

Wildlife Trusts in Wales – Natural Resources Wales Scrutiny Evidence

1. Introduction

Thank you for the opportunity to give evidence to the Committee's annual scrutiny of Natural Resources Wales (NRW).

Wildlife Trusts Wales (WTW) is the representative organisation for the six Wildlife Trusts in Wales – Brecknock, Gwent, Montgomeryshire, North Wales, Radnorshire and South and West Wales - working together in partnership to protect wildlife for the future. This evidence is submitted on behalf of the all the Wildlife Trusts in Wales.

WTW has previously responded to the many consultations relating to the formation of, and proposed arrangements for, establishing and directing a new body for the management of Wales' natural resources. WTW also gave evidence to the committee regarding Natural Resources Wales (NRW) and its statutory purpose and remit.

WTW was generally supportive of the formation of a single *environmental* body as we hoped it would create significant opportunities to benefit nature conservation; principally that:

- a) the ethos of NRW was intended to be about the ecosystem approach, a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way, as endorsed by the Convention of Biological Diversity¹
- b) the nature conservation of Countryside Council for Wales (CCW), Forestry Commission Wales (FCW) and Environment Agency Wales (EAW) would be magnified within the new organisation (e.g. more natural flood alleviation measures being introduced) with NRW becoming a strong, independent, environmental champion with a clear purpose of protecting, conserving and enhancing the environment.
- c) the re-investment of the expected £158m² savings from the merger over 10 years, to be targeted towards nature conservation and research and monitoring .
- d) allowing cross departmental co-operation to facilitate key biodiversity management projects such as Newborough Forest managed by FCW and dunes managed by CCW.

We are aware that merging the three legacy bodies Countryside Council for Wales (CCW), Forestry Commission Wales (FCW) and Environment Agency Wales (EAW) was a substantial task and achievement. The Wildlife Trusts in Wales see themselves as natural partners for NRW as we complement many of their responsibilities such as nature conservation and education. As such, we have had, and continue to have, exceptionally good and constructive operational relationships with the former legacy bodies' offices locally and now NRW local officers. We have also noticed some benefits from the formation of NRW. For example:

- a) conservation staff from EAW and CCW working as one team
- b) it can be easier to get NRW staff with different skills out on site and to get the combined support for actions.

However, it has now been two years since NRW's launch and while there have been a number of positives that have resulted from the merger, **we had hoped to see more**

¹ <https://www.cbd.int/ecosystem/>

² <http://www.bbc.co.uk/news/uk-wales-politics-19844497>

progress with NRW becoming a strong, independent, environmental champion. However, this has not yet materialised.

At the time of merger, we expressed fundamental concerns that the new body might not be a single environmental body but one that puts socio-economic considerations ahead of environmental protection. We were also concerned that CCW's voice and the conservation elements of EAW and FCW would be diluted or lost. Our evidence to this inquiry is that **not only have these concerns been realised, but further concerns, that are even more worrying, have emerged.**

Wales needs a clear environmental champion with a strong purpose of protecting, conserving and enhancing the environment. Currently, NRW is not that champion. Our concerns relate to the following:

- NRW is not acting as an independent environmental body.
- NRW is putting perceived (rather than evidenced) socio-economic considerations ahead of environmental protection. For example, by not objecting (but rather suggesting mitigation measures) to developments that have an adverse impact upon the environment.
- If NRW sees environmental considerations as a tradable consequence of development as this would result in an increase in the loss of biodiversity.
- If NRW does not object to inappropriate planning applications, due to a perceived '*wider statutory purpose*', it is being interpreted as a definitive statement that there are no material environmental issues by Local Planning Authorities. By not objecting NRW is allowing Local Planning Authorities to routinely dismiss non-statutory conservation organisations concerns because the statutory body does not object. Also, a lack of access to expert advice from NRW specialist staff will hinder organisations wishing to challenge inappropriate development.
- NRW's imposed socio-economic cultural change has led to a feeling that NRW's environmental and conservation advice, specialisms and expertise are being eroded and ignored. We have been informed that this is having an impact upon staff morale and that this was evidenced recently in an internal staff survey.
- The nature conservation, planning and land management experience within NRW is being lost through specialist conservation or planning staff:
 - leaving
 - having their responsibilities broadened
 - being given different responsibilities or reallocated to different divisions with no back filling of that specialism

We believe that this weakens NRW's capacity to deliver its legal obligations to further nature conservation. The impact of this is to make the organisation less effective in its various roles.

- The reduction or cessation of funding to specialist conservation organisations further exacerbates the lack of availability of conservation expertise in Wales.
- That the nature conservation budget within NRW is being significantly reduced meaning that it cannot meet its statutory duties.
- That NRW is not prioritising funding for research and monitoring of biodiversity. For example, the removal of the £12,000 that supported Professor Tim Birkhead's 40-year long-term study of Guillemots on Skomer Island.
- Environmental organisations do not feel a sense of partnership with NRW and even the Joint Working Partnerships are more akin to contractual arrangement between organisations rather than a true partnership. This is disappointing considering that, over the years, conservation organisations have built up close working relationships and excellent partnerships with the three legacy bodies, especially CCW. **This former relationship gave a 1:4 return on investment (e.g. external match funding and volunteering hours). Under the new funding arrangements there will be less added value.**

- The way in which NRW funding is administered is wholly unhelpful (e.g. constant conflicting advice within limited criteria), not transparent and was not undertaken in consultation with the third sector. **The most worrying outcome has been the imposition of a capped overhead rate of 7% for projects** - as NRW only fund half of the project costs, this means NRW is funding 3.5% of the overhead rates. This is forcing third sector organisation to run projects at a loss which is not sustainable.

The evidence for the above concerns is listed below in either reference to documents or annexed. We have also highlighted concerns from NRW staff about the change in culture and direction that NRW is taking.

As Wales' statutory nature conservation body, **NRW is required to show clear, strong and strategic leadership that recognises the need to protect our environment and understand how biodiversity underpins the ecosystem based approach.** This has not emerged and NRW risks losing credibility as an independent environment body.

We believe that the relationship between non-government nature conservation bodies and NRW will only blossom when we have confidence that NRW will:

- safeguard and enhance the natural environment
- maintain and enhance their conservation expertise
- champion biodiversity research and monitoring

We have listed a number of recommendations and questions at the end of the paper to aid this purpose.

2. Independence from government

Natural Resources Wales is a Welsh Government sponsored body and receives an annual remit letter from the Minister for Natural Resources.

We believe that to be credible and effective, NRW needs to demonstrate a significant and recognisable degree of independence from government, not least in relation to, and exercise of, its statutory roles for independent assessment and advice under EU and UK law. This is the case for instance, where an agency exercises regulatory powers over government (e.g. Environment Agency) or has quasi-judicial powers (e.g. through a statutory or advisory role related to the planning system, or the protection and designation of sites or areas of national conservation significance) for which the Welsh Government is the ultimate decision maker. A lack of independence in such cases could leave the Welsh Government open to challenge under EU legislation or the Human Rights Act. Moreover, environmental policies should be informed by sound scientific evidence, which in turn requires an independence of judgement. Reviews of Environmental Governance elsewhere (for example the Macrory Report 2004, relating to Northern Ireland) have highlighted this need for formal independence from government.

Welsh Government also requires NRW to be an independent and expert organisation so that it can deliver on their aspirations to create resilient ecosystems (as in the goals in the Well-being of Future Generations Bill). Having independent advice on environmental impacts in planning nationally and locally is critical to achieving the FG Bill.

However, from the outset there appears to have been significant pressure placed on NRW from Welsh Government to be an enabler of development³ and thus put perceived (rather than evidenced) socio-economic considerations ahead of environmental protection.

³ See wording of the Welsh Governments 'Frontloading The Development Management System' consultation³

<http://gov.wales/docs/desh/consultation/141006frontloading-consultation-document-en.pdf>

This was highlighted in the BBC Wales Report last year regarding the Circuit of Wales. CCW originally objected to the development and stated that they were reminded to ask for the application to be 'called in'. NRW originally maintained this objection (Appendix 1). The Wales Report highlighted emails (Annex 1) from the then Natural Resources Minister, Mr Alun Davies AM, who appeared to put pressure on NRW to change its advice:

*“NRW would be taking an **entirely different approach to planning matters** and would be seeking to **adopt a positive approach, working with applicants to deliver developments... I do not believe that the current NRW position does reflect the totality of the statutory duties and the demands of the remit letter provided to NRW by the Welsh Government.**”*

NRW subsequently worked extensively with the developer to overcome the objections. We are informed that NRW wrote the mitigation strategy, which is usually undertaken by the developer. The resulting strategy, in our view, is inadequate as the mitigation and compensation proposed is not sufficient to balance the loss of over 200ha of important habitat.

The BBC Wales Report obtained evidence that showed NRW staff were frustrated at being asked to change their recommendation, from objection to no objection, despite no new evidence coming to light⁴.

It would appear that this was not an isolated incident. Another email (Annex 2) again highlighted by the Wales Report, showed that a senior Welsh Government official wrote to NRW asking them:

*“**if anything we might want to do relating to other 'residual' CCW objections within the planning system... Is there anything that we should be doing if it appears that the main risk to such developments are the environmental objections raised by CCW?**”*

*“That objections were based on **“CCW's purpose and statutory functions. NRW, of course, has a wider statutory purpose”***

*“**constitutes a reputational risk that nothing has changed with the establishment of NRW...**”.*

The email also states that Welsh Government will *“consider and address...the significant weight accorded by Planning Officers to the views of statutory consultees...”*

We believe that this means that NRW should either mitigate away concerns and/or not object to planning applications that have an adverse impact upon the environment.

Another such 'residual' CCW objection that was overturned was the Land and Lakes development on Anglesey. We are therefore concerned that CCW's objections were overturned in favour of economic benefits.

However, as the statutory nature conservation body, **it is not for NRW to take a wider view of decisions to include economic, social and environmental – but for the decision maker such as the Local Planning Authority to balance competing interests.**

Our experience has been that economic considerations are outweighing social and environment considerations, so these are not sustainable decisions. Therefore, NRW are not acting as a specialist independent and transparent environmental adviser and cannot give Welsh Government the independent advice that it requires.

The above raises additional concerns, namely:

⁴ <http://www.bbc.co.uk/news/uk-wales-26762807>

- How NRW will look at fresh applications, especially Welsh Government proposed or funded projects that adversely impact the environment. For example, the proposed M4 'black route' that will directly impact 9kms of the Gwent Levels SSSIs and the River Usk SSSI and SAC?.
- If NRW, as the statutory nature conservation body, does not object then who is left to defend statutory habitats, species and sites and the wider environment from inappropriate development - nature conservation charities (see Section 6 – Planning and Transparency)?

3. Remit

We believe that the role of NRW should be, as the **Statutory Nature Conservation Body**, to contribute to sustainable development by delivering a healthy natural environment that contributes to sustainable development and therefore the well-being of the people and the economy of Wales.

However, as explained above, a narrative has emerged suggesting that NRW has a different remit from CCW, FCW and EAW. The narrative states that NRW '**has a wider statutory purpose**' and should take an '**entirely different approach to planning matters**'. We believe that this means either not objecting to adverse planning applications or mitigating away concerns.

That NRW has '**a wider statutory purpose**' is a political narrative in order to support development at the expense of the environment, and not a legal reality. However, the purpose of the body, as set out within Article 4 (1) of the Establishment Order⁵, states:

The purpose of the Body is to ensure that the environment and natural resources of Wales are

- (a) sustainably maintained;*
- (b) sustainably enhanced; and*
- (c) sustainably used.*

(2) In this article—

- (d) "sustainably" ("yn gynaliadwy") means—*
 - (i) with a view to benefitting, and*
 - (ii) in a manner designed to benefit, the people, environment and economy of Wales in the present and in the future;*

(b) "environment" ("amgylchedd") includes, without limitation, living organisms and ecosystems.

This provision indicates that, in fulfilling its purpose (which must include the discharge of its statutory duties), NRW must balance the interests of people, the environment and the economy. But this drafting is very broad and seems to set out principles rather than impose a specific duty. **We, therefore, feel that NRW's duty should be strengthened in the proposed Environment Bill.**

As Article 4 (5) sets out that "*Paragraph (1) does not give the Body power to—*

- a) do anything that it would not otherwise have the power to do, or*
- b) **exercise any of its functions in a manner contrary to the provisions of any other enactment or any EU obligation**(2).*

Article (4)(5)(b) indicates that all CCW obligations and duties are still legal. In addition, NRW's conservation duty⁶, subject to exceptions (e.g. pollution control), imposes upon NRW

⁵ Natural Resources Body for Wales (Establishment) Order 2012 (Establishment Order)

[http://www.assembly.wales/Laid%20Documents/SUB-LD-8922%20-%20The%20Natural%20Resources%20Body%20for%20Wales%20\(Establishment\)%20Order%202012-30052012-234816/sub-ld-8922-e-English.pdf](http://www.assembly.wales/Laid%20Documents/SUB-LD-8922%20-%20The%20Natural%20Resources%20Body%20for%20Wales%20(Establishment)%20Order%202012-30052012-234816/sub-ld-8922-e-English.pdf)

an **absolute duty to exercise its functions to further nature conservation**. We believe this means that, similar to the '**Sandford Principle**' regarding designated landscapes:

"If it appears that there is a conflict between those purposes, {NRW} shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area."

However, the narrative that NRW's remit has changed appears to have come from Welsh Government to the NRW leadership and cascaded downwards through the organisation. However, as explained above, NRW's legal remit is still the same as that within CCW, EAW and FCW – to "***further nature conservation and the conservation and enhancement of natural beauty and amenity***". Also, NRW is subject to the same legal nature conservation duties and obligations that all public bodies are subject to through European Directives such as the Birds and Habitats Directive, the Water Framework Directive, the Wildlife and Countryside Act 1981 (as amended), the Natural Environment and Rural Communities Act (NERC) 2006 etc.

In addition, and especially with a reduction in staff numbers, NRW staff are being stretched too far and asked to take on too much, especially in areas outside the expertise of the three legacy bodies such as fuel poverty and energy efficiency.

It should not be the role of NRW to achieve sustainable development in its entirety but to contribute to it by delivering a healthy natural environment that contributes to sustainable development and therefore the well-being of society and the economy. We believe that it is possible in many, if not most cases, for NRW to be able to improve environmental management that will also provide economic and social gains and therefore contribute to the delivery of meaningful sustainable development. This can be achieved by maximising the potential ecosystem services from the natural environment. However, NRW are not taking these opportunities to take an ecosystems based approach to solving the demands of modern society.

An example of this is the **Circuit of Wales**, where the development would remove over 200ha of peatland. NRW, along with Welsh Government who gave financial backing to the scheme, should have followed the 12 Convention on Biological Diversity (CBD) principles⁷ and first asked, based on the ecosystem approach, whether this was suitable site for this development. If the answer was no, NRW should have maintained CCW's original objection and suggested that the development should either:

- find a more suitable venue in Wales or
- be broken up into a number of smaller components to minimise impacts and relocated to a number of the employment allocations in the LDP

In this way, the economic benefits to Wales will remain as the development goes ahead but the people of Blaenau Gwent still benefit from the ecosystem services that the 200ha of peatlands provide them (flood alleviation, carbon storage and healthy environment to enjoy for their own health and well-being). Instead NRW has not objected and the 200ha of peatland will be lost forever along with the benefits it provides for the local community. While there will be some economic gain there will be no social, cultural or environmental gain.

⁶ Natural Resources Body for Wales (Functions) Order 2013 - "**Nature conservation duties 5A.—(1) *The Body must exercise its functions so as to further nature conservation and the conservation and enhancement of natural beauty and amenity.***"

⁷ The 12 CBD principles can be found at <https://www.cbd.int/ecosystem/principles.shtml>

4. Compliance

As a country within the UK, Wales is subject to EU law, and is party to a number of international environmental treaties and conventions. These legislative measures cover all environmental sectors, including water, air, nature, waste, noise, and chemicals, and others which deal with cross-cutting issues such as environmental impact assessment, access to environmental information, public participation in environmental decision-making and liability for environmental damage. This body of law is continually under assessment with significant developments such as updates on existing laws from European case law.

Achieving better and timely implementation of EU environment legislation will help avoid or reduce the incidence of environmental infringements and non-compliance. This could help resolve issues at the source and therefore not risk expensive infraction proceedings.

We believe that NRW needs to demonstrate credibility and demonstrate compliance with our international obligations, in an area where public interest and confidence is crucial. However, this will be made difficult with the loss of specialist staff (see below – Nature Conservation experience).

5. Nature conservation expertise and resources

Instead of being magnified within NRW, the nature conservation duties of CCW, FCW and EAW appear to have been eroded within NRW. **We are aware that there has been a loss of nature conservation specialists within NRW throughout Wales from the three legacy bodies. It would be of interest to see a breakdown of those who have or are leaving under voluntary severance and their area of expertise and legacy body.**

Where conservation staff have been retained, many of their remits have been broadened (therefore they will be less effective in their conservation roles) or have been allocated completely different responsibilities and with no back-filling of that specialism. For example, Stanner Rocks, one of three key NNRs in Radnorshire. For several decades these have been managed by Andrew Ferguson (a former CCW member of staff) who retired in December 2013 and has not been replaced. As elsewhere in Wales, these internationally important sites need very specific management. They also require detailed specialist and technical monitoring to ensure that their features and interest are maintained. NRW (and before them CCW) were aware of Mr Ferguson's impending retirement, but no adequate strategy appears to have been put in place to protect this extremely important site.

We also understand, from several reliable sources, that the NRW budget has been cut, and we are also concerned that the nature conservation budgets may have suffered disproportionately. As a result we do not believe NRW has the resources and capacity (including conservation staff) to fulfil its statutory responsibilities. For example, we are aware that the budget to manage the National Nature Reserves, which are owned or managed by NRW, was £1.8m at its peak during the latter years of CCW and even at that time the resource available was not entirely adequate to meet their aspirations. NRW has cut the budget to just over £1m. Taking additional substantial commitments and inflation into account we can only conclude that the NNRs are seriously threatened and site infrastructure in particular provisions for visitors will begin to fail almost immediately. As a consequence of the lag effect the inevitable ecological impact of management neglect will only become apparent in years to come thus disguising the consequences of this budget cut.

This has, and will continue to have, a significant impact upon the ability of NRW to deliver its statutory duties in terms of nature conservation advice, planning, land management and research and monitoring. **Conversations with NRW staff, especially those with specific specialisms, reveal that they are demoralised and feel that they have no choice but to leave NRW.** We believe that this is reflected in a recent internal staff survey.

It is important to note that the reduction or cessation of funding to specialist conservation organisations further exacerbates the availability of conservation expertise in Wales.

We are also aware that there are a number of occasions when specialist internal advice was ignored, not sought, or that CCW advice was overturned. This includes:

- **Circuit of Wales** - A CCW objection which highlighted significant ecological concerns and suggested that the application be 'called in' (as it raised concerns of local/county importance) was originally upheld and then withdrawn by NRW. EAW also originally objected to this development. NRW also did not request the application to be 'called in' (See Section 3 – Independence from Government).
- **Land and Lakes** – CCW objected⁸ to the development because the scale of the development would have a “severe detrimental impact” on an Area of Outstanding Natural Beauty (AONB). Natural Resources Wales said it did not object to the proposal in principle but was concerned about the impact on the Area of Outstanding Natural Beauty⁹. This suggests that NRW can highlight concerns but not use the term 'object to developments' (See Section 7 – Planning and Transparency).
- **Development Plans** - We know that CCW planners used to, in their representations on Unitary Development Plans (UDP), address the 'need' for a development if the development adversely impacted the environment such as a SSSI. However, NRW now only make representation on the environmental impact. For example, at the Cardiff Local Development Plan examination NRW gave evidence on the environmental impact of a business park on the Wentlooge Levels SSSI but did not address the 'need' for the development even though 'need' was absolutely central to the developers' arguments. NRW is currently not using CBD principles to question whether the development is needed and whether it is an appropriate site before entering into any mitigation discussions. NRW seems to be by-passing these first two critical CBD steps.
- **Mid-Wales public Inquiry** – following a third party objection to NRW a proof of evidence was changed at the public inquiry removing reference to current government policy on energy¹⁰. This highlights the inconsistency of remits and a lack of understanding of planning process (e.g. once a position is taken at an inquiry, a change should not be made unless clear evidence emerges to justify that decision).
- **Llanrwst flood alleviation** - our concern is that on this site flood mitigation work took place in the fish spawning season when thousands of eggs should have been laid in one of the most important nursery streams for salmon and sea trout in Wales. Reported by the BBC¹¹: “NRW said its Fisheries Officer has visited the area five or six times over the last year” and that NRW’s “*initial advice was not to conduct the work during spawning season, but they were told this would jeopardise the whole scheme* {as there was a funding deadline}. This is clear evidence where economic factors have over-ridden environmental and social concerns.
- **Sawmill Pool** – A development site was found to have an otter den (known as a holt). Against the recommendations from their ecological consultant the developer cleared the site (in breach of EU regulations) and applied for retrospective planning permission. CCW objected to the development, but this objection was withdrawn by NRW¹². We believe that previously, CCW would have prosecuted.
- **NRW internal co-ordination/advice systems – Forestry** – We are told that there is no formalised system of internal consultation on any commercial letting contract within NRW (e.g. for open cast coal, wind energy, small-scale hydro, on the Forest Estate). This represents a missed opportunity to build in sustainability (appropriate restoration, protection of air quality, protection of water and discharges) at the contract level, providing early warning to developers on the level of mitigation and

⁸ <http://www.walesonline.co.uk/news/local-news/ccw-oppose-holyhead-holiday-park-2506258>

⁹ <http://www.bbc.co.uk/news/uk-wales-24355528>

¹⁰ <http://www.ynnycmru.org.uk/blog/peter-minto-brought-nrw-disrepute/>

¹¹ <http://www.bbc.co.uk/news/uk-wales-31165871>

¹² All the planning documents relating to the case are

here:<http://planning.powys.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=107092>

enhancement that would be expected. Given the amount of forestry land that can potentially be used for windfarms, open cast, coal bed methane and potentially fracking, this is especially important. This may help avoid major situations such as **Celtic Energy** which avoided its restoration liabilities.

There is also often no dialogue within the forestry section. For example, when money is taken for enhancement works on areas of land, this can prejudice any statutory consultee comments NRW intend to make on development /common land proposals at a later stage. This happened on areas of land that were proposed as common exchange land in the Circuit of Wales application, limiting NRW's ability to object to the proposed land exchanges

- **Local Operations – Forestry** – A Local Wildlife Trust consulted NRW regarding the restoration of a grassland site, identified by CCW as important, through the removal of mature scrub. The Felling Licence Team (FLT) at NRW informed the Wildlife Trust that they (the FLT) could not take advice from the NRW grassland specialists because they were supposed to make an independent decision and that they could not accept advice from other NRW colleagues. This seems contrary to the original purpose of forming NRW to promote communication and sharing of expertise and knowledge.

This is especially concerning as it has been proven that environmental considerations are not a constraint on economic activity in general (Davidson Review 2006¹³, the review identified that stakeholders' perceptions of gold-plating were often misplaced).

The lack of willingness for NRW to safeguard our environment is a move in the wrong direction if Wales is to deliver on its aspirations within a Living Wales, the Well-being of Future Generations Bill, Nature Recovery Plan, Pollinator Action Plan and the Environment Bill. It was also hinder Welsh Government's current environmental legal commitments such as the Water Framework Directive and the EU Environment Strategy aim to halt the loss of biodiversity by 2020.

The aim of NRW must be to safeguard and enable the recovery of biodiversity which provides the building blocks required to take an ecosystem based approach. We believe that NRW would agree that a healthy natural environment where biodiversity loss has been halted and reversed would be a key test to monitor whether Wales becomes a sustainable nation. However, this philosophy is not borne out in its approach to development, monitoring, research and site management.

6. Planning and transparency

When setting up the new body, the then Minister made a commitment to the Environment and Sustainability Committee¹⁴ that NRW would ensure transparency in the decision-making processes of a new body and that all assessments and advice on which decisions would be made would be published. Therefore, we expect NRW to make their planning decisions more transparent and make public all internal advice, along with a rationale for the final decision taken in such cases. We have not seen this to date. Therefore, there remains an ongoing concern over how conflicts of interest, that were publically visible between the legacy bodies, are dealt within NRW.

If NRW does not object to inappropriate development, this leaves charities/the third sector in a position where they are the only organisations who will form this independent advice (See Section 3 – Independence from Government).

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<http://webarchive.nationalarchives.gov.uk/20121212135622/http://www.bis.gov.uk/files/file44583.pdf>

¹⁴ See Committee Report - the business case for a single environment body, May 2012 <http://www.senedd.assembly.wales/documents/s7329/The%20business%20case%20for%20a%20single%20environment%20body%20-%20Report%20-%20May%202012.pdf>

Previously, organisations that wished to protect biodiversity and conserve protected sites from inappropriate development relied on:

- CCW/EAW to object to inappropriate development
- expert advice and evidence from CCW/EAW to use in their defence of important sites

However, the expert advice from NRW conservation staff, for the reasons mentioned above, is now unavailable to assist organisations wishing to challenge inappropriate developments.

We are concerned about this lack of **transparency** and accountability within NRW will contribute to the net loss of biodiversity and forms potential conflicts between the different functions of the new body. These are important issues in the modern devolved Wales, especially as the UK is a signatory to the **Aarhus Convention**¹⁵ and the **EU biodiversity strategy to 2050**¹⁶.

Also, as NRW is the statutory nature conservation body, if it does not object to a planning application, **due to its perceived new 'wider statutory purpose (rather than on nature conservation grounds)'**, local authorities may deem environmental objections from non-statutory environmental bodies as groundless or not material and therefore approve inappropriate developments. Therefore, given the weight that Local Planning Authorities give to NRW comments, NRW is effectively making the environmental planning decision on their behalf.

We are concerned that in current and future applications NRW will attempt to mitigate problems rather than object to them. See Section 6 – Nature Conservation expertise for examples.

Objection or not objection – Another area of confusion, based on feedback from Local Authority Planners to the old EA(W) comments, NRW has agreed that one of the following would be used:

- No Objection
- Objection until.....
- Objection unless.....
- Objection
- No interest

However, "No Objection" means that NRW have reviewed the limited information in the planning application and there is no reason in principle why the development is not acceptable, but until they have seen the permit application (if required) and provided that appropriate mitigation is used they cannot give a definitive answer. Following that introductory paragraph, NRW details their concerns, and gives all the responsibility to the planning authority - who are the Competent Authority at the planning stage.

¹⁵ The Aarhus Convention establishes a number of rights of the public (individuals and their associations) with regard to the environment namely, the right to access environmental information, a right to environmental justice and a right to public participation in decision making - <http://ec.europa.eu/environment/aarhus/>

¹⁶ The 2020 headline target: "Halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, while stepping up the EU contribution to averting global biodiversity loss"; the second is the 2050 vision: "By 2050, European Union biodiversity and the ecosystem services it provides – its natural capital – are protected, valued and appropriately restored for biodiversity's intrinsic value and for their essential contribution to human wellbeing and economic prosperity, and so that catastrophic changes caused by the loss of biodiversity are avoided."

We are informed that by NRW that the Local Authority Planners have been trained to understand what "No Objection" means, and it is the planners' responsibility to train the councillors on the planning committee. However, the words "No Objection" are being taken out of context - by both planning officers and councillors - and **we consider that they are being taken as an indication of approval of the application**. NRW will then, post planning permission consider an environmental permit (e.g. Poultry sheds). However, a scenario could easily arise that, a business secured a planning application based on a 'no-objection' from NRW but then was refused an Environmental Permit. This would not be helpful for the business. It is important to remember that planning consent is in perpetuity, but a permit may be amended or withdrawn at some time in the future.

Examples of the above include

Wrexham Prison - The application site was regarded by many experts to be of SSSI quality for invertebrates such as Grizzled Skipper, a Welsh Priority Species (Section 42 NERC Act). The site was also important for Barn Owls (Schedule 1, W&CA 1981) and Great Crested Newt, a European Protected Species ('Habitat Regulations' 1994). However, the application was not opposed by NRW despite some unusual and concerning planning decisions.

Firstly, the application was processed with insufficient ecological information, particularly with regard to invertebrate species and Great Crested Newt, resulting in what is considered by many experts (including former CCW staff) to be inadequate mitigation for the adverse impact of the development. Secondly, although mitigation included a conservation area, there was no plan for the funding of its management beyond an initial five-year post-construction period. Furthermore, part of this mitigation land was then sold by Wrexham County Borough Council to a developer to pay for the management of the remainder of the mitigation land, thus effectively trading mitigation sites with an overall net loss to biodiversity. This was all done with the support of NRW.

Even if the development should not have been opposed outright, NRW should have insisted upon more rigorous ecological surveys, a smaller footprint for the prison (as around half of the land-take is for possible future expansion) and a properly funded and guaranteed mitigation plan with funding secured from the MoJ directly, rather than via a third party. Currently, there is still no mitigation plan for a European Protected Species beyond the initial five-year period.

Poultry Sheds in Radnorshire - Pollution from these developments has been identified by NRW and others as having a significant impact on designated sites and Water Framework Directive (WFD) obligations. We know that since 2008, 134 planning applications have been consented in Powys by the Local Authority (who received comments from CCW and EAW and now NRW). This equates to millions of chickens, and the waste that arises from these sheds contains significant amounts of nitrogen, phosphorous and ammonia which are released into the environment either through:

- ventilation systems of the poultry sheds released dust (which contains complex mixture of organic and inorganic particles, faecal material, feathers, dander mites, bacteria, fungi and fungal spores) which contains nitrogen, phosphorous and ammonia and can be deposited on designated sites some distance away.
- being spread on fields as manure which in turn, after rainfall, can run into rivers.

Nitrogen, phosphorous and ammonia are in a form that is quickly absorbed by both terrestrial and aquatic plants. In turn, this causes nutrient enrichment which can cause eutrophication, for example:

- in freshwater lakes and rivers, nutrient enrichment causes an explosion of algae (known as algal blooms) that absorb oxygen from the water and starve other plants and animals of oxygen.

- in terrestrial environments via deposition, such as wildflower grasslands and ancient woodlands and hedgerows, the extra nutrients allows one or two species to dominate at the expense of other species – thus losing biodiversity and species richness.

It is apparent that the culmination of poultry units in this area is having a significant impact on nationally and internationally important sites (e.g. Marcheni, Gilfach and Gamallt & River Ithon SSSI, River Wye and Elan Vole Woodlands SACs) (See Appendix 2 – Alan Loveridges letter to Radnorshire Wildlife Trust).

However, while NRW Officers are giving the right ecological advice to Local Planning Authorities they are not objecting. For example, NRW advice to Powys County Council Planning regarding application P/2014/1246, states:

“NRW does not object to the proposal as submitted but we are concerned about the potential cumulative effects that the proposal may have on the notified features of designated sites from airborne and water pollutants...the proposed development is located in close proximity to the River Wye SAC, River Ithon SSSI....The River Ithon already shows high levels of phosphate and given the number of poultry units located within the catchment, we consider that there is a potential risk of significant cumulative effects on the water quality of the River Ithon SSSI / River Wye SAC.”

They continue that all the poultry sheds in the area ***“will be contributing to what is an already high background level of ammonia and nitrogen deposition in this part of Powys”***.

Whilst NRW recommended that Powys County Council should undertake an ‘appropriate assessment’ to assess whether the application may have a cumulative impact upon the European sites, they did not object. However, if the development, as NRW suggests, will have an adverse cumulative impact on the European site is approved, Wales risks breaching the Habitats Regulations¹⁷ and Directive¹⁸ and the potential for infraction proceedings against Welsh and UK Governments as a result.

The NRW letter also states that:

“The existing high ammonia and nitrogen levels in this part of Powys could hinder the progress towards achieving these targets {target – 95% of all SSSIs into Favourable Conservation Status 2015}”.

It is worth noting that, as of 2006, only 47% of SSSIs were in favourable status¹⁹. As Section 28G authorises under the Wildlife and Countryside Act 1981 (as amended), NRW (and the Local Planning Authority) have a duty to take reasonable steps, consistent with the proper exercise of the authority’s functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.

A letter from Professor Steve Ormerod (a leading UK freshwater expert) raised the issue of cumulative impact of poultry sheds on the water quality of designated sites in Radnorshire. In his reply, Professor Peter Mathews recognised these concerns but also highlighted:

“We are mindful of the economic benefits that these units bring and we are keen to find ways of ensuring that we can reconcile those benefits with protection of the environment” (see Annex 3 – Letter from Professor Peter Mathews to Professor Steve Ormerod).

¹⁷ <http://jncc.defra.gov.uk/page-1379>

¹⁸ http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm

¹⁹ Sites of Special Scientific Interest (SSSIs) in Wales Current state of knowledge Report for April 2005 – Mar 2006 http://www.ccg.gov.uk/PDF/SSSIs_Report%20SMALL.pdf

This raises the question; at what point is a material consideration of cumulative impact on nationally or internationally designed sites such that the NRW will object to planning applications or refuse Environmental Permits for such developments?

7. Biodiversity offsetting

As mentioned above, NRW appears to be moving towards a concept known as ‘biodiversity offsetting’ (as evidenced by the Circuit of Wales proposals). Biodiversity offsets are conservation activities that are designed to give biodiversity benefits to compensate for losses - ensuring that when a development damages nature (and this damage cannot be avoided) new, bigger or better nature sites will be created (this was not the case in the Circuit of Wales).

However, it is seen by many conservation organisations as justification to destroy nature rather than to halt the loss of biodiversity. We are concerned that:

- certain habitats or species cannot be easily replaced or replicated ecologically - spatially or temporarily.
- developers and land-users will just carry out an activity leading to a loss of biodiversity by simply paying for the damage caused
- A lack of governance (e.g. long term monitoring, enforcement) will lead to failure

Biodiversity offsetting is intended to give benefits that compensate for losses but this does not always happen, and frequently difficulties arise when the compensation habitat does not have the same value or interest as that which is being lost (as per Circuit of Wales proposals). The above was recently confirmed by peer reviewed evidence (Curran et al 2014²⁰) which stated that biodiversity offsetting leads to a net loss of biodiversity, and represents an inappropriate use of the otherwise valuable tool of ecosystem restoration.

Therefore, we would be concerned if NRW continues to see environmental considerations as a tradable consequence of development. Then we will see an increase in the loss of biodiversity.

8. Conflicts of interest

The Wildlife Trusts would like greater clarity on how NRW issues permits to itself or Welsh Government; for example, species licencing (as previously, CCW granted licences to FCW or EAW).

9. Research funding

We have seen inexplicable decisions to cut important research studies. For example, the removal of the £12,000 that supported Professor Tim Birkhead’s 40-year long-term study of guillemots on Skomer Island. Guillemots, as a higher level predator are a good indicator of marine ecosystem health in Wales’ only Marine Conservation Zone and the various international designations around the Pembrokeshire coast, including Pembrokeshire Marine Special Area of Conservation (SAC) and the Pembrokeshire Islands Special Protection Area (SPA). Such studies can help answer questions about fishing intensity and climate change (as a result of warming seas the movement of the guillemots’ prey, such as sand eels, has been witnessed in Scotland).

While this is an important piece of research – long term data sets are the most valuable – it highlights a worrying lack of priority that NRW gives to researching and monitoring of biodiversity. NRW should be an evidence based organisation and this requires long-term, scientific studies. The cessation of this grant suggests misplaced priorities in NRW’s funding priorities.

²⁰ Curran M, Hellweg S, Beck J (2014) Is there any empirical support for biodiversity offset policy? *Ecological Applications*, 24(4), pp. 617–632 Ecological Society of America

The Wildlife Trusts would like clarity on the budget dedicated to the research and monitoring of biodiversity and how this compares with the CCW budget.

10. Partnership and procedure

NRW staff seem to be overwhelmed due to cuts in their budget and resources (such as appropriate staffing levels). This has resource implications for delivering satisfactory services. For example, there have been significant delays in the Section 15 grant renewal because NRW simply do not have the capacity to deal with it.

The original NRW business plan cost savings would be gained from efficiencies, not from **reducing front-line services (nor in reducing grants). We expected to see the re-investment of the expected 158m²¹ million savings** from the merger over 10 years targeted towards nature conservation. This has not happened.

We believe that NRW considered removing all elements of grant funding to the third sector. Thankfully, this did not happen, and this is important considering that:

- conservation organisations undertake much of the conservation work within and outside designated sites and also educate the public on environmental issues (all statutory responsibilities²²)
- conservation organisations create significant added value by using public money to match fund money from elsewhere and though the use of volunteer time (e.g. **1:4 return on investment - for every £1 of money the Wildlife Trust received from the legacy bodies we delivered £4 of additional benefit e.g. attracting external match funding and volunteering time**).

It is worrying that the NRW leadership is not working in true partnership and this gives the impression that it does not value the third sector. Even with the advent of Joint Working Partnership (JWP), the Wildlife Trusts and other eNGOs do not feel a sense of partnership with NRW. It has been criticised by many as neither joint working nor partnership – it is more like a contractual arrangement between organisations. This is disappointing considering that, over the years, the Wildlife Trusts and other conservation organisations built up close working and excellent partnerships with the three legacy bodies, especially CCW.

This former relationship gave a 1:4 return on investment but under the new funding arrangements there will be little added value. Although organisations are appreciative of the tight deadlines to which the NRW funding team had to meet, the manner and way this **funding was administered was wholly unhelpful, not transparent and not in consultation.** There was constant conflicting advice within limited criteria. But the most worrying outcome has been the **imposition of a capped overhead rate of 7% for projects.** It is simply not sustainable for organisations to deliver projects without covering costs. It has to be remembered that charities are also businesses and have running costs. We were informed after the decision that *'someone'* decided on this as they had heard that this was the overhead figure for EU Life funding. This hap-hazard decision process is very worrying when it has such an impact on the overall viability of the third sector in Wales. What this person failed to recognise is that EU funding covers up to 75% of costs and is a source of funding that allows organisations have time to secure the remain match funding. The NRW grant

²¹ <http://www.bbc.co.uk/news/uk-wales-politics-19844497>

²² For example, all Public Bodies are required conserve and enhance biodiversity via the Natural Environment and Rural Communities Act 2006 (section 40), All Public Bodies are section 28G authorities and thus required to must conserve and enhance SSSIs via the Wildlife and Countryside Act (WCA) 1981 (as amended by the Countryside and Rights of Way Act 2000), and Local Authorities are required to educate the public, especially school children, on the provisions of the WCA Act (see Section 25 'Functions of local authorities' of the WCA 1981)

only covers 50% of costs the remaining costs coming from the third sector. However, **this new condition means that the figure is much nearer to 70-75% of costs being met by the third sector.**

Also, NRW's financial management small grants (REF) are unlike any grant system the Wildlife Trust has previously experienced. The system had very little flexibility which creates problems for Wildlife Trusts, other conservation organisations and probably NRW too. For example, most grant funders will let you delay claiming for something, with a reasoned explanation such as weather related delays, as long as it isn't an actual risk to completion. If you are late claiming from NRW, even by a day, NRW may not look at your claim for months which causes operational and significant financial difficulties for the Wildlife Trusts and contractors.

It is worth noting that Welsh Government guidance²³ recently produced for the Third Sector Scheme dated January 2014 describes good practice between the Welsh Government and the Third Sector. It is of concern that NRW is not demonstrating compliance with this guidance.

It would be interesting to examine the overall budget of the three legacy bodies for grants to external partners compared to NRW's budget.

11. Connecting people to nature

The NRW Corporate Plan includes statements on helping people to understand how important the environment and our natural resources are. Connecting people to 'what nature does for us' is a central tenant to the ecosystem approach and natural resource management. Sustaining a Living Wales states that *"We will work with partners to identify ways in which we can reconnect people and communities with the natural environment"*.

However, we feel that the majority of communications from NRW to the public are based on the former EAW remit. If Wales is to overcome the significant environmental, economic and social problems (obesity, depression, social isolation and stress, including work place stress), people need to be inspired to connect with nature. Therefore, we recommend that the NRW Communications Team promotes more wildlife and nature stories.

12. Marine

As with terrestrial matters we are concerned that there is an over-riding focus on economic concerns when considering development by NRW within the marine environment.

NRW is responsible for conservation of Wales's marine environment and licencing of activities. NRW's own report (CCW Marine Science Report No 12/06/03) in 2012 states that less than 50% of Marine Protected Areas are in favourable conservation status. This is particularly concerning given the requirement under the Marine Strategy Framework Directive to have Good Environmental Status of all European Seas by 2020.

Our main concern with the marine work of NRW is the resourcing and budgeting to fulfil their statutory duties to ensure a healthy marine environment. Given that there is a lot of scope for growth in sectors such as marine renewables and aquaculture, we welcome the Minister's statement, in his financial scrutiny to the Committee, that he is looking into cost recovery of licencing and consulting on marine projects. We would like clarification on this and a commitment that the costs recovered would be used to manage and conserve Wales's marine resources.

²³ Welsh Government Third Sector Scheme January 2014
<http://gov.wales/docs/dsjlg/publications/comm/140130-third-sector-scheme-en.pdf>

13. Sector representation

As part of the Well-being of Future Generations Bill, Local Service Boards (LSB) and Well-Being Plans will be a statutory requirement. LSBs will deliver the Well-being Plans, and NRW will be the only organisation representing the environment on these boards. We therefore have concerns that NRW will not (for the reasons highlighted above) or cannot (depending on the expertise of the NRW representative appointed) adequately represent environmental and conservation considerations.

14. Questions

- a) We would be like to see a breakdown of those who have or are leaving NRW (including under voluntary severance) and their area of expertise and legacy body. How is this expressed as a percentage of total legacy staff numbers.
- b) With a loss of specialist staff how does NRW intend to undertake its statutory nature conservation duties including giving advice on land management, planning (planning applications and Local Development Plans) and legislation.
- c) How will NRW maintain, manage and monitor its suite of designated sites including NNRs and how has the budget changed (including as a percentage of overall spending) over the last 5 years.
- d) What was the overall grants funds for external partners for the three legacy bodies and what is the total sum of grant funds now available?
- e) How much is spent on nature conservation and how has this changed (including as a percentage of overall spending) over the last 5 years.
- f) How does NRW ensure that its comments are taken into account by Local Planning Authorities especially when planning decisions could negatively impact upon designated sites?
- g) How does NRW ensure that its forestry estate throughout Wales maximises its biodiversity potential? Will these be incorporated into Forest Design Plans across Wales and when will the revised Forest Design Plans be available.
- h) How will NRW ensure it has done all that it can to set the highest quality targets that will achieve Favourable Conservation Status (SSSI) and Good Ecological Status (Water Framework Directive) for Wales.
- i) What is NRW research budget and how is it prioritised?

2. Recommendations

- a) NRW needs to demonstrate a significant and recognisable degree of independence from government, not least in relation to, and exercise of, its statutory roles for independent assessment and advice under EU and UK law and planning and land management.
- b) As the **Statutory Nature Conservation Body**, NRW has an absolute duty to exercise its functions to further nature conservation. As such, NRW should deliver a healthy natural environment that promotes to sustainable development and thus contributes the well-being of people and the economy of Wales; this can be achieved by;
 - i. Realigning the NRW Corporate and Business Plan, and Welsh Governments annual remit letter, to prioritise and spearhead action for the environment above other purposes and duties including protecting, conserving and enhancing the natural environment.
 - ii. Integrating the 'Sandford Principle into its all operations including planning advise ; "If it appears that there is a conflict between those purposes, (NRW)

shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area".

- iii. Making comments on planning applications, without political interference, in order robustly protect and enhance biodiversity. This requires clear and transparent decision-making in consultation with stakeholders (e.g. appropriate environmental non-governmental organisations) with information being shared with stakeholders (without recourse to Freedom of Information Act).
 - iv. Delivering a clear focused plan of action to implement the Lawton Review in Wales.
- c) A review should be undertaken, in consultation with stakeholders including environmental NGOs, regarding NRW's planning responsibilities including advising on Local Development Plans and planning applications. This should include the requirement to address the 'need' for a development, if that development has a detrimental impact on nature conservation. The review should recommend best practice when giving planning advice, for example, NRW should not state 'no objection' when there are conservation concerns, when they request an appropriate assessment is undertaken, the application does not contain sufficient information to make a decision, or when they have yet to determine whether an environmental permit would or would not be granted.
 - d) The Welsh Government use the Environment Bill to amend the purpose of NRW to better reflect, and achieve, EU Biodiversity 2050 targets, the principles within the Lawton Review and the 'Resilient Wales' well-being goal from the Well-being of Future Generations Bill – "to maintain and enhance a biodiverse natural environment with healthy functioning ecosystems".
 - e) The re-investment of the expected £158m million savings from the merger over 10 years, to be targeted towards nature conservation and research and monitoring.
 - f) Welsh Government must provide NRW with sufficient funds to fulfil its legal duties and deliver its nature objectives. This includes funding and working with, external stakeholders to undertake work.
 - g) There should be an independent review of environmental governance in Wales.
 - h) The Welsh Government should set up a Biodiversity Commission with a Biodiversity Commissioner similar to the Future Generations Commissioner.
 - i) NRW should set up a new version of FERAC (Fisheries, Ecology and Recreation Advisory Committee) with independent advisors guiding the organisation on its functions and actions.
 - j) The NRW Corporate Plan must include the Biodiversity 2020 and 2050 targets along with interim targets and CBD principles. This should be formalised within the Environment Bill.
 - k) NRW should carry out an audit of its staff to ensure that there is not bias within one area (e.g. commercial forestry) as opposed to nature conservation.
 - l) NRW should make its planning decisions more transparent and make public all internal advice, along with a rationale for the final decision taken in such cases.
 - m) NRW should only advise on those areas that they have statutory expertise in, i.e. environmental rather than socio-economic matters.
 - n) NRW should review the grant funding arrangements of stakeholders, including overhead allowance (including a comparison with NRW overheads) in consultation with stakeholders. This should help to create a more efficient system, with clear guidance, that delivers for conservation and reduces bureaucracy and administration costs.

- o) A review of grant funding relationships should make it more of an equal partnership with NRW (similar to the arrangements with CCW) rather than a contractor and contractee relationship.
- p) The NRW Communications Team should promote more wildlife and nature stories.
- q) There should be greater clarity on how NRW issues permits to itself or Welsh Government; for example, species licencing (as previously, CCW granted licences to FCW or EAW)
- r) We would like a commitment that the costs recovered from licencing and consulting on marine projects would be used to manage and conserve Wales's marine resources

ANNEX 1 – EMAIL EXCHANGE BETWEEN ALUN DAVIES AM AND NRW

From: Hillier, Graham
Sent: 14 June 2013 15:11
To: Davies, Keith
Cc: Evans, Martyn P.; O'Shea, Gareth; Townsin, Carol; George, Jessica
Subject: RE: Circuit of Wales

Thanks Keith – I agree it would be useful to have a quick discussion beforehand. I'd suggest we include all attendees (hence copied to Gareth and Martyn too). In Jessica's absence, I'll **ask Carol** to try to identify a mutually convenient hour on Monday (thanks Carol).

I'd like each of us to come prepared with a view on things like:

- clarity on what are the key issues,
- what may be possible in terms of finding a way forward, (process and solutions)
- the degree to which we're confident of the science/evidence behind our current position (vs 'scrubland' interpretation, for example),
- clarity over our duties, remit, purpose and aspirations, and
- what we need WG to do to make things clearer/easier in the future

I'm sure we'll be asked to withdraw our objection, so we need to be clear on how we should respond.

Thanks all,
Graham

Cyfarwyddwr Gweithredol Gweithrediad-au'r De/Executive Director for Operations South
Cyfoeth Naturiol Cymru/Natural Resources Wales
Ffôn/Tel: 02920 468879
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E-bost/E-mail: graham.hillier@cyfoethnaturiolcymru.gov.uk
[/ graham.hillier@naturalresourceswales.gov.uk](mailto:graham.hillier@naturalresourceswales.gov.uk)
Gwefan/Website: www.cyfoethnaturiolcymru.gov.uk / www.naturalresourceswales.gov.uk
Ein diben yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol.
Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

From: Hillier, Graham
Sent: 14 June 2013 12:46
To: 'Davies, Alun (Assembly Member)'
Cc: George, Jessica
Subject: RE: Circuit of Wales

Thanks Alun;

A meeting for 11am on Tuesday with you and the Developer would be good, and we'll host it here in Ty Cambria, Newport Road, if that's still OK with you. I've asked a couple of colleagues to join me, to both hear your views and better inform mine.

Please let me know if you or the developer's rep need directions.

Many thanks – look forward to seeing you on Tuesday.
Graham.

Cyfarwyddwr Gweithredol Gweithrediad-au'r De/Executive Director for Operations South
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Ein diben yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol.

Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

From: Davies, Alun (Assembly Member) [<mailto:Alun.Davies@Wales.gov.uk>]
Sent: 13 June 2013 14:39
To: Hillier, Graham
Subject: Re: Circuit of Wales

Thank you Graham. This second letter does begin to move us in the right direction. I do appreciate that and I am grateful to you for taking the time to review these matters.

However I remain very concerned with the processes at work within NRW in this matter. In addition I do not believe that the current NRW position does reflect the totality of the statutory duties and the demands of the remit letter provided to NRW by the Welsh Government.

It would be very useful to meet. Could I suggest 11.00am on Tuesday? I would be content to meet at Newport Road or alternatively we could meet at the Assembly in the Bay. I will also invite a representative of the developers to join us and I hope that between us we can agree a way forward.

Thank you for your help in this matter.

Alun

Alun Davies

On 13 Jun 2013, at 12:08, "Hillier, Graham" <Graham.Hillier@cyfoethnaturiolcymru.gov.uk> wrote:
Dear Alun;

As promised in my previous e.mail, please find attached a copy of our letter offering supplementary information to the local planning authority, following our original planning response.

I trust this is helpful and goes some way to addressing your concerns, while still taking account of our statutory duties.

We would be happy to arrange to meet with you next week if this would still be helpful (Tuesday would be slightly easier for me than Thursday, but we'll obviously try to work around your availability). Please let us know if you'd still like to go ahead, and if so your availability and preferences in terms of timing and venue – you'd be very welcome at our Newport Road office if that helps.

Regards,
Graham

Cyfarwyddwr Gweithredol Gweithrediad-au'r De/Executive Director for Operations South
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Ein diben yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol.

Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

From: Hillier, Graham

Sent: 12 June 2013 23:28

To: Davies, Alun (Assembly Member)

Cc: George, Jessica

Subject: RE: Circuit of Wales

Dear Alun;

Thanks for your note, and I understand your sentiments. For your information, we have today issued a further letter to the Planning Authority with some supplementary information, which has been provided with the intention of helping to identify potential solutions and (I believe) offering a more positive approach, including the desire to work together.

I'll ensure a copy of the note is sent to you tomorrow. Perhaps we could then arrange a convenient time to meet (eg Tuesday) next week, if this would still be useful.

Best regards,
Graham.

Sent from Windows Mail

From: Davies, Alun (Assembly Member)

Sent: 12 June 2013 17:37

To: Hillier, Graham

Subject: Circuit of Wales

Dear Graham,

I have received a copy of the NRW response to the planning application for the Circuit of Wales in my constituency.

I am very disappointed with the approach that NRW has taken in this matter. I felt that NRW would be taking an entirely different approach to planning matters and would be seeking to adopt a positive approach, working with applicants to deliver developments that will enhance the sustainability of communities across Wales. This has clearly not happened in this case.

I am very anxious that this development goes ahead and does so in a way that enhances the community of Blaenau Gwent in the widest sense. I would therefore seek an urgent meeting with you to discuss these matters. I can be available in Cardiff either Tuesday or Thursday next week. **I would like to use this opportunity to discuss with yourself and the developers how we can move forward in an agreed way.**

I look forward to hearing from you.

Alun

Alun Davies AM
Blaenau Gwent

ANNEX 2 – EMAIL FROM WELSH GOVERNMENT REGARDING NRWS WIDER STATUTORY PURPOSE AND RESIDUAL CCW OBJECTIONS

From: Davies, Prys (Head of Energy, Water & Flood) [mailto:Prys.Davies@Wales.GSI.Gov.UK]

Sent: 29 May 2013 14:21

To: Davies, Ceri; Owen, Trefor

Cc: Clarke, Carys (ESH - DT); Fudge, Laura (DES - DT); Pride, Jennifer (ESH - CCWD); Eccles, David (ESH - CCWD); Davies, Teresa (ESH - Planning); Thomas, Rosemary F (ESH - Planning); Daw, Chris (Energy Programme); Boddington, Wendy (Energy Water & Flood)

Subject: Renewable Energy Project in Bedlinog and wider issues

Ceri/Trefor,

Hope you're both well. I write regarding a proposed renewable energy development in Bedlinog which I think raises more general issues on which I'd welcome your thoughts.

The specific development is a proposed 3 turbine wind farm in Bedlinog. The attached correspondence from Awel Aman Tawe, who advise on the project, to Gareth Jones sets out some of the background. It is a project that is supported by the Ynni'r Fro Programme and as you can see, has a not insignificant community element to it. I'm not particularly close to this project (the WG interest here rests with Jenifer Pride in Gretel's team) but I understand that there is considerable community support for this proposal. However, it appears that the officials at Merthyr Tudful Council are minded to reject the application. The rejection appears to be largely based on the submission, in 2012, by CCW, which objected to the development on the grounds of visual impact and impact on the historic landscape (also attached) - the LPA appears to be attaching significant weight to the opinions of one of its statutory consultees. Tegni, the company who has helped the Community Council with the development, has also noted the difficulty of progressing projects in Wales and has noted its intention to relocate to Scotland. Notwithstanding the merits or otherwise of the concerns raised by CCW and other issues raised in the Planning Officer's report (which I can send you if required), the timing here is unfortunate. This is the type of project (small scale; community element; apparent support by the local community; in a deprived area) that Ministers, particularly the Minister for NR&F, want to see going ahead (The Minister for NR&F is also scheduled to visit the project in early June and will expect us to explore what can be done in this particular instance given that this is a project which receives financial support from WG). It also constitutes a reputational risk that nothing has changed with the establishment of NRW - I know that isn't the case but the impact of 'transitional' decisions such as this could be quite damaging.

Whilst some of these are for us in WG to consider and address (e.g. the significant weight accorded by Planning Officers to the views of statutory consultees), I'd be very grateful for a word with you regarding two issues raised by this case which raises issues for NRW/WG:

[1] Firstly, the nature of the specific objections by CCW were based on CCW's purpose and statutory functions. NRW, of course, has a wider statutory purpose, which made me wonder whether there might be an opportunity for NRW to set out its views on the development taking into account its wider environmental, economic and social purpose. I hasten to add that I have not explored this with legal or planning colleagues - and whether it is feasible given where we are in the Planning process - but would welcome views.

[2] Secondly, and related to the above, is what if anything we might want to do relating to other 'residual' CCW objections within the planning system. Is there anything that we should be doing if it appears that the main risk to such developments are the environmental objections raised by CCW? Dave Eccles, who works on the Ynni'r Fro Programme, is doing a quick assessment to see what other developments might be covered by this 'transitional arrangement'.

I'd be keen to have a quick telecon or meeting with you given Ministerial expectations/priorities in this area and consider whether there are any steps that we should take as a result of the above.

Prys

Prys Davies

Dirprwy Gyfarwyddwr: Is-adran Ynni, Dŵr a Llifogydd /

Deputy Director: Energy, Water and Flood Division

Llywodraeth Cymru / Welsh Government

Ffon / Phone - 029 2082 5031
Symudol / Mobile - 07792615467

ANNEX 3 – LETTER FROM PROFESSOR MATTHEWS TO PROFESSOR STEVE ORMEROD

Mr Steve Ormerod
Professor of Ecology/Chair of RSPB Council
Cardiff School of Biosciences
Biosci 2 (Room 6.04)
Cardiff University
Cardiff
CF10 3AX
12 February

Dear Mr Ormerod,

Thank you for your email of 28 January 2015, concerning pollution of the River Wye by poultry units. We are in regular contact with Mr Loveridge and I can assure you that we are working with him to address his concerns.

We take a risk-based approach to our regulation and it is true that these types of development generally receive a lighter touch approach compared with high risk developments such as incinerators, landfill sites and major industrial processes. This is entirely in accordance with policy across UK regulators.

This is quite a complex area and we have a number of overlapping roles. We regulate poultry units with more than 40,000 birds under the Environmental Permitting Regulations (EPR) which implement the relevant European Directive for this sector. The Regulations provide for exemptions and Statutory Guidance issued jointly by DEFRA and the Welsh government provides that exemption to units with less than 40,000 birds, however the units are subject to planning regulations. We have some responsibilities as a statutory consultee under the planning regime and as the lead authority for the Water Framework Directive.

We regularly raise concerns at the planning stage about the potential impact on protected sites and Water Framework Directive objectives. Unfortunately these issues are not generally sufficient to object to planning permission unless the development is contrary to a strategic plan. For the sites that we permit there is an agreed impact significance threshold, which applies to certain key emissions. Where the impact of an individual development is below this threshold, the impact is considered to be insignificant. The current policy in Wales and England is that if the individual impacts are below these thresholds then cumulative impacts are not taken into account. We also use the same significance thresholds when commenting on planning applications for poultry units regardless of size.

For units with greater than 40,000 places, there is also European guidance which specifies the pollution control techniques to be applied for substances such as dust. Where a development meets the requirements of this guidance then there are generally no legal grounds to refuse the application or to require stricter controls.

The dichotomy that arises is that when we look at a single case there will rarely be specific grounds to refuse an EPR application or to object to a planning application. However, when we look at it in a holistic way, poultry rearing is just one of very many issues such as large dairy herds, agricultural fertilizer application or proposed infrastructure developments?

Notwithstanding all these issues, there are currently a significant number of these developments (both above and below 40,000 poultry places) being proposed in Powys and **we agree that we need to begin to take a strategic approach rather than look at each development in isolation. We are mindful of the economic benefits that these units bring and we are keen to find ways of ensuring that we can reconcile those benefits with protection of the environment.** We will be establishing a small project team that will consider the developing situation and its implications across our whole remit as statutory planning consultee, regulator, conservation body, and lead authority for Water Framework Directive. Although our direct regulatory powers have limitations we will work closely with colleagues at Powys County Council to develop a more integrated approach. We will also reflect

on what advice we can give to Welsh Government on this issue and any thoughts you might have would be welcome

Yours sincerely,

PETER MATTHEWS

Cadeirydd, Cyfoeth Naturiol Cymru

Chairman, Natural Resources Wales

phone 01597 870351
44janice@gmail.com

Pencwm, St Harmon, Rhayader
 Powys, LD6 5NG

6 November 2014

Julian Jones, Chris Ledbury and Ray Woods,
 Radnorshire Wildlife Trust

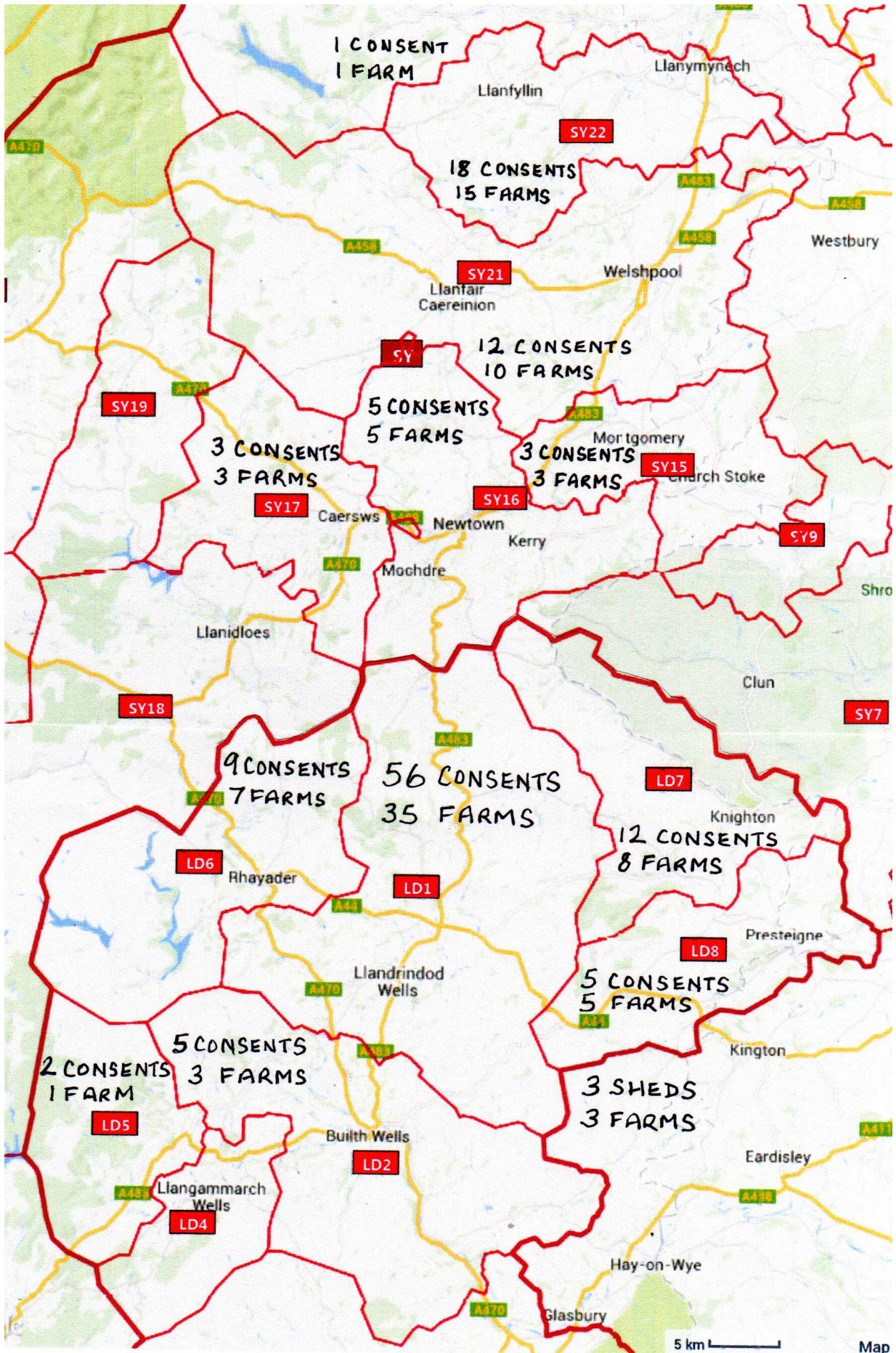
Dear Julian, Chris and Ray,

Air Quality and poultry units

We have completed an analysis of chicken shed planning applications in Powys since 1 January 2008 (please ask for a copy of our report, if required). There may well be more!

number consented		134
<i>including:</i>		
consented	133	
refused, then consented on appeal	1	
number of farms		99
number of broiler units (over 1,674,000 birds)	16	
number of broiler farms	11	
refused		2
determination outstanding		3
others		20
<i>including:</i>		
outline consent, replaced by full consent	4	
variation	4	
withdrawn	3	
withdrawn, re-applied, then consented	5	
withdrawn, re-applied, then withdrawn	1	
refused, re-applied, then consented	3	
total number of applications since 1 Jan 2008		159

	post code	# of consents	# of farms
	HR	3	3
	LD1	56	35
	LD2	5	3
	LD5	2	1
	LD6	9	7
	LD7	12	8
	LD8	5	5
	SY10	1	1
	SY15	3	3
	SY16	5	5
	SY17	3	3
	SY21	12	10
	SY22	18	15
		134	99



Poultry units consented in Powys since 01.01.08 illustrated by postcode area

We have now analysed the cumulative impact of poultry sheds. The map at page 4 illustrates 16 existing planning consents in this area since 1 January 2008.

I have used SCAIL to calculate the depositions at the 5 SSSIs and 3 European Sites within 5/10km of the proposed unit respectively. The results on pages 5 to 7 can be summarised as:

	Average deposition as percentage of average Critical Load from 16 consented units
Ammonia	561%
Nitrogen	336%
Acid	105%

These percentages represent only the impact of these 16 poultry units and do not include significant pre-existing background deposition.

It is apparent that the cumulative impact of poultry units in this area is having a significant impact on Protected Sites.

The impact of the 16 poultry units in this area on **Marcheini, Gilfach and Gamallt** is:

	Deposition from 16 units	Critical Load
Ammonia	4.83	1.0
Nitrogen	25.03	3.0
Acid	1.70	0.6

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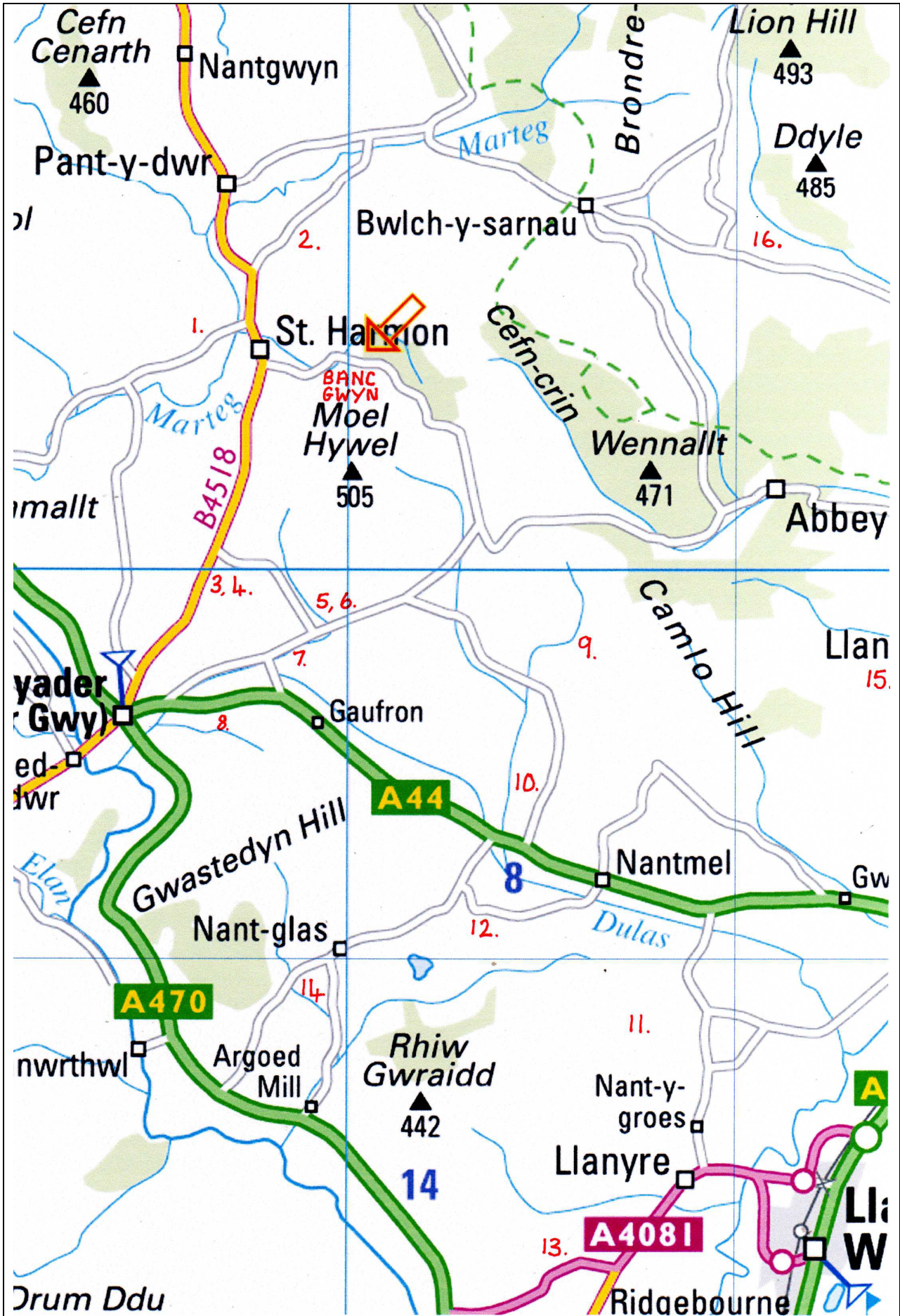
In addition, Environment Agency H1 Annex B requires modelling of depositions from the proposed unit at Banc Gwyn because they would be over 4% (SACs and SPAs) or 20% (SSSIs):

- Ammonia deposition at three European Protected Sites;
- Nitrogen deposition at one European Site and one UK Protected Site;
- Acid deposition at two European Protected sites

Please ask if you have any questions.

Yours sincerely,

Alan Loveridge



16 Poultry units neighbouring Banc Gwyn, St Harmon

Powys County Council planning application P/2014/0009 - proposed poultry unit at Banc Gwyn, St Harmon
Calculation of cumulative impact of poultry units

farm	post code	grid reference	planning application	Ammonia deposition (µg/m ³)										average
				Cae Coed - Gleision SSSI	Marcheini Gifnach & Gamallt SSSI	Caeau Wern SSSI	Upper Nantserth SSSI	Cors Caer' Neuadd SSSI	Elenydd-Mallaen SPA	River Wye SAC	Elan Valley woodland SAC			
1 Shettingau	LD6 5LG	298222 272746	P/2008/1206	11.05	2.39	0.08	0.14	0.17	0.34	0.17	0.17	0.06		
2 Glan Marteg	LD6 5LY	299474 274329	P/2009/0725	0.28	0.28	0.09	0.10	0.28	0.21	0.11	0.11	0.06		
3 Llwyngwilym	LD6 5NS	298593 270049	P/2008/1109	0.82	0.91	1.04	3.00	0.32	0.89	0.88	0.62	0.62		
4 Llwyngwilym 2	LD6 5NS	298609 269922	P/2009/1238	0.21	0.24	0.30	0.80	0.08	0.24	0.25	0.17	0.17		
5 Beili Ddol	LD6 5NS	299903 269571	P/2009/0558	0.20	0.18	1.48	0.34	0.09	0.17	0.23	0.14	0.14		
6 Beil Ddol 2	LD6 5NS	299545 269697	P/2010/0751	0.17	0.15	0.67	0.32	0.07	0.15	0.18	0.12	0.12		
7 Llwyncwta	LD6 5NT	299016 268949	P/2009/0367	0.14	0.17	0.37	0.37	0.07	0.17	0.33	0.17	0.17		
8 Cefnceido	LD6 5NU	298670 268255	P/2010/0232	0.14	0.18	0.29	0.35	0.07	0.19	0.73	0.24	0.24		
9 Glenalders	LD6 5PE	302620 269067	P/2010/0235	0.10	0.08	0.62	0.11	0.06	0.08	0.24	0.07	0.07		
10 Llwyn Lane	LD6 5PE	302280 266919	P/2010/1141	0.05	0.05	0.20	0.07	0.03	0.07	1.07	0.06	0.06		
11 Gwynsan	LD1 6EE	303571 264096	P/2010/1026	0.03	0.03	0.06	0.04	0.02	0.05	0.30	0.04	0.04		
12 Cefillyn	LD1 6EW	301668 265640	P/2008/0964	0.06	0.06	0.17	0.08	0.04	0.12	1.65	0.09	0.09		
13 Cerrigoes	LD1 6EU	303496 261335	P/2009/0414	0.02	0.02	0.04	0.03	0.02	0.05	0.56	0.04	0.04		
14 Nantglas church	LD1 6PD	299159 264193	P/2010/1086	0.02	0.02	0.04	0.03	0.01	0.13	0.31	0.08	0.08		
15 Esgainwy	LD1 6PG	307137 268683	P/2013/0736	0.02	0.02	0.04	0.02	0.02	0.02	1.76	0.02	0.02		
16 Pen Brycennau	LD1 6PT	305195 274545	P/2010/0869	0.05	0.05	0.06	0.04	0.04	0.04	0.18	0.03	0.03		
Total				13.36	4.83	5.55	5.84	1.39	2.92	8.95	2.01	5.61		
Banc Gwyn	LD6 5NG	300283 272216	P/2014/0009	0.20	0.16	0.15	0.10	0.08	0.10	0.08	0.05	0.12		
Total				13.56	4.99	5.70	5.94	1.47	3.02	9.03	2.06	5.72		
Percentage of ammonia deposition over Critical Level				1356%	499%	570%	594%	147%	302%	903%	206%	572%		
				1.0 for initial assessment, ref EA document H1 Annex B										

Numbers in blue are the ammonia "Process Contribution" of the 16 poultry units consented since 1 January 2008

The deposition numbers on this page do not include pre-existing background deposition, or consents prior to 2008.

The average ammonia deposition of these 16 consented poultry units is 5.61, which is 561% of the critical level of 1.0.

The proposed broiler unit at Banc Gwyn would contribute an average additional 0.12 ammonia deposition

The average deposition of ammonia, including Banc Gwyn, would be 572% of critical load

At three European sites, the deposition of ammonia from the proposed broiler unit at Banc Gwyn would exceed the 4% of critical level when further modelling is required

Cumulative impact of Ammonia Deposition by 16 neighbouring units

Powys County Council planning application P/2014/0009 - proposed poultry unit at Banc Gwyn, St Harmon
Calculation of cumulative impact of poultry units

farm	post code	grid reference	planning application	Nitrogen deposition (kg/ha/yr)										average
				Cae Coed - Gleision SSSI	Marcheini Gifnach & Gamallt SSSI	Caeau Wern SSSI	Upper Nantserth SSSI	Cors Cae'r Neuadd SSSI	Elenydd-Mallaen SPA	River Wye SAC	Elan Valley woodland SAC			
1 Shettingau	LD6 5LG	298222 272746	P/2008/1206	57.40	12.40	0.42	0.73	0.88	1.80	0.88	0.88	0.31		
2 Glan Marteg	LD6 5LY	299474 274329	P/2009/0725	1.50	1.50	0.47	0.52	1.50	1.10	0.57	0.31			
3 Llwyngwilym	LD6 5NS	298593 270049	P/2008/1109	4.30	4.70	5.40	15.60	1.70	4.60	4.60	3.20			
4 Llwyngwilym 2	LD6 5NS	298609 269922	P/2009/1238	1.10	1.20	1.60	4.20	0.42	1.20	1.30	0.88			
5 Beili Ddol	LD6 5NS	299903 269571	P/2009/0558	1.00	0.93	7.70	1.80	0.47	0.88	1.20	0.73			
6 Beili Ddol 2	LD6 5NS	299545 269697	P/2010/0751	0.88	0.78	3.50	1.70	0.36	0.78	0.93	0.62			
7 Llwyncwitta	LD6 5NT	299016 268949	P/2009/0367	0.73	0.88	1.90	1.90	0.36	0.88	1.70	0.88			
8 Cefnceido	LD6 5NU	298670 268255	P/2010/0232	0.73	0.93	1.50	1.80	0.36	0.99	3.80	1.20			
9 Glenalders	LD6 5PE	302620 269067	P/2010/0235	0.52	0.42	3.20	0.57	0.31	0.42	1.20	0.36			
10 Llwyn Lane	LD6 5PE	302280 266919	P/2010/1141	0.26	0.26	1.00	0.36	0.16	0.36	5.60	0.31			
11 Gwynsan	LD1 6EE	303571 264096	P/2010/1026	0.16	0.16	0.31	0.21	0.10	0.26	1.60	0.21			
12 Cefillyn	LD1 6EW	301668 265640	P/2008/0964	0.31	0.31	0.88	0.42	0.21	0.62	8.60	0.47			
13 Cerrigoes	LD1 6EU	303496 261335	P/2009/0414	0.10	0.10	0.21	0.16	0.10	0.26	2.90	0.21			
14 Nantglas church	LD1 6PD	299159 264193	P/2010/1086	0.10	0.10	0.21	0.16	0.05	0.68	1.60	0.42			
15 Esgainwy	LD1 6PG	307137 268683	P/2013/0736	0.10	0.10	0.21	0.10	0.10	0.10	9.10	0.10			
16 Pen Brycennau	LD1 6PT	305195 274545	P/2010/0869	0.26	0.26	0.31	0.21	0.21	0.86	0.93	0.16			
Total				69.45	25.03	28.82	30.44	7.29	15.79	46.51	10.37	29.21		
Banc Gwyn	LD6 5NG	300283 272216	P/2014/0009	1.00	0.83	0.78	0.52	0.42	0.52	0.42	0.26	0.59		
Total				70.45	25.86	29.60	30.96	7.71	16.31	46.93	10.63	29.81		
Percentage of nitrogen deposition over Critical Load				10.00	3.00	10.00	8.00	10.00	10.00	10.00	10.00	8.88		
				705%	862%	296%	387%	77%	163%	469%	106%	336%		

Numbers in blue are the nitrogen "Process Contribution" of the 16 poultry units consented since 1 January 2008

The deposition numbers on this page do not include pre-existing background deposition, or consents prior to 2008.

The average nitrogen deposition of these 16 poultry units is 29.21, which is 329% of the average critical load of 8.88.

The proposed broiler unit at Banc Gwyn would contribute an average additional 0.59 nitrogen deposition

The average deposition of nitrogen, including Banc Gwyn, would be 336% of critical load

At one European site, the deposition of nitrogen from the proposed broiler unit at Banc Gwyn would exceed the 4% of critical load when further modelling is required
 At one SSSI, the deposition of nitrogen from the proposed broiler unit at Banc Gwyn would exceed the 20% of critical load when further modelling is required

Cumulative impact of Nitrogen Deposition by 16 neighbouring units

Powys County Council planning application P/2014/0009 - proposed poultry unit at Banc Gwyn, St Harmon
Calculation of cumulative impact of poultry units

Acid deposition (KEq H ⁺ /ha/yr)																						
farm	post code	grid reference	planning application	Cae Coed - Gleision		Marcheiri Gilfach & Gamallt		Caeau Wern		Upper Nantserth		Cors Cae'r Neuadd		Elenydd-Mallaen		River Wye		Elan Valley woodland		average		
				SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI	SSSI		SSSI	
1 Shettingau	LD6 5LG	298222 272746	P/2008/1206	3.900	0.840	0.028	0.049	0.059	0.120	0.059	0.021	0.021	0.059	0.021	0.021	0.059	0.021	0.021	0.021	0.021	0.021	
2 Glan Marteg	LD6 5LY	299474 274329	P/2009/0725	0.100	0.100	0.032	0.035	0.100	0.074	0.100	0.038	0.021	0.038	0.021	0.038	0.021	0.038	0.021	0.038	0.021	0.021	
3 Liwyngwilym	LD6 5NS	298593 270049	P/2008/1109	0.290	0.320	0.360	1.100	0.110	0.310	0.110	0.310	0.220	0.110	0.310	0.220	0.310	0.220	0.310	0.220	0.220	0.220	
4 Liwyngwilym 2	LD6 5NS	298609 269922	P/2009/1238	0.074	0.081	0.110	0.280	0.028	0.081	0.028	0.088	0.059	0.028	0.088	0.059	0.028	0.088	0.059	0.028	0.059	0.059	
5 Beili Ddol	LD6 5NS	299903 269571	P/2009/0558	0.067	0.063	0.520	0.120	0.032	0.059	0.032	0.081	0.049	0.032	0.081	0.049	0.032	0.081	0.049	0.032	0.049	0.049	
6 Beil Ddol 2	LD6 5NS	299545 269697	P/2010/0751	0.059	0.053	0.240	0.110	0.024	0.053	0.024	0.063	0.042	0.024	0.063	0.042	0.024	0.063	0.042	0.042	0.042	0.042	
7 Liwyncwita	LD6 5NT	299016 268949	P/2009/0367	0.049	0.059	0.130	0.130	0.024	0.059	0.024	0.110	0.059	0.024	0.110	0.059	0.024	0.110	0.059	0.024	0.059	0.059	
8 Cefn Ceido	LD6 5NU	298670 268255	P/2010/0232	0.049	0.063	0.100	0.120	0.024	0.063	0.024	0.120	0.081	0.024	0.120	0.081	0.024	0.120	0.081	0.024	0.081	0.081	
9 Glenalders	LD6 5PE	302620 269067	P/2010/0235	0.035	0.028	0.220	0.038	0.021	0.038	0.021	0.038	0.024	0.021	0.038	0.024	0.021	0.038	0.024	0.021	0.024	0.024	
10 Liwyn Lane	LD6 5PE	302280 266919	P/2010/1141	0.018	0.018	0.067	0.024	0.011	0.024	0.011	0.024	0.021	0.011	0.024	0.021	0.011	0.024	0.021	0.021	0.021	0.021	
11 Gwynsan	LD1 6EE	303571 264096	P/2010/1026	0.011	0.011	0.021	0.014	0.007	0.014	0.007	0.014	0.014	0.007	0.014	0.014	0.007	0.014	0.014	0.014	0.014	0.014	
12 Cefnlllyn	LD1 6EW	301668 265640	P/2008/0964	0.021	0.021	0.059	0.028	0.014	0.028	0.014	0.042	0.032	0.014	0.042	0.032	0.014	0.042	0.032	0.032	0.032	0.032	
13 Cerrigroes	LD1 6EU	303496 261335	P/2009/0414	0.007	0.007	0.014	0.011	0.007	0.011	0.007	0.018	0.014	0.007	0.018	0.014	0.007	0.018	0.014	0.014	0.014	0.014	
14 Nantglas church	LD1 6PD	299159 264193	P/2010/1086	0.007	0.007	0.014	0.011	0.004	0.011	0.004	0.046	0.028	0.004	0.046	0.028	0.004	0.046	0.028	0.028	0.028	0.028	
15 Esgarwy	LD1 6PG	307137 268683	P/2013/0736	0.007	0.007	0.014	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	0.007	
16 Pen Bryncennau	LD1 6PT	305195 274545	P/2010/0869	0.018	0.018	0.021	0.014	0.018	0.014	0.014	0.063	0.011	0.014	0.063	0.011	0.063	0.011	0.011	0.011	0.011	0.011	
Total				4.712	1.696	1.950	2.091	0.486	1.020	0.486	3.143	0.703	1.98	3.143	0.703	1.98	0.703	1.98	0.703	1.98	1.98	
Banc Gwyn	LD6 5NG	300283 272216	P/2014/0009	0.067	0.056	0.053	0.035	0.028	0.035	0.028	0.028	0.018	0.04	0.028	0.018	0.04	0.028	0.018	0.018	0.018	0.04	0.04
Total				4.779	1.752	2.003	2.126	0.514	1.055	0.514	3.171	0.721	2.02	3.171	0.721	2.02	0.721	2.02	0.721	2.02	2.02	2.02
Critical Load				5.070	0.600	5.070	1.090	0.840	0.870	0.840	0.490	1.120	1.89	0.490	1.120	1.89	1.120	1.89	1.120	1.89	1.89	1.89
Percentage of acid deposition over Critical Load				94%	292%	40%	195%	61%	121%	61%	647%	64%	106%	647%	64%	106%	64%	106%	64%	106%	106%	106%

Numbers in blue are the acid "Process Contribution" of the 16 poultry units consented since 1 January 2008

The deposition numbers on this page do not include pre-existing background deposition, or consents prior to 2008.

The average acid deposition of these 16 poultry units is 1.98, which is 105% of the average critical load of 1.89.

The proposed broiler unit at Banc Gwyn would contribute an average additional 0.04 acid deposition

The average deposition of acid, including Banc Gwyn, would be 106% of critical load

At two European sites, the deposition of acid from the proposed broiler unit at Banc Gwyn would exceed the 4% of critical level when further modelling is required

Cumulative impact of Acid Deposition by 16 neighbouring units



Cyngor Cefn Gwlad Cymru Countryside Council for Wales

CADEIRYDD/CHAIRMAN: MORGAN PARRY

Anfonwch eich ateb at/Please reply to: Richard Jones

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PRIF WEITHREDWR/CHIEF EXECUTIVE: ROGER THOMAS

Rhanbarth De a Dwyrain / South & East Region

Plas yr Afon/Rivers House

Parc Busnes Llancirwg/St Mellons Business Park

Ffordd Fortran/Fortran Road

Llancirwg / St Mellons

CAERDYDD / CARDIFF

CF3 0EY

Mr S Smith
Head of Planning
Planning Control Section
Council Offices
High Street
Blaina
NP13 3XD

Our Ref: DCT-12-061238/C.09.91.01/RB/CW
Your Ref: SS/C/2013/0062

22 March 2013

Dear Mr Smith

LAND NORTH OF RASSAU INDUSTRIAL, RASSAU, EBBW VALE THE CIRCUIT OF WALES

TOWN AND COUNTRY PLANNING ACT 1990

Thank you for your consultation of the 20 February regarding the above 'Circuit of Wales' application.

The Countryside Council for Wales (CCW) objects to the application and recommends that it be refused.

CCW note the information that has been provided within the Environmental statement and supporting documents. Whilst we appreciate the nature and scale of the proposal is likely to bring positive benefits in terms of economic regeneration to the area, we are of the view that a development of this nature in this location would result in significant environmental impacts. The proposed development is located on an area of open moorland which is adjacent to the Brecon Beacons National Park. The proposal will have an adverse effect on the heritage and special qualities of this national landscape designation.

Our reasons for our objection are outlined below.

PLANNING POLICY

The proposal we believe is contrary to National Planning Policy. The ES concludes that the proposal is consistent with and will have a positive impact in terms of those policies which promote economic regeneration (ES para 17.5.). However in terms of environmental policies the main justification appears to be that the proposal has been through an EIA process.



Noddir gan
Lywodraeth Cymru
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Welsh Government

Gofalu am natur Cymru - ar y tir ac yn y môr • Caring for our natural heritage - on land and in the sea

Prif Swyddfa/Headquarters

MAES-Y-FFYNNON, PENRHOSGARNEDD, BANGOR LL57 2DW FFÔN/TEL: 01248 385500 FFACS/FAX: 01248 355782

<http://www.ccw.gov.uk>



Cyngor Cefn Gwlad Cymru Countryside Council for Wales

As the proposal is likely to have significant direct and indirect environmental impacts (as outlined below), CCW are of the opinion it is contrary to national policy in particular PPW para 4.4.3.

We also note that the proposed development is outside of the settlement boundary and not an allocated site within the recently adopted Blaenau Gwent Local development Plan (LDP). The LDP was subject to examination during 2012 and was found to meet the test of soundness.

The proposal is contrary to a number of the policies within the LDP. For example it would not satisfy the following policies of the LDP;

Policy SP10 and 11 - The nature and scale of the proposal would not protect or enhance the Natural or the Historic Environment.

Policy DM14 – The proposal would be at variance with this policy which is aimed at promoting Biodiversity Protection and Enhancement.

BRECON BEACONS NATIONAL PARK

This is a proposal for a major development immediately adjoining the Brecon Beacons National Park (BBNP), a national landscape designation.

The protection and conservation of national parks is enshrined in planning policy and various strategic documents. Planning Policy Wales Section 5.3.6 states:

‘ National Parks must be afforded the highest status of protection from inappropriate developments. In development plan policies and development management decisions..... In National Parks and AONBs, development plan policies and development management decisions should give great weight to conserving and enhancing the natural beauty, wildlife and cultural heritage of these areas.

In terms of development proposals adjacent to the Park , the Brecon Beacons National Park Authority (BBNPA) Unitary Development Plan (UDP), as adopted in March 2007 that is of relevance to landscape character and visual amenity:

“If the special qualities of the National Park are to be protected, careful control needs to be exercised over development that straddles the Park boundary or is conspicuous from within the Park. The NPA is consulted by neighbouring planning authorities on applications likely to affect the Park.... “



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CCW have considered the likely impact on the National Park under the following headings.

i) Landscape and Visual

The site is on upland moorland that is common land. The boundary with the BBNP in this locality is only a line on a map, the contiguous large expanses of common land moorland within the BBNP continuing over Mynydd Llangynidr and Mynydd Llangatwg. This moorland is spread across a gently undulating visually connected tranquil plateau that dips to the south and will have direct views from many locations of the proposed motor racing circuit and its ancillary buildings and associated structures and activities.

We note from the Landscape and Visual Impact Assessment (LVIA) undertaken as part of the ES has concluded that 5 of the 15 viewpoints were considered to observe a significant level of effect on visual amenity as a result of the construction of the Circuit of Wales. Three of these are directly located within the National Park (Mynydd Llangynidr, Mynydd Llangattock and Cairn-y-Bugail).

Although it is appreciated that this is an outline application, the description and analysis of predicted and residual effects in the LVIA do not give enough confidence that they will be as stated in the ES and we feel that tone adopted is speculative with phrases used such as 'likely to be limited.' Moreover it is inappropriate to consider that the screening of one part of the site by a building that forms part of the development will lessen impact. To take one example, the Viewpoint 13 footpath north of Llangyndir reservoir. The ES (p391 13.5.25) recognises the high sensitivity of the receptors (but erroneously given as medium in the summary table 13.11), but suggests that the medium magnitude of effect is not significant. We would suggest that the changes in this view are significant and adverse. No allowance has been made for the sequential views experienced by users of Public Rights of Way and open access land adding to the magnitude of effects. We also disagree that seeing the construction elements of the proposal within the context of existing built structures (E.g. pylons) lessen the cumulative impact.

No visual assessment of the proposed 12 ha solar PV park on the National Park has been carried out.

CCW is strongly of the view that the proposal will be widely seen and heard from these moorlands and beyond and will have a major adverse impact on the character and special qualities of Mynydd Llangynidr and Mynydd Llangatwg parts of the Brecon Beacons National Park.



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ii) Common Land

Grazing and management practice on common land occurs based on rights owned by farmers surrounding the common, and attached to their farms/fields. The owner of the land may carry out other activities where they do not impact on the use of the common rights. These rights and common practices have developed over hundreds of years since medieval times and have had a fundamental influence on the shape and form of the landscape, of both the commons themselves and the surrounding farms that the rights are attached to.

As part of a process to progress a development, this proposal would involve the release (i.e. termination) of a proportion of the common rights applying to common land Unit CL15. The contiguous commons are grazed by multiple flocks, traditionally shepherded and hefted to a certain part of the hill. It is important to understand that a change on one part of the common can affect the graziers on another part of the common, potentially causing difficulties for the management of the remaining common land.

The Circuit of Wales proposal will also generate additional traffic flows across the commons (see comments on traffic below). For example the Llangynidr mountain road B4560, is an unfenced road over the Common over which sheep roam freely and it is not suitable for an increase in traffic..

It is clear that grazing on these Commons is already precarious. There has been a process of graziers abandoning grazing of the common, due mainly to the increasing age of graziers and/or the profitability of that part of their farming business. Mynydd Llangynidr and Mynydd Llangatwg have also been subject to a series of developments over the years that have destroyed or severed farms on the south of the hill (coal workings, construction of the A465 Heads of the Valleys Road and the Rassau Industrial Estate). CCW is particularly concerned that this has a real likelihood of causing several of the few remaining graziers to abandon grazing, followed shortly by the remaining graziers who turn out on the plateau

Grazing by Commoners on these moorlands is essentially in maintaining the wider landscape and vegetation cover within the Brecon Beacons National Park. The loss of commons grazing both within the area affected by the proposed development and in the wider landscape would have a very significant loss with respect to the strategic objectives of the Brecon Beacons National Park Management Plan with a progressive and permanent change in vegetation and landscape and loss of cultural heritage, common grazing practice having been part of this landscape for many hundreds of years. There would also be implications for Mynydd Llangatwg which is designated as a Special Area of Conservation and a Site of Special Scientific Interest for its heath vegetation (see comments below).



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In addition, the proposed development is situated on a registered urban common where the public have a have rights of access for air and exercise to that land. If built the proposal would result in a significant reduction in the availability of access land for local people and visitors to the area.

iii) Noise and Tranquillity

We note that in paragraph 3.89 of the Environmental Statement Volume 3: Non-technical Summary, it suggests that operational noise will result from motorsport, helicopter, amplified music, building service and traffic but that this is deemed to be acceptable and no mitigation measures are planned apart from a Noise Management Plan to limit the duration and frequency of these activities.

The ES considers noise impacts in terms of the noise generated from the motorsports activities and increased traffic to and from the site in respect of human receptors in the local area. Little reference is made to the effect of noise on the BBNP and how the increased noise will affect its tranquillity qualities. With the prevailing winds being from the South West it is clear that noise will be carried into the Park and will affect walkers on Mynydd Llangynidr, Mynydd Llangattock and Cairn-y-Bugail.

As a result, CCW are concerned that the proposed development in this location will have a negative impact on the tranquillity qualities of the BBNP.

iv) Lighting

The BBNP has recently been granted prestigious International Dark Sky Reserve status making it Wales' first International Dark Sky Reserve.

The ES states that the less than half of the site will require lighting and the effects of lighting can be mitigated for through appropriate design and lighting types. We are concerned that a development of this scale and nature with the various motor circuits, hotels, retail and business centres would inevitably require security lighting at night and other lighting when operational. The likely effects particularly on the BBNP have not been fully assessed.

v) Traffic

In use, the intention is to attract up to 90 000 thousand motor racing enthusiasts to watch events and use facilities, most of whom will enviably drive to the site. It is very likely that motorists from the north will travel to and from the site via Llangynidr and the B4560 rather than using the upgrade Heads of the Valleys Road. The traffic generation will therefore increase on the Beaufort, Llangynidr (B4560) and Llangattock roads, as a result and some will use their spare available time in the area to visit near by places. The additional traffic volumes and noise generated within the BBNP will erode the public enjoyment of the national park landscape, particularly in the more tranquil parts affected.



There is also a likelihood of increased traffic impacting on grazing practice on Mynydd Llangynidr and Mynydd Llangatwg, with significant consequences to the Brecon Beacons National Park landscape and the long term management of biodiversity, including the heath land within the Usk Bat Sites Special Area of Conservation.

HISTORIC AND LOCAL LANDSCAPE

i) Historic Landscape

The proposal will have a direct impact on 4 Historic Landscape Character Areas (HLCAs) classed from severe to very severe. The HLCAs are:

Trefil TramRoad

Nant Milgatw Fieldscape

Nat Milgatw Uplands

Twyn Bry-March Bronze Age Funerary Landscape

Also a moderate impact (in terms of non-physical indirect visual effect) on 2 landscapes listed on the Register of Historic Landscapes in Wales:

Blaenavon

Gelligaer Common

The ES concludes that the impact on historic landscape is acceptable despite the ES concluding that there would be moderate to very severe impact on HCLAs and two nearby registered historic landscapes. a generally tries to play down the impact of the development on historic landscape.

ii) Special Landscape Area

The proposal lies within and would have a significant adverse effect on the Trefil and Garnlydan Special Landscape Area (Blaenau Gwent). The March 2009 Blaenau Gwent SLA Proposals Final Report identify that the primary landscape qualities and features include:



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- Essentially part of the Brecon Beacons landscape
- Fine contrasting panoramic views, north to Pen-y-Fan, south across the Heads of the Valleys
- Remote, large scale, bleak and generally tranquil.

The open upland common land part of the SLA is a continuation of the Mynydd Llangynidr and Llangatwg moorlands.

USK BAT SITES SAC

The heath land on Mynydd Llangatwg is a designated feature of the Usk Bat Sites SAC , with the consequent legal requirements under Section 61 of the Habitats and Species Regulations 2010 (as amended) to assess impact of proposals likely to have a significant effect on the SAC.

The ES does not identify the potential for significant impact and further consideration is needed prior to determination to assess the traffic flows that will be generated across these commons and the extent to which they will compromise future grazing. This would need to involve discussion with the graziers. CCW advise that the planning authority should assume that the impact on the Usk Bat sites SAC heath land feature on Mynydd Llangatwg is significant until such time as objective information on traffic flows and any other matters that could reasonably affect grazing over the commons are available and can be assessed further with respect to impacts.

Allied to the above, the effect of nutrient deposition from vehicle emissions from the increased traffic likely to be using the B4560 on the SAC habitats has not been assessed.

BIODIVERSITY

The proposed development would result in the loss of some 200 ha of moorland habitats including BAP priority habitats. This would result in a significant loss of biodiversity although as the extent of individual habitat loss is not quantified it is not possible to determine the exact nature of this loss.

However, the ES states that during the construction phase there will be a significant loss of upland heath (H18c), flush/mire (M6c), mire and Purple Moor Grass pasture (M23b) vegetation communities. These are all BAP priority habitats.

CCW note that circa 139 ha of moorland immediately to the west of the site will be managed for its upland habitat as compensation but again no details of individual habitats are provided to allow assessment on how this land may compensate for the loss of habitats on site. Also the ES states that the northern part of the application site, north of the gas mains, will not be within the development footprint and will be managed to improve the condition of its upland habitats through Common Management Plans.



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The mitigation for habitat loss outlined in the ES is to improve the quality of the habitat both within the site not directly affected by the development and for areas outside of the application. However, this mitigation is not secured or quantified.

The ES also identifies that there will be a significant effect on upland breeding birds, reptiles and invertebrates.

CCW are of the view that loss of habitats and species associated with these habitats is likely to be substantial and the ES has not shown that this can be adequately mitigated.

SUSTAINABILITY AND CLIMATE CHANGE

The main issue is loss and disturbance to peat and peaty soils. The ES states that approximately 24% of the development supports peat over a depth of 0.5m with a max depth recorded of 1.7m.

Because of the nature of the development and the need to reconfigure the site for the racing tracks and associated developments, the majority of the peat (235.16 ha/703, 453 cubic metres) would be removed and dewatered (to be used for on-site landscaping or sold for horticultural industry).

CCW regards the potential damage to peat land habitats and carbon stores a key environmental issue. Development on peat has the potential to directly damage peat which this proposal would do but also indirectly through the effects of changes to site hydrology leading to drainage, drying out and subsequent oxidation of peat. The proposed area of the development is the source for both the Rivers Sirhowy and River Ebbw and the ES acknowledges that in terms of impact on habitats one of the most significant would be on watercourses within the site.

The ES calculates that 10,500 tonnes of carbon dioxide would be released as a result of the construction and haulage activity. This figure does not take into account the contribution from the operation of the development both from motorsport activity itself and the increased traffic generation that would result from people accessing the site.

CCW advise that to accurately determine greenhouse gas emissions, the Scottish wind farm carbon calculator is used. It has an up to date set of references and uses emissions equations (derived from the ECOSSE study) for carbon dioxide and methane that are able to take into account site-specific factors such as site temperature and pH - much more appropriate than the Tier 1 accounting procedure used in the present analysis. The calculator has been developed over a number of years to aid the preparation of figures on the carbon impacts of development on peatlands.

<http://www.scotland.gov.uk/Topics/Business-Industry/Energy/Energy-sources/19185/17852-1/CSavings/CC-271>



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The extraction of peat from the site and its supply to the horticultural industry is assumed to have no carbon emissions, as these emissions should be accounted for by the horticultural industry, rather than this development. CCW is concerned that on account of this fact and that the calculations do not take account of those emissions generated from the operation of the site, the figures presented do not accurately represent the true amount of greenhouse gas emissions likely to be released as a result of this proposal.

The ES claims that with good biodiversity management of sequestering habitats and proposed offsetting measures, the carbon dioxide releases can be mitigated in the long-term however there is not sufficient information to substantiate this claim.

In addition, measures to offset the release of carbon dioxide include better management of unaffected habitats within and adjacent to the site to allow better carbon sequestration and tree planting. However, CCW believe this would only offset a very small part of the carbon release (circa 3%). In the worst case scenario where managed peat soils have no or little sequestration capacity it would take 89 years to offset the anticipated carbon dioxide release (ES para 11.7.3).

CCW are strongly of the view that the loss of peat soils and associated release of greenhouse gases is unacceptable.

CONCLUSION

For the reasons outline above, CCW objects to this application and recommended that it be refused.

Should your authority be minded to approve this application however, in order that all environmental impacts of the proposed development can be fully assessed, we advise that additional survey work and assessments are carried out prior to determining the application in the following areas:

- An assessment of the effects of noise on the tranquillity of the BBNP
- An assessment of the landscape and visual effects of the 120 000m² of solar panels on the BBNP.
- An assessment of traffic coming through the national park and over Mynydd Llangynidr, in particular an assessment of the emissions on the heath vegetation feature of the Usk Bats Sites SAC
- Further work to demonstrate how the loss of Biodiversity Action Plan habitats will be mitigated / compensated.
- Further work to assess the greenhouse gas releases associated with construction and operation of the proposed development.



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Finally, we are minded to write to the Welsh Government to advise them that we consider this application raises planning issues of more than local importance and recommend that it be called in for their determination. We are of the opinion that issues of significance in this context are;

- Departure from national planning policy
- The implications for the Brecon Beacons National Park
- The loss of Biodiversity including BAP habitats and peat soils resource

If you require further information or clarification in relation to our objection please feel free to contact us.

Yours sincerely

Chris Uttley
Regional Operations Manager
Uwch-reolwr Gweithrediadau Rhanbarthol



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