number of existing candidate Special Areas of Conservation (cSACs) in Wales. The proposed amendments reflect the results of additional survey work. Having considered the responses received during consultation, I have approved amendments to the boundaries and/or designated features for the following five sites:

Coedydd Dyffryn Elwy/Elwy Valley Woods; Gweunydd Blaencleddau; Mynydd Epynt; Alyn Valley Woods/Coedwigoedd Dyffryn Alun; and Y Fenai a Bae Conwy/Menai Strait and Conwy Bay.

Decisions on proposed changes to a further 26 sites will be made in the next few months.

White-headed duck protection: ruddy ducks

A number of international agreements oblige the UK to conserve the white-headed duck whose long term survival is threatened by the ruddy duck. A report looking at the feasibility of eradicating ruddy ducks in the UK is being considered by the Assembly and the other administrations. The views of conservation organisations have been sought and the action that other States in Europe are taking will be considered before a final decision is made.

Biodiversity

When the Committee met the Wales Biodiversity Group earlier this year, I advised that the Assembly Government planned to consult during 2002 on a framework for biodiversity action in Wales. Discussions with partners on our proposals are progressing well, and I hope to issue the paper in the late autumn. The paper will complement the Committee's review by focusing on the wider framework for biodiversity action within which Local Biodiversity Action Plans play a key role.

ENVIRONMENTAL PROTECTION

River Water Quality in Wales 2001

A monitoring report published on 3 October by the Environment Agency confirmed that Welsh rivers are still among the best in the UK. 66% of rivers in Wales were classified as very good as compared with 29% in England.

Ninety-nine per cent of Welsh rivers were classified as being good or fair for chemical quality in 2001. Nearly 93% were classified as of good quality, a similar level to recent years and an improvement when compared with 86% in 1990. At the highest ("very good") quality level there has been some drift to the good quality level in Wales (over 6% between 1995 and 2001). In instances where there has been any such decline the Agency will be investigating the reasons.

Nitrate Vulnerable Zones (NVZs) in Wales

The outcome of the Welsh Assembly Government's consultation exercise on the implementation of the EC's Nitrates Directive in Wales was announced on 11 September which coincided with the related regulations coming into force. As proposed in our consultation paper, a targeted approach to the designation of Nitrate Vulnerable Zones (NVZs) in Wales has been adopted.

Fortunately in Wales there is little evidence of significant nitrate pollution, so the eight new and two existing Nitrate Vulnerable Zones (NVZs) will cover less than 3 per cent of Wales. In NVZs farmers will need to adopt specific good agricultural practices.

We have reduced slightly the proposed coverage of one of the zones proposed in North East Wales. The regulations have also introduced a statutory process enabling farmers in the new NVZs to ask the Assembly to reassess whether their land warrants inclusion. Detailed maps have been placed on deposit in the local areas concerned.

Sensitive Areas (Eutrophic)

Following a review carried out by the Environment Agency under the Urban Waste Water Treatment (England and Wales) Regulations 1994, two additional areas in Wales were designated by the Welsh Assembly Government as Sensitive Areas (Eutrophic) on 1 October 2002 at Cardiff Bay and the Lougher Estuary. The designations will ensure that additional treatment to remove certain nutrients is provided at waste water treatment works discharging into those waters.

Transfer of resources from the Water Grants Budget Expenditure Line (BEL) to the Environmental Research, Publicity and Legal Costs BEL

In accordance with Standing Order 19, the Committee will wish to note that I have approved, and the Finance Minister has agreed, a transfer of £25,000 from the Water Grants BEL to the Environmental Research, Publicity and Legal Costs BEL. Both BELs fall within the Other Environmental Services Sub Expenditure Group and the Transport, Planning and Environment Main Expenditure Group.

The transfer will enable the Assembly to make its contribution towards the joint stakeholder customer research project that will inform the 2004 Periodic Review of Water Prices. The research project has been contracted to MORI who will report to a steering group comprising representatives from DEFRA, the Welsh Assembly Government, the Drinking Water

Inspectorate, Ofwat, WaterVoice, English Nature, Countryside Council for Wales, Environment Agency, Water UK and the Wildlife and Countryside Link.

UK Strategy for Radioactive Discharges 2001 – 2020

In July, the Assembly signed up to the UK Strategy for Radioactive Discharges 2001 - 2020. This provides a policy base for future reviews of discharge authorisations by the regulators and for strategic planning by nuclear operators. It supports our International Agreement on OSPAR and defines how we will implement a strategy to reduce radioactive discharges from sites, which include Wylfa, Trawsfynydd and Amersham, Cardiff, over the next 20 years.

Codes of Practice

Codes of Practice are now widely employed in many areas of environmental policy. *Guidance for Preparing Codes of Practice for the Minimising Noise in Wales* was published in August and provides advice for those preparing or otherwise contributing to codes of practice on noise issues for submission to the Assembly for approval.

One of the codes of practice that I have recently approved is the BS 5228 Parts 1 & 3 - Codes of Practice for Control of Noise on Construction and Open Sites published as a British Standard. This is used by local authorities, noise professionals and industry and provides guidance to enable compliance with section 60 of the Control of Pollution Act 1974 that deals with noise pollution.

National Air Quality Strategy

Following a public consultation on proposals to update the National Air Quality Strategy, I recently announced new targets to cut levels of four key air pollutants in Wales - carbon monoxide, benzene, particles and polycyclic aromatic hydrocarbons. These new health-based objectives will replace and update those set out in the Air Quality Strategy 2000. In addition, in respect of the pollutants of carbon monoxide and benzene they will also form tighter targets for local authorities as they undertake their air quality management duties.

Consultation Exercises

Since the last EPT Committee I have launched a series of consultation exercises focussing on the improvement of air quality and the control of emissions to the atmosphere from various sectors. These include:

- New air quality limit values for the pollutants of carbon monoxide, benzene and ozone under the transposition of the 2nd and 3rd European Daughter Directives.
- Technical and policy guidance to help local authorities undertake the next round of air

quality management duties.

- The development of a risk-based approach for Local Air Pollution Control which will enable local authorities to decide how much time and effort they need to devote to individual air polluting factories.
- Proposals to implement Stage II petrol vapour recovery in the UK as required under the UNECE 1991 VOC Protocol which includes a commitment to reduce VOC emissions from motor vehicle refuelling operations.
- Proposals to ratify the UN/ECE Heavy Metals Protocol in the UK which includes reductions in the total annual emissions of cadmium, lead and mercury to below 1990 levels.
- The issuing of directions to enforcing authorities under the Environmental Protection Act 1990 as part of the transposition of the Waste Incineration Directive in Wales which introduces stringent operating conditions and sets minimum technical requirements for waste incineration and co-incineration.
- The issuing of directions to enforcing authorities under the Environmental Protection Act 1990 as part of the transposition of Large Combustion Plant Directive (LCPD) in Wales which introduces measures that will contribute to reducing acidification, ground level ozone and particles throughout Europe.

We are also consulting on Statutory Guidance on the Regulation of Radioactive Discharges into the Environment from Nuclear Licenced Sites. The regulation of radioactive waste, under the Radioactive Substances Act 1993, in Wales is the responsibility of the Environment Agency. Comments have been invited on draft Guidance for the Agency on the granting of authorisations to discharge liquid and gaseous radioactive materials into the environment.

PLANNING

Planning:delivering for Wales

You will recall that we discussed the analysis of responses to consultation on this in July. I intend to make a statement to Plenary on the way forward later this term, and will also discuss the implementation programme with this Committee.

Publication of research and arrangements for dissemination seminars

The research looking at '**Second and Holiday Homes and the Land Use Planning System**' was published last week. The Assembly Government's response to the report's recommendations has also been published. Both these documents are available on the Assembly's website. A dissemination seminar will be held in Llandrindod Wells on 16 October. A presentation in Cardiff for members of EPT and all other AMs can be arranged should there

be sufficient demand.

The project investigating ‘**The Rural Economy and the Planning System**’ has also recently been completed and is due to be published next month. The dissemination seminar for this research is being held at ‘Broneirion’ near Newtown on 13 November. The seminar will also cover the findings of the ‘**Farm Diversification and the Planning System**’ research which was published in February last year, the seminar having been postponed due to Foot and Mouth.

TRANSPORT

The Quality Partnerships Schemes (Existing Facilities) (Wales) Regulations 2002

The Committee have been informed of these regulations previously. They will be considered in Plenary on 27 November. The intended effect of this Instrument is to seek to provide that existing facilities* may not be specified by local authorities in a Bus Quality Partnership (QP) scheme if they were provided more than 5 years before the date of coming into force of the scheme. However, existing facilities may be specified in a QP scheme if they were provided more than 5 years but less than 10 years before the date of coming into force of the scheme, provided that the consent of bus operators currently using those facilities is obtained before the scheme is made.

In the case of any QP scheme including existing facilities, the authority must, when consulting on proposals with bus operators etc (as the Act requires them to do so) specify the date when any such facilities were provided, and where appropriate seek the consent of the relevant operators. It would also be a requirement of the scheme, as made, to confirm that any such consent had been made.

The Travel Concessions (Eligibility) Act 2002 (Commencement) (Wales) Order 2002

The Committee have been informed of this order previously. It will be considered in Plenary on 27 November. The intended effect of this Instrument is to equalise at 60 years from 1 April 2003 the age at which men and women resident in Wales become entitled to concessionary travel on local buses. This instrument is being introduced for completeness and consistency although its purpose will be achieved by virtue of The Travel Concessions (Extension of Entitlement) (Wales) Order 2001, approved by the Assembly in November 2001.

Concessionary Fares

I have provided a further £6.4m in funding for local authorities this year. This is within the range of costs projected during the preparatory stages. The funding is being distributed in accordance with the formula agreed with the WLGA. Further discussions will be taking place with local authorities on the distribution formula for future years.

North South Rail Services

In their winter 2002 timetable, Wales & Borders Trains introduced changes to their train services between North and South Wales including the routing of the morning and evening trains through Wrexham plus other improvements between Wrexham and Shrewsbury. These services are funded by the Welsh Assembly Government.

Wales and Borders Rail Franchise

On 1 October the Strategic Rail Authority announced that it had invited

four bidders to prepare best and final offers for the new 15 year passenger

rail franchise for Wales and Borders. The four bidders are:

- Arriva Trains
- GB Railways /Connex
- National Express Group
- Serco Rail/Netherlands Railways

The final bidder will be selected once best and final offers have been received and considered. We expect a final decision to be taken in Spring 2003, with the new franchise beginning in the Autumn.

Aviation

On 23 July, the UK Government published a series of regional consultation documents and supporting technical documentation on the future of air transport in the United Kingdom. The publication of these documents marked the start of a consultation period that will end on 30 November. Responses to the consultation will inform a White Paper on Air Transport which the UK Government will publish next year.

The Assembly Government has worked closely with the Department for Transport on the production of the Wales Air Services Consultation Document to ensure Welsh interests are fully reflected.

During the consultation period, a topic meeting for key stakeholders in Mid and North Wales was held in Wrexham, on 17 September. A Wales Aviation Strategy meeting is also set for 5 November 2002, at Cardiff Castle, which will cover South and West Wales interests and include stakeholders. Assembly Members have been invited. It is on the Committee's agenda for 20 November.

SWARMMS (London to South West and South Wales Multi Modal Study)

This is one of a programme of multi-modal studies of main transport corridors in England, and was launched on the 9th May. I have responded to the SWARMMS preferred strategy. While supporting the strategy in principle I have pointed out the items which need to be addressed by the Secretary of State include:

- The need to implement all of the measures in an integrated way and not just concentrate on improvements to the infrastructure. There may also be a requirement to ensure that extra financial support is available – for example to allow the SRA to fund schemes not included in their present plans.
- The need to plan for the road and rail corridor between London and South Wales in a strategic way – recognising its function as an international (TENS) and national route. The plans for development along the corridor and the plans for the Great Western mainline should take this into account.

PowerShift demonstration project, Gwynedd

We are providing the Energy Saving Trust with £80,000 for a PowerShift demonstration project in Gwynedd. This is helping to fund the installation of two or three LPG refuelling points and the conversion of up to thirty vehicles in the area to LPG. On Friday, 4 October, I performed the official opening of the

first LPG refuelling installation at Prysor Service Station in Trawsfynydd.

Mobile Phones and Driving

On 20 August the Department for Transport issued a consultation paper seeking views on the possible introduction of a ban on hand – held mobile phones. Research has shown that drivers are four times more likely to have an accident if they are using a mobile phone. A copy of the

consultation paper is attached at Annex A. The consultation period ends on 25 November and I am happy to pass on any members' views directly to the Department as part of the consultation exercise.

Transport Meetings

On 30 August, I met Richard Bowker, Chairman of the Strategic Rail Authority and raised a number of rail related issues and concerns

On 24 September, I met the Public Transport Co-ordinators from 16 of the 22 local authorities, when I attended a special meeting of the Welsh region of the Association of Transport Co-ordinating Officers.

On 26 September, I met Alistair Darling MP, the Secretary of State for Transport.

On 15 October, I met David Dixon, the Traffic Commissioner for the Welsh Traffic Area.

On 16 October, I met officials from the Strategic Rail Authority who are managing the Wales and Borders re-franchising to discuss the latest position as the process moves into the best and final offer stage with four remaining bidders.

Sue Essex

Minister for Environment

Annex A

HAND-HELD MOBILE PHONES AND DRIVING - PROPOSALS FOR NEW REGULATION

1. Section 41 of the Road Traffic Act 1988 (as amended) allows the Secretary of State to make regulations generally about the use of motor vehicles on roads, their construction

and equipment and the conditions under which they may be used.

2. The existing regulations are The Road Vehicles (Construction & Use) Regulations 1986 (SI 1986 No 1078)(as amended). Regulation 104 currently requires a driver to be in a position to maintain control of their vehicle at all times. It states "No person shall drive or cause or permit any other person to drive a motor vehicle on a road if he is in such a position that he cannot have proper control of the vehicle or have a full view of the road and traffic ahead".
3. The proposal would add a new provision to the Regulations, which would apply to the driver of any motor vehicle. This would specifically prohibit the use of hand-held mobile phones so that the police would be able to prosecute anyone driving a vehicle on a highway or other road to which the public have access while using any type of hand-held mobile telephone or similar device.
4. We propose that the new regulation should apply in all circumstances other than when the vehicle was parked and with the engine off. This would mean that the prohibition would apply even if a vehicle was paused at traffic lights or stopped in a temporary traffic jam or in very slow moving traffic.
5. As with Regulation 104, we consider that the proposed new Regulation should enable the police to take action if anyone 'causes or permits' the use of a hand-held mobile phone by a driver. This should make it clear to employers that they cannot expect their employees to use a hand-held phone while driving. We do not propose that a passenger should be prohibited from using a mobile phone but are concerned that a passenger should not hold it for a driver to use in a moving vehicle. There is no intention however to apply any new provision to someone who calls a mobile phone that is answered by a person who is driving at that time.
6. The intention is for the new regulation to prohibit the use of hand-held mobile phones or other similar hand-held devices that permit 2-way communication, whether the medium is speech, text or other forms of data. It would include equipment such as radio microphones. However, there is no intention to prohibit the use of in-vehicle equipment that has been designed to support the driving task. Although the new regulation should apply generally to the drivers of buses and coaches, we would not want to interfere with the provision that allows use of a microphone while driving to make an announcement to passengers in an emergency using the in-vehicle loudspeaker system. This is contained in The Public Service Vehicles (Conduct of drivers, inspectors, conductors and passengers) Regulations 1990 (No. 1020) which generally prohibits the use of microphones by the drivers of these vehicles.
7. We consider that the use of a hand-held mobile phone while driving should have a wide interpretation. We do not consider that it should be necessary for phones to be switched off while the vehicle is on the move because that would be difficult to enforce. But we do consider it is necessary to prevent drivers speaking or listening to a call on a hand-held phone or using a hand-held phone interactively in any way (using the internet) or composing or interrogating a text message, whilst driving.
8. The proposed prohibition would apply to the use of all mobile phones or similar devices that are not hands-free. We do not consider that the phone needs to be physically held

in a driver's hand in order to commit an offence. This would prohibit the use of hand-held phones used with an earphone and microphone whether using a wire, or wireless, connection. Even though they can be used 'hands-free' to some extent, these still require the user to hold the phone in order to press buttons or to read a message on the phone's screen. Nor should a driver escape prosecution because a phone was being held to the ear by other means (eg a shoulder).

9. We believe that a hands-free phone would be one that did not require the driver to significantly alter their position in relation to the steering wheel in order to use it. It should be permanently wired into the vehicle and use one or more speakers permanently fixed in the vehicle; or be plugged into a unit in the vehicle (commonly a cradle on the dashboard) thereby directly connecting it to fixed speaker(s) in the vehicle. This would not include those types of car phones that are permanently wired into the vehicle but require hand operation (eg telephone style handset that needs to be held up to the ear/mouth).
10. It may not be necessary to define all the above circumstances in the regulations but the above points indicate the scope of the proposal.

Sue Essex AM

Minister for Environment