

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Amgylchedd a Chynaliadwyedd
NRW 2015 – 89
Cyfoeth Naturiol Cymru – Craffu Cyffredinol 2015
Ymateb gan Ymddiriedolaeth Natur Gwent (Saesneg yn Unig)

Dear Sir/Madam,

Gwent Wildlife Trust welcomes this opportunity to submit comments to the Committee's annual scrutiny of Natural Resources Wales (NRW).

Whilst our broader comments on NRW's performance have been incorporated within the submission from Wildlife Trust in Wales, we have felt it important to submit specific comments on the issue of Circuit of Wales. In particular, we felt that it was important to highlight our concerns over NRW's role and its functions within the March 2015 Public Inquiry into the proposed Commons Deregistration (Section 16) held in Ebbw Vale. We hope that our comments are useful.

Circuit of Wales Planning Process:

The original CCW response raised several objections and recommended refusal:

'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.'

'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.'

'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.'

The proposal lies within and would have a significant adverse effect on the Trefil and Garnlydan Special Landscape Area (Blaenau Gwent).

'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.'

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

'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'*

NRW initially appeared to maintain their objection, but stated a willingness to work with the developer – *‘On 12th June, NRW confirmed their objection but expressed a willingness to work with the applicants to address areas of dispute. They requested a more accurate survey of the site and that the mitigation area be larger to compensate for the impact. If these two issues could be addressed, then subject to there being no European Protected Species on site they consider their concerns would be alleviated and they would work to agree a suitable management strategy with the applicants and the Council.’*(Circuit of Wales Officer Report for Planning Committee para 19.7)

The extent of the peat loss was later found to be less than originally thought, but we believe that the detailed peat study was carried out after the planning decision, so there was no way it could have informed the NRW decision.

Sadly, the planning committee didn’t even discuss the biodiversity issues. The officer report implied that as the developer and NRW were ‘in talks’ the matters could be resolved.

Circuit of Wales Public Inquiry (Commons Deregistration – Section 16) March 2015

- At the start of the PI NRW’s legal representative stated that NRW was not objecting to the Section 16 Application from CoW developers.
- At the start of PI NRW and developer (CoW) produced an MOU.
- The MOU was in draft form throughout the PI.
- The fact that a draft MOU was in place and being worked on throughout the PI meant that GWT were denied access to and questioning of NRW witnesses (NRW staff and contractors)
- GWT were not happy with this – not least because the MOU was not signed off for the duration of the PI (it was signed off on the Final Day of the PI).
- This prevented GWT from fulfilling its charitable objectives because NRW witness’ concerns were only scrutinised by the CoW Applicant and NRW’s legal representatives. The scrutiny was ineffective in GWT’s view.
- In GWT’s view, this seriously narrowed the exercise of public scrutiny and undermined the scientific credibility of the PI in key areas.
- Each of the NRW witnesses had submitted serious reservations and problems concerning the ecological mitigation – these were actively pushed to one side because NRW were not objecting.
- The NRW witnesses were prevented from asking questions of the CoW developer, their ecologists and consultants.
- CoW developers submitted mitigation proposals that claimed full biodiversity offsetting. However, there was no methodology or data supplied to back this assertion. NRW did not respond to this. Serious lack of scientific analysis resulted. A very poor precedent set for any future dialogue over ‘biodiversity offsetting’.
- The Ecology Management Plan (EMP) presented by the CoW developer had been written with NRW support (in an unidentified form). This not only brought into doubt NRW’s independence, but led to serious concerns because the EMP was poorly written and based on insufficiently and inappropriately surveyed data.
- Nothing within the CoW EMP made reference to ecosystem approach, ecosystem services, or landscape ecological connectivity (all stated NRW objectives). NRW made no comment whatsoever on these serious omissions.

- The EMP and mitigation proposals from the CoW developer gave little, if any, attention to hydrological issues, water quality or flood/flow management. The CoW development will permanently remove 250ha of upland habitat. That such habitat forms the source of clean water within the relevant catchments was not mentioned by NRW within the PI. The various proposed attenuation ponds associated with CoW are not isolated from racetrack drainage – this represents a serious water pollution hazard that was not commented upon by NRW during the PI – this may have Water Framework implications.
- NRW's comments on peat destruction associated with the CoW were not forthcoming during the PI. At a time when NRW is disbursing public funds elsewhere within Wales to conserve and enhance peat bog, the loss of 700,000m³ of peat should have been discussed by NRW at the PI. It was not – this may have serious Habitat Directive implications.
- NRW's legal team presented closing remarks on the 5th day of an 8-day PI – before GWT or any other Objectors had given any evidence whatsoever – this came across as contemptuous.
- In sum, in the face of a 'silenced' and inadequate response from NRW, GWT felt that it was doing the job of a statutory environment body within the PI. GWT felt that it was the only body within the Inquiry that was asking serious and critical questions of the CoW developers. In GWT's view, NRW's apparent acquiescence seriously undermined the efficacy of the PI process. It stymied public scrutiny and made the Planning Inspector's job harder than would otherwise be necessary.
- GWT's opposition to the Commons Deregistration/CoW development was maintained on the basis of the precautionary principle. NRW's apparent acquiescence and our exclusion from access to NRW witnesses meant that we had no option but to maintain this position to the bitter end of the PI.
- If the Planning Inspector finds in favour of Commons Deregistration on the basis of such low-quality and ambiguous EMP and ecological mitigation plans then it sets a very dangerous precedent for future development and planning processes within Wales.
- The effectiveness of NRW within this process was of such a low degree that it was barely discernible.
- The role of NRW within this process was ambiguous.
- Should NRW repeat this performance in the future, then the threat to NRW's future credibility, integrity and independence remains very high in the view of GWT.

Conclusion

GWT has a proud track record of working in partnership with statutory environment bodies within Wales. We have not always agreed with the decisions made by such bodies, nor would we expect to agree on all occasions. We are, nonetheless, convinced of the vital importance of a fully functioning and independent statutory environmental body. We would argue that such a body (or bodies) should be fully resourced in order to advocate and promote best environmental and ecological practice, and to enforce environmental legislation and standards where appropriate.

Our experience of NRW's work as it has unfolded around the Circuit of Wales development suggests that many of these desirable qualities of a statutory environmental body are currently under threat from an agenda that is pushing NRW too far towards uncritical acceptance of a pro-development

agenda. Despite various meetings and conversations with senior NRW staff the causes of this cultural shift are unclear. If this shifting agenda continues to define the work of NRW to the exclusion of well-tested environmental and ecological concepts and processes, then the wildlife and ecosystems of Wales will face increased risks of permanent damage and loss.

Ian Rappel, CEO, Gwent Wildlife Trust

Sorrel Jones, Conservation Officer, Gwent Wildlife Trust

Document evidence enclosed:

Original CCW objection to the Circuit of Wales development

Subsequent NRW comments regarding the Circuit of Wales development

Officer report (recommending approval) for the Circuit of Wales development

Unfortunately, we do not have an electronic copy of the MOU between NRW and the Heads of the Valleys Development Company (HotVDC). This may be available from NRW, HotVDC, or the Planning Inspectorate (PINS).