

**Y Pwyllgor Deisebau
Petitions Committee**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Alun Ffred Jones AM
Chair of the Environment and
Sustainability Committee
Welsh Government
Tŷ Hywel
Cardiff Bay
CF99 1NA

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

Our ref: P-04-575

October 2014

Dear

Alun Ffred

The Petitions Committee is currently considering the following petition submitted by Bethany Walpole which collected 1008 signatures:

Petition: P-04-575 Call in All Opencast Mining Planning Applications

We call upon the National Assembly for Wales to urge the Welsh Government to call in all opencast mining planning applications over 10 years duration or over 350 hectares in size because the implications of these developments are far reaching and long standing with effects beyond the immediate locality.

At our meeting on 7 October, the Committee considered the attached correspondence from Carl Sargeant, in his previous Ministerial role, and from the Petitioner. I attach copies of this correspondence for your information.

The Committee agreed to seek the Minister's views on the petitioners' comments and thereafter, consider reporting on the petition to the Assembly so that the matter can be debated in plenary as requested by the petitioners.

We also agreed to draw the petition to the attention of Environment and Sustainability Committee and ask whether the general issues underlying the petition are ones that your Committee might consider looking at in more depth as part of its forward work programme.

Bae Caerdydd / Cardiff Bay
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Ffôn / Tel: 029 2089 8242
E-bost / Email: Petition@wales.gov.uk

I would be grateful if you could draw this letter to the attention of the Committee and let me know their views.

I would be grateful if your response could be sent to the Clerking team at Petition@Wales.gov.uk.

I look forward to receiving your response.

Yours sincerely



William Powell AC / AM
Cadeirydd / Chair

Enclosures:

- Correspondence from the Minister for Housing and Regeneration dated 7 September 2014;
- Correspondence from the Petitioner dated 30 October 2014.

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref P-04-575
Ein cyf/Our ref CS/01115/14

William Powell AM
Chair Petitions Committee

committeebusiness@Wales.gsi.gov.uk

7 September 2014

Dear Bill,

Thank you for your letter of 14 August, on behalf of the Petitions Committee, in which you seek my views on the petition from the United Valleys Action Group calling upon the National Assembly for Wales to urge the Welsh Government to call in all opencast mining planning applications over 10 years duration or over 350 hectares in size because the implications of these developments are far reaching and long standing with effects beyond the immediate locality.

The Welsh Ministers' power to call in applications for planning permission is a discretionary power and the Welsh Government's policy on the exercise of that power is that development proposals are generally best determined locally by planning authorities which know their area, its needs and sensitivities and that the Welsh Ministers do not interfere with local planning authorities' jurisdiction unless it is necessary to do so. The Welsh Ministers' power to call in planning applications is used selectively and each application is looked at individually. The decision on call-in must be made in the light of the facts and circumstances of the particular case and the Welsh Ministers must not fetter their discretion by the rigid application of any particular policy towards such cases.

Planning Policy Wales advises that call-in is generally only considered appropriate where an application raises planning issues of more than local importance and it provides six examples of situations in which call-in could be considered appropriate, namely where the proposals

- are in conflict with national planning policies;

- could have wide effects beyond their immediate locality;
- may give rise to substantial controversy beyond the immediate locality;
- are likely significantly to affect sites of scientific, nature conservation or historic interest or areas of landscape importance;
- raise issues of national security; or
- raise novel planning issues.

I acknowledge the petitioners have considered those situations by referring to the implications of the proposals they are concerned with being far reaching and long standing with effects beyond the immediate locality. For the reasons given above, however, the question of whether a proposed development is likely to have such effects is one that must be considered and answered on the facts and circumstances of each case.

It is also important to bear in mind that call-in is not concerned with the question of whether or not the proposed development should be granted planning permission but with the question of who should take that decision. In considering whether to call in a planning application the planning merits of the proposed development are not taken into account. Nevertheless, it is necessary to identify the nature and scope of the issues raised in the application in order to determine who the decision maker should be. This then enables the Welsh Ministers to consider whether the local planning authority has identified the national planning policies and legislation/directives relevant to those issues and, if so, whether it has assessed those issues in a reasonably robust way, using up to date methodology and knowledge.

If the local planning authority has not, then the Welsh Ministers may consider calling in the application so that the relevant issues may be considered by an independent Planning Inspector, who will provide a report for the Welsh Ministers detailing his/her consideration of those issues and a recommendation as to whether or not planning permission should be granted. If the local planning authority has, it is unlikely the Welsh Ministers would call in the application as the relevant issues had been addressed and the weight to be attached to those issues would more appropriately be a matter for the authority.

The petitioners have referred to applications for planning permission for opencast mining but the Welsh Ministers already have in place a system which enables them to have planning applications for this, and other, particular types of development referred to them, thereby providing them with the opportunity to consider whether or not they should exercise their discretionary powers and call in those applications. Under the provisions of the Town and Country Planning (Notification) (Wales) Direction 2012, applications for planning permission for minerals development, which, for the purposes of the Notification Direction means development which

- (a) consists of or includes the winning and working of minerals;
- (b) is to be carried out at a new site or an extension to an existing site; and
- (c) does not accord with the provisions of the development plan in force in the area where the application site is situated,

and which the local planning authority does not propose to refuse, must be notified to the Welsh Ministers. In considering whether to call in an application referred to them under the Notification Direction the Welsh Ministers will apply the same principles identified above, namely whether the local planning authority has identified the national planning policies and legislation/directives relevant to those issues and, if so, whether it has assessed those issues in a reasonably robust way, using up to date methodology and knowledge.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized cursive 'C' followed by a vertical line.

Carl Sargeant AC / AM
Y Gweinidog Tai ac Adfywio
Minister for Housing and Regeneration



United Valleys Action Group (UVAG)
c/o Terry Evans
30/9/2014

Steve George
Clerk to Petitions Committee
Welsh Assembly Petitions Committee
Welsh Assembly
Cardiff Bay
Cardiff
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**Re-United Valleys Action Group (UVAG) Views to
Petition Committee on Ministers response to
P-04-575 Call in on all Opencast Mining Applications over
10 years Duration or 350 Hectares in Size.**

Petitions Committee

UVAG's initial view to the response of the Minister is that again it is not the Minister's response to this petition, but the Minister's official's response, where they are just stating the conditions required for a 'call in'.

A responsible Government should consider all opencast applications of over 10 years or 350 hectares in size because

The long term economic viability of opencast mining is very uncertain. Is there likely to be a market for coal in 10 years time? The need for coal is diminishing rapidly, so the demand for coal beyond 10 years will be greatly reduced and cannot be predicted with accuracy. Emission controls alone could kill off the coal industry by making its use not financially viable

Climate change is now accepted by nearly all countries in the world that CO2 emissions must be reduced drastically, burning of fossil fuels is one of the biggest contributors to climate change and is being reduced by all countries

drastically, the Welsh Government must decide on all opencast over 10 years because they should take into account climate change and what the rest of the world's policy is on fossil fuels will be, this is to ensure there is a market for coal, local authorities do not have the necessary knowledge or responsibility to make this very important decision only the Government.

Following on from this, is the 'failure to restore opencast sites', Welsh Government needs to look at what has happened in Scotland, the Welsh government as done research on this and produced a report and therefore should understand the importance of this. The report is at

- 1) <http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/failure-to-restore-opencast-coal-sites-in-south-wales/?lang=en>

Again for this reason the Welsh Government should 'call in' all opencast mining applications over 10 years' duration or 350 hectares in size, because they could be left with a Scottish scenario of un restored sites.

All restoration bonds should be set by the Welsh Government as they are crucial to safeguarding the public purse

Local Authorities do not have the resources, skills or knowledge to handle applications of this size, with regards to Ecology, Hydrology, Biodiversity, Health and European Law; they rely on the applicant's evidence which is unacceptable behaviour

Normally with applications of opencast mines of over 10 years duration or over 350 hectares in size, there will be massive financial incentives under the name of community benefits which will be offered to the local authorities. In this time of austerity and government cutbacks these financial benefits can be of such a magnitude that the local authority's decision will be blinkered or clouded. The Welsh government should determine these planning applications so that the correct decision is made.

Finally there is a very strong risk that local authorities would be legally challenged on their decision, further adding to the costs of handling the application.

UVAG would like to see this petition progressed with the view of having a very important plenary debate on it to urge the Welsh Government to implement the petition.

Terry Evans
Chair, United Valleys Action Group (UVAG)