

John Griffiths AC /AM  
Gweinidog yr Amgylchedd a Datblygu Cynaliadwy  
Minister for Environment and Sustainable Development



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref P-03-309  
Ein cyf/Our ref JG/06216/12

William Powell AM  
Chair Petition's committee

committeebusiness@Wales.gsi.gov.uk

27 June 2012

*Dear William,*

Thank you for your letter requesting that I examine whether the planning processes for the Cardiff incinerator were correctly followed, and your follow up letter of 14 June requesting that you consider the weight of support for the petitions against incineration. I can outline the position now reached in relation to this case but I should make it clear from the outset that I am not at liberty to undertake the investigation which you request and this fact is not altered by the weight of support gathered by the petitioners.

Given the statutory role of the Welsh Ministers in the planning process, and that the matter may come before me at some point in the future, it would not be appropriate for me to comment on the merits of this, or any specific case.

Generally, complaints about the delivery of the planning service at a local level should, in the first instance, be directed to the local planning authority, initially to the authority's Chief Planning Officer, and subsequently to the authority's Monitoring Officer. If, having exhausted these lines of complaint, the complainant's concerns have not been addressed, then they may wish to take up the matter with the Public Services Ombudsman for Wales, who can investigate complaints of personal injustice that have arisen through maladministration. These channels have been utilised in this case and it is a matter for the local planning authority to now consider the implications of the investigation undertaken by the Ombudsman.

It is important to understand that whilst the Ombudsman can investigate the administrative process that informs decisions on planning applications, he cannot investigate or overturn planning decisions. Any challenge, by a third party, to overturn a planning decision could only be sought as a result of Judicial Review and anyone considering this course of action should seek their own legal advice. Otherwise, once a planning permission has been granted, it can only be taken away by statutory revocation. Revocation is, in the first instance, a matter for the local planning authority, using powers in the Town and Country Planning Act 1990 (as amended).

Welsh Ministers, however, have reserve powers to propose making an order, but these would be likely to be used in only the most exceptional circumstances and the general principle and policy which has been followed by successive Governments is that these default powers should only be used *if the original decision is judged to be grossly wrong, so that damage would be done to the wider public interest*. Your committee will also wish to note that the use of Welsh Ministers default power would only be considered after the local planning authority has explored whether they would revoke the permission.

Yours,



**John Griffiths AC / AM**

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