



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

**Pwyllgor Deddfwriaeth Rhif 1
Legislation Committee No. 1**

**Dydd Iau, 29 Ionawr 2009
Thursday, 29 January 2009**

Cynnwys
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Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales)
Measure: Stage 1, Evidence Session 2

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Rosemary Butler	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Irene James	Llafur (yn dirprwyo ar ran Ann Jones) Labour (substitute for Ann Jones)
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives
Janet Ryder	Plaid Cymru The Party of Wales
Joyce Watson	Llafur (yn dirprwyo ar ran Huw Lewis) Labour (substitute for Huw Lewis)

Eraill yn bresennol
Others in attendance

Dr Huw Jones	Prif Weithredwr, Cyngor Chwaraeon Cymru Chief Executive, Sports Council for Wales
Rhodri Edwards	Rheolwr, Meysydd Chwarae Cymru Manager, Fields in Trust Cymru
Rebecca Mattingley	Uwch Swyddog Ymchwil a Gwerthuso, Cyngor Chwaraeon Cymru Senior Research and Evaluation Officer, Sports Council for Wales

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Claire Griffiths	Dirprwy Glerc Deputy Clerk
Bethan Roberts	Cynghorydd Cyfreithiol y Pwyllgor Legal Adviser to the Committee
Liz Wilkinson	Clerc Clerk
Graham Winter	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

Dechreuodd y cyfarfod am 12.59 p.m.
The meeting began at 12.59 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Rosemary Butler:** Good afternoon, everyone, and welcome to this meeting of Legislation Committee No. 1.

[2] I have received apologies from Ann Jones and Huw Lewis. Irene James will be substituting for Ann, and Joyce Watson will be substituting for Huw.

[3] I remind Members that this is a bilingual meeting and that you can speak in the language of your choice. On the headphones, translation is available on channel 1 and

amplification is available on channel 0.

[4] Please do not touch the microphones when you want to speak, because they are activated automatically. Please turn off your mobile phones, pagers and any other electronic devices, because they interfere with the broadcasting system.

1 p.m.

**Mesur Arfaethedig Caeau Chwarae (Ymgysylltiad Cymunedau â
Phenderfyniadau Gwaredu)(Cymru): Cyfnod 1, Sesiwn Dystiolaeth 2
Proposed Playing Fields (Community Involvement in Disposal Decisions)
(Wales) Measure: Stage 1, Evidence Session 2**

[5] **Rosemary Butler:** We are here this afternoon to discuss the Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure, which was introduced by Dai Lloyd. We will have two groups before us today—I will not say for interrogation, although it may feel like that sometimes—for questioning, namely the Sports Council for Wales and Fields in Trust Cymru.

[6] From the Sports Council for Wales, I am delighted to welcome Dr Huw Jones, the chief executive, and Rebecca Mattingley, a senior research and evaluation officer. We have a number of questions to put to you, and I will start with the first question.

[7] In your submission, you state that the Sports Council for Wales

[8] ‘supports the principle of a measure that would give more consideration to the protection of playing fields’.

[9] You also emphasise the importance of community involvement in disposal decisions. However, you go on to suggest that this may be achieved by strengthening the existing planning process and observing the recommendations set out in technical advice note 16. Can you expand on that, particularly in terms of how the existing planning process be strengthened?

[10] **Dr Jones:** Thank you, Chair, for the introductory comments; we are delighted to be here. We support the Measure, broadly speaking, but we must also accept that there are alternative means by which the protection of playing fields can be strengthened. Technical advice note 16 has been in gestation for at least six or seven years, and we have been disappointed by the fact that it has not emerged and that this is very much an alternative measure to it.

[11] The situation regarding playing fields is one that we have described as one of flow rather than of stock—I have described it like that previously to Assembly committees. What we have seen is that playing fields come and go, some are built upon and some are developed, so they are not always in place. It is important to recognise that point. I have also told Assembly committees before that I do not believe that there is a major issue in Wales about the protection of playing fields at a strategic level; however, the situation can be very serious at a local level. That is very much where we are coming from. For instance, when a playing field is lost or when something is built on a primary school playing field, that can be very serious for the community. We believe that, on balance, the proposed Measure gives increased protection in those particular circumstances. We must accept that TAN 16, which has been in gestation, does not go quite as far as the proposed Measure, but will place obligations on local authorities, particularly in relation to open-space assessments, to undertake much more supply/demand analysis and assess the implications of the loss of

playing fields strategically across the local authority. However, it will not necessarily address the local issue in a particular circumstance.

[12] **Rosemary Butler:** Would TAN 16 be strong enough to do what you are suggesting?

[13] **Dr Jones:** I do not think that it would be strong enough, but TAN 16 and the open-space assessment would give the community, through the local authority's development of these open-space assessments, a strategic overview of the playing fields situation in the area, enabling the authority to ask whether more or fewer playing fields were needed, and whether there was a balance. That is certainly better than the current situation, so we certainly welcome TAN 16.

[14] The Measure does not look at the strategic impact of what is proposed in the impact statement; it looks at the impact of the loss of one particular playing field, rather than the strategic impact across the authority. That is the main difference, in our view, between the two. The Measure will provide a safeguard regarding the impact of a loss of a playing field to a particular locality or group.

[15] **Rosemary Butler:** On a point of clarification: if the Government's proposal to extend the scope of the definition of 'recreational space' on which you are to be consulted were adopted, and properly enforced, then would the proposed Measure be necessary?

[16] **Dr Jones:** Could you repeat that, Chair?

[17] **Rosemary Butler:** If the Government's proposal to extend—

[18] **Dr Jones:** In TAN 16?

[19] **Rosemary Butler:** I suppose so, yes.

[20] **Dr Jones:** I do not believe that TAN 16 will protect playing fields that are under threat locally. It will protect playing fields by ensuring that, across the authority, there is sufficient supply of playing fields. For example, in a particular local authority, there may be 30 or 40 playing fields, and the authority will be required to undertake an assessment of the clubs and groups that utilise them. Are there too many or too few? How does that manifest itself in the local development plan? What the impact statements in this Measure will not do is look at the strategic impact of the proposed loss of any particular playing field that is under threat. It will look at the impact on that particular school and on those in the locality.

[21] **Rosemary Butler:** In giving evidence to the committee on 22 January, Dai Lloyd AM asserted that there was no direct relationship or interaction between the proposed Measure and the current planning regime. He emphasised that the aim of the proposed Measure is to provide an additional safeguard before a disposal decision is necessary. I believe that he is thinking of the period before additional consultation. Do you agree?

[22] **Dr Jones:** Yes.

[23] **Ms Mattingley:** We cannot envisage many occasions when there would be a disposal of playing fields that would not involve the planning process at some stage. So, the two are linked anyway; they are very close, and it is difficult to see much of a difference between them.

[24] **Rosemary Butler:** Eleanor, I am sorry—I skipped over your question.

[25] **Eleanor Burnham:** In its written evidence to the committee, the Welsh Local

Government Association strongly opposed the proposed Measure, as I am sure you know, and argued that the current planning regime is effective in protecting playing fields and enhancing outdoor sports facilities. In doing so, the WLGA asserts that the Assembly Government and the Sports Council for Wales also have considerable powers to directly influence the planning outcome. What is your response to that?

[26] **Dr Jones:** I would not agree totally. We certainly do not have any direct powers. Any powers that we have are powers of statutory consultee status. We do not have any further powers of intervention or regulation.

[27] The issue here is a political one, in terms of what the Assembly, as a body, wants to achieve. Is it the strategic issue, or the protection of local playing fields? That is the difference between the Government's proposal in TAN 16 and this proposed Measure—they seek to measure different things. I do not think that the current planning system affords that protection, particularly in local circumstances, and I am sure that all Members around the table will have had instances in their own communities where a primary school playing field has been under threat and a decision has been made that was in the best interests of the local authority, because it has taken into account the bigger planning issues. That is then a political balance, and is for others to decide.

[28] **Janet Ryder:** Could I ask a supplementary question on that? You said that you were a statutory consultee. How often are you asked in that role about fields that will be changed? Are you given plenty of time to respond under the present system, and is that system working?

1.10 p.m.

[29] **Ms Mattingley:** I worked out that, over the past five years or so, we have received about 42 applications a year on average. However, we are aware of several, having been alerted later, on which we have not been consulted at all. When we are lucky enough to hear about them, we follow it up with the local authority. Other times, we hear afterwards that a disposal might have gone ahead without our being made aware of it at all. So, sometimes it works, and it has improved very much in recent years. We are often consulted by local authorities even before they get to the planning process, which is very helpful for us, but there are occasions when it does not quite work.

[30] **Dr Jones:** The honest answer is that it is variable. Some local authorities, as Becca has said, will come to us very early on, even before the planning stage is reached. Others will send us a list of literally all of the planning applications that they have before them as an authority and ask us to pick out the ones that relate to us. Others may not consult us at all, so the picture is very variable.

[31] **Eleanor Burnham:** In view of the imminent proposed revision of TAN 16—which you said earlier was in the gestation phase and is an ongoing scenario—could the introduction of this proposed Measure be seen as premature?

[32] **Rosemary Butler:** I know that you expanded on that before, but could you just clarify things for Eleanor?

[33] **Dr Jones:** Certain people may consider it to be premature, yes, because the revision of TAN 16 has not emerged. You could look at the situation and say that we should give TAN 16 a chance and that, if it does not work, we should then introduce a Measure. However, TAN 16 has been in the gestation phase for six or seven years at least and has yet to emerge, which is hugely disappointing. There was some considerable concern in the culture committee over the years about the situation regarding playing fields.

[34] We also need to consider the status of documents such as TAN 16. Many years ago, because the planning system was very much England and Wales based, we had planning policy guidance documents for Wales. PPG 17 related to sport and recreation. This guidance was issued by the then Department of the Environment, so it was very much the same in England as in Wales. John Redwood, when he was the Secretary of State for Wales, decided that the planning system needed to be deregulated, so he decided to slim down things such as planning policy. He wanted PPG documents to be replaced by technical advice notes, which actually had a lower status. Therefore, there is an issue about the status of technical advice notes in relation to the planning system, the question being whether it is guidance that you would normally expect a local authority to follow, unless it has very good reason not to, or something that they can consider but which they do not have to consider if they do not like it. That issue is of fundamental importance.

[35] **Eleanor Burnham:** Finally, do you think it would be more sensible to have a better understanding of the impact of the proposed revisions to TAN 16 before deciding whether there is a need for further legislation in this area?

[36] **Rosemary Butler:** I think that the witnesses have covered that actually, Eleanor, so if you do not mind—

[37] **Eleanor Burnham:** Well, my question was asked for me and I have tried my best.

[38] **Rosemary Butler:** I am just saying that I think that the last answer covered that point, so we will move on.

[39] **Irene James:** What are your views on the exemptions in section 1(2) of the proposed Measure, which provide that the requirements of the proposed Measure do not apply when the disposal is to a local authority, a registered charity or a body or association whose aims includes sporting or recreational activities? Also, do you agree that an effective consultation process does not have to be very costly?

[40] **Ms Mattingley:** On the first question, I think that we would be happy with the exemptions in section 1(2) because such bodies would be interested in protecting the fields themselves and if there was an intention on their part to dispose of them, that would have to go through the planning process because it would constitute a change of use.

[41] **Dr Jones:** The issue of the costs of consultation is a very different matter. We have some sympathy with the views of the Welsh Local Government Association on that, because the costs could be quite considerable, even in relation to a relatively small open space or playing field. In many instances, we would almost be looking for a situation of reasonableness. If you have a very large area and somebody is proposing to develop a very small bit of it, which would not necessarily impact on what takes place in that area, it might be reasonable to say, 'What do people think?' without doing a massive consultation. If you are talking about the loss of a huge part of that area, it is a different matter. So, it all comes down to reasonableness at the end of the day. There are some safeguards, particularly in terms of some of the stop directions that are mentioned later on. If people were to look at it reasonably but the local authority were not to undertake a reasonable consultation, there are interventions in the stop directions that could be applied.

[42] **Irene James:** And the most important thing is effective consultation.

[43] **Dr Jones:** Absolutely.

[44] **Eleanor Burnham:** Dr Dai Lloyd said that he believed that there would not be any

extra costs—and I was very taken with his observations—because when you consider, according to him, the amount of correspondence that takes place between a local authority and a citizen, you realise that this could be easily incorporated into that kind of regime. He very effectively countered the assertions that there could be vast costs.

[45] **Rosemary Butler:** We can look at that when we have our comparisons.

[46] **Eleanor Burnham:** I just wondered what Dr Jones's comment would be about the fact that those could be incorporated into the kind of stuff that goes out from the council—council tax correspondence and so on.

[47] **Rosemary Butler:** I do not think that that is for the sports council; we can take up costs for local authorities at a later point.

[48] **Nick Ramsay:** I would like to move on to the principal definitions in the proposed Measure, and specifically the definition of 'local authority', which as far as the proposed Measure goes, includes the community council. Concern has been raised about the capacity of community and town councils to meet the requirements set out in sections 3 to 6 of the proposed Measure. In fact, it has been suggested that consideration should be given to excluding community and town councils from the requirements because of the capacity issue. Do you have any views on that?

[49] **Dr Jones:** I have some sympathy with that view. Given the last point, there could be direct and considerable implications for them. The point that Eleanor made about opportunity costs must be borne in mind, but there could be some significant direct costs for a community or town council in relation to this, and you also have to consider their capacity to be able to deal with this, particularly if they only have a part-time clerk or whatever. The issue in deciding whether or not they should be excluded is the issue of how significant their ownership of playing fields is. In my experience, in terms of their ownership and the loss of it, I would not say that it is potentially significant. I certainly would not object if they were excluded from this. Certain authorities in mid Wales have ownership of a number of sports facilities, for example Welshpool authority has ownership of the Armoury Recreation Centre and some of the playing fields, but very few town and community councils would have much more than a bowling green.

[50] **Nick Ramsay:** In your submission, you made several suggestions about the amendments in terms of the definition of a playing pitch. Do you think that the definition of 'playing pitch' as it stands now is sufficiently broad to capture all the sporting and recreational activities that you think should be covered by the proposed Measure?

[51] **Ms Mattingley:** Yes we do. We are pleased to see that athletics has been added, because that was not there before, and golf is also protected now. We are happy that 'playing pitch' has now been reduced to an area of 0.2 ha. All of our recommendations have been taken into account, and we would be very happy with that definition. Perhaps netball should not be included there, because it is not a grass-based sport, but all the others are.

[52] **Nick Ramsay:** You mention netball and, in your response, you made a submission regarding the size of a netball court, which, to get technical for a moment, is 0.05 ha. Are you satisfied with its inclusion in section 2(e)(i), which refers to,

[53] 'a delineated area which... is 0.2 hectares or more'?

[54] From what you said in your previous answer, I think that you are happy with that.

[55] **Ms Mattingley:** Yes.

1.20 p.m.

[56] **Dr Jones:** I think that we could exclude netball because it is mainly played indoors these days. If it is not played indoors, it is played on a hard court area outdoors rather than on a grassed area.

[57] **Nick Ramsay:** So, you are happy for netball to be excluded, but I think that you were concerned about the exclusion of basketball.

[58] **Ms Mattingley:** No.

[59] **Nick Ramsay:** Okay. Finally, in your response to the proposed Measure consultation, you emphasised the need for the definitions of 'playing field' and 'playing pitch' to be consistent with those in the proposed TAN 16, which we spoke about earlier. Can you give some more information on this? Do you think that the definition in the proposed Measure should mirror that in the proposed revised TAN 16? I know that you explained earlier about the difference between TAN 16 and this Measure, but do you think it would help if there was consistency with regard to the definitions?

[60] **Ms Mattingley:** I think so. In the draft TAN 16, it is still 0.4 ha, but I understand that that will be reduced to 0.2 ha, which would bring them back in line with each other.

[61] **Joyce Watson:** We have already talked about TAN 16. In your submission, you acknowledge the work that has been undertaken by the Assembly Government in relation to TAN 16. You go on to suggest that this Measure would create an overlap and an impact assessment and an open-space assessment would be required. Can you explain why you have reached that conclusion?

[62] **Dr Jones:** We presume that TAN 16 would be withdrawn should this Measure be approved. I do not think that there would necessarily be a need for it as well because the need for an open-space assessment and an impact assessment would lead to duplication. Therefore, I presume that the Government would not then include the open-space assessment within TAN 16.

[63] **Joyce Watson:** That is fine. I think that we have covered my next question. So, we shall move on.

[64] Section 3(1)(b) of the proposed Measure requires local authorities in preparing an impact statement to identify the level of demand, including any foreseeable future demand for the use of the playing field in that locality. In practice, how reasonable and practicable will it be for local authorities to meet that requirement?

[65] **Dr Jones:** It is reasonable and it is important. Given Government policy in relation to increasing levels of physical activity, particularly among young people, it is vital that we safeguard existing provision and plan for the increases that are in the pipeline. So, for example, at the moment, in 99 per cent of secondary schools in Wales, we have just put in place part-time organisers through our 5x60 scheme to deliver increased extra-curricular opportunities. That will increase demand for access to playing fields and indoor spaces. It is vital that young people have somewhere to do something in the future, and, as that demand grows, that local authorities bear in mind not only existing use, but the demography in relation to future use as well. We can certainly assist them in that process. We produced a publication some 15 years ago called 'Pitching it Right', which provided guidance about how to assess supply and demand for playing fields: how to assess the number of clubs and what the capacity for playing fields could be, depending on the type of drainage, and therefore

putting the two things together to ascertain what the supply and demand issues are. So, there are one or two challenging technical aspects to it, but they are far from being insurmountable.

[66] **Rosemary Butler:** Eleanor, do you want to come in on this point? I know that you were particularly interested in this subject when we sat together on the Culture, Welsh Language and Sport Committee.

[67] **Eleanor Burnham:** No, but that is very kind of you; thank you. I was writing a note to remind myself to get a copy of that publication, because it seems particularly interesting. I am sure that it is just as relevant now as it ever was. I asked the First Minister a question last week about obesity and so on and it is incumbent on all of us to tackle this because it has reached a serious stage when so many children do not have local facilities.

[68] **Joyce Watson:** In your submission, you raised concerns about how local authorities would meet the requirement in subparagraph 3(1)(c)(ii) to identify the impact of the proposed disposal on the health and wellbeing of residents of the locality generally and of children and young persons in particular. Can you expand on those concerns and how you would like them to be addressed? Is that something that could be provided for in this proposed Measure?

[69] **Dr Jones:** It is reasonable to ask a local authority to assess the supply and demand situation and to assess the potential usage of the provision for young people because we know where children go to schools and we know how many there are at primary and secondary levels and how many teams play in the vicinity. So, that is a collation challenge. However, to assess the health and wellbeing of the removal of a facility on that particular community would be almost impossible, because you would have to be able to control so many factors. You can make some assumptions, but to be able to come up with some sort of categorical assessment would be almost impossible.

[70] **Rosemary Butler:** I think that we have already covered question 11 in our earlier discussions, so could you move on to the next question, Irene?

[71] **Irene James:** In his evidence to the committee, Dai Lloyd suggested that he would consider amending the proposed Measure to require local authorities to send a summary of the impact statement to persons identified in subsection 4(1). What is your view on that and would that address your concerns about the cost to local authorities of meeting section 4 requirements?

[72] **Ms Mattingley:** We were looking at this yesterday and I still think that it would be costly for local authorities to send a summary document out. We looked at the example of Rhymney recreation ground yesterday and even if you just consulted on the four neighbouring wards rather than looking at anyone else who came from another ward to use that facility, over 34,000 pieces of information would have to be sent out, translated and so on and followed up with a decision statement, so we thought that that would be an excessive burden. Perhaps something like a one-page information sheet could be considered, which would go to each household rather than to each person on the electoral register. I am afraid that I do not have any clear solutions to how you could undertake a thorough consultation with the local community without writing to them in some form.

[73] **Irene James:** So you do not think that all good local authorities would have considered doing this already?

[74] **Ms Mattingley:** It would be difficult for them to do so. You mentioned having a reasonable consultation process and talked about what would be reasonable in that situation—it might be reasonable to go that far with a widely used facility, but with a smaller field and a junior pitch, for example, would authorities have to go that far and consult with tens of

thousands of local people?

[75] **Dr Jones:** The planning system works in the sense that people get to know about many of these issues. When there are serious issues that affect communities, people invariably get to know about them. There are times when a local authority is required to make information known, but people who might not otherwise pick up on something will, through word of mouth, be able to find out about it. The timescale in many ways is the important issue for word of mouth to operate reasonably well rather than everyone getting the information and then making personal decisions on whether or not they will respond. Invariably that is done through groups, for example, people getting together and so on, and that works well in terms of the democratic process in this country.

[76] **Eleanor Burnham:** However, there is concern about how people get to know about these things. There is often a huge hue and cry in the local paper that then skews the facts and the proper consultation. For example, my office is around 50 yards from the main road in our village and some bumps were put in it. We were not told of that and yet we were only 50 yards away from it. I inquired about it, not only on my behalf because there was another business underneath me, because surely it does not take much to consult with people.

1.30 p.m.

[77] I think that consultation is extremely important in our democracy because we are having huge issues with newspapers that are turning perfectly innocuous things into the most frightfully negative stories. The council could surely consult, if not by sending a letter to everybody through a normal process as Dr Lloyd suggested, for example when issuing council tax demands, then a meeting could easily be arranged. I certainly think that consultation is an issue. I am intrigued by your negative attitude.

[78] **Dr Jones:** In many ways, Chair, it is not a matter for us. We are really just expressing personal views based on our experiences, but I do not think that it is a matter for us. This is a matter for the committee and particularly local authorities.

[79] **Rosemary Butler:** It is something that we will be considering. Are there any other supplementaries on this, before we move on to Janet Ryder's question? Do you have a supplementary on this, Janet?

[80] **Janet Ryder:** Before I ask the questions that you have allocated to me, Chair, I would like to ask a supplementary on that subject, because it is my understanding that this proposed Measure would introduce a pre-planning stage. By the time that you are brought in as a consultee at the planning stage, it has already been decided that the field is going to be used for something other than what it is being used for now. This is a stage prior to that, to ascertain how the local community values that field, what they think about it and whether they think that it is still necessary—however that consultation is carried out. As this is a pre-planning stage, would that alter any of your responses? In your responses to me, you kept saying, 'When you get to consultation stage', but this will be before that.

[81] **Dr Jones:** The issue then is about how that relates to the planning stage itself. Is there to be a further consultation at the planning stage, having produced a decision document following the initial impact assessment? There could be duplication within that process, if the local authority, through the planning system, has to consult on that. I think that that is something that needs to be looked at very closely.

[82] **Rosemary Butler:** We will be considering that.

[83] **Janet Ryder:** I will move on to my other questions. In your response to Dai Lloyd's

consultation on the draft proposed Measure, you suggested that relevant national governing bodies of sports should be added to the list of statutory consultees that are provided for in the Schedule. Do you still consider that there is a need for those to be added and, if you do, could you give your reasons for that, please?

[84] **Ms Mattingley:** No, I do not think that there is any longer a need because the issue has now been addressed. Point 2 of the Schedule, the consultee list, now includes,

[85] ‘Any sports club, association or other body who make regular use of the playing field’,

[86] and that would include a governing body making use of it, so it is covered.

[87] **Janet Ryder:** So, you now have that.

[88] **Dr Jones:** We were thinking mainly of national issues. I do not think that many governing bodies of sports would have the capacity to be able to comment on what are very localised situations, but there may be situations where a particular development might affect what they do in terms of national or regional competition or whatever, and they may then wish to comment. So, it is just in those particular instances that I think that they would have an interest in this issue.

[89] **Janet Ryder:** What are your views on the suggestion that the statutory consultees identified may have a predisposition to oppose disposal?

[90] **Dr Jones:** You will always have a situation where certain consultees will have certain views, whatever it is, whether it is an issue of sustainable development, playing fields or whatever. That is the reason why you consult individuals. Some might have a positive view, some have a negative view and it is up to people to balance those views. I think that that is absolutely right.

[91] **Janet Ryder:** You were asked a question earlier based on evidence that has been submitted by the WLGA. That evidence has thrown up another question that might be pertinent to you. So, if you do not mind, I will ask it of you. In its written evidence, the WLGA reports that according to data supplied by the Sports Council for Wales, there has been a net gain in playing fields over the past five years at a ratio of 3:1. The WLGA goes on to state that this illustrates that the current planning regime is effective in protecting and enhancing this valuable resource. Would you like to comment on either the data or the WLGA’s assertion?

[92] **Dr Jones:** I will let Rebecca comment on the data. This goes back to the very first question that you asked us. In strategic terms that is why I made the point that I do not think that there is a strategic issue about the loss of playing fields across Wales. When you have a look at the numbers, you can see that they balance out. This issue really arose in the 1980s, in metropolitan areas in England and, arguably, in somewhere like London where land was very scarce and where there was a considerable loss of playing fields because of the value of the land. We have not had that problem, generally speaking. As I said earlier, the issue is that the loss of playing fields can have a serious impact locally; it is more a local issue than a strategic issue. It is not much help to a primary school or a local club that is losing a playing field if someone says, ‘Across Wales, there are more playing fields being built than have been lost.’

[93] **Ms Mattingley:** On the figures that the Welsh Local Government Association supplied, there are 10 disposals and 29 new developments. Of those, the majority are Astro turf pitches and multi-games areas, with grass pitches being lost. There are five new grass pitch developments on which we have been consulted during the past five years. So, there is a

balance to be considered, but you must also take into account that you can get more use out of artificial pitches.

[94] **Eleanor Burnham:** In section 5, consideration of representations, the proposed Measure requires an authority to consider any representations that it receives during the consultation period before making a decision on the disposal of the playing field. However, there is no detail included about the way in which or the extent to which an authority undertakes its consideration. So, what are your views on section 5, particularly in relation to the authority being required to consider any representations? Are you content that the way in which and the extent to which an authority considers any representations is a matter for the authority to decide upon?

[95] **Dr Jones:** Yes, I am content with the last point. The issue of ‘must consider’ is one where I would have to defer to legal colleagues. It depends on what the interpretation is of the words ‘must consider’. ‘Must consider’ could mean that you take it into account, but that you could dismiss it if you so wished. The words in the Royal Charter for the Sports Council for Wales is that it should ‘have regard’ to the policies of the Government of the day. I have found in my discussions with the Privy Council that ‘have regard’ means that you should follow the policies unless you have a very good reason not to do so. So, there is a difference in terms of the wording and the crucial issue is what is intended by this. Is it that you should follow the points that people make, or that you should just give consideration to the points and can reject them, and within your decision statement you can highlight why you have done so?

[96] **Joyce Watson:** I have a small point. Some of us may have been on local government planning committees, where you have people that you consult with but take no notice of them. [*Laughter.*] It is absolutely true, because of the principle that you highlighted—you do not have to take notice, so therefore you do not, only when it suits in some cases. Such cases occur where a county council or unitary authority is the determining body, but the local community council makes a representation and it is read and sometimes thrown away. So, that is the situation that I suppose that you are talking about the value of saying that you must consider representations, because you can have two factors at play, which have been alluded to throughout, namely a strategy by the unitary authority that there should be x number of green spaces and the particular local circumstances. I would support looking at what the wording means, and, if needs be, thinking about it. If it is the case that people are not consulted and they are trying to do something in their particular area that would add value to it, they should be taken serious notice of.

1.40 p.m.

[97] **Eleanor Burnham:** Moving on to the decision of whether to proceed with the proposed disposal, section 6(2)(b) requires a local authority to send a copy of its decision statement to all those consulted under section 4(1). In your submission, you agree with the requirement, but you suggest that it should be circulated only to the original statutory consultees and those who made comments on an application, rather than to all those to whom it was required to send an impact statement, which would include all local households in the relevant electoral division. You have spoken at great length about your concern about the possible cost implications, but, in evidence to the committee, Dr Dai Lloyd rejected the suggestion that the requirement to send a copy of the decision statement should be limited to statutory consultees and to those who had made representations, emphasising, given its importance, that householders should be made directly aware of the decision and how it was reached. We have discussed this already, but could you just clarify your position on this?

[98] **Dr Jones:** This comes back to the original question in the consultation, namely what it is reasonable for a local authority to do. The view of the council is that, given the cost

issues, it probably is unreasonable to write to everybody, rather than just to those who have responded and relying on word of mouth for the message to reach others. However, that is not a matter for us.

[99] **Nick Ramsay:** I appreciate that you say that it is not specifically a matter for you, but you nonetheless have a view on it.

[100] Returning to Joyce's point and the point that you just made, consultation can be expensive, but there is a difference between reasonable and effective consultation. That is what many of these questions are trying to get at. Assembly Members and others who have been councillors can see how local authorities would view such a requirement, given that, let us face it, they are dealing with tight settlements across the board. If we are to offer this consultation and make it a requirement, it should be effective. There is no doubt in my mind that it is not just a matter of doing something that local authorities are happy with; it is a matter of doing something that works and makes a difference in the end; otherwise, the cost of it will amount to no more than a waste of money.

[101] **Dr Jones:** You are absolutely right. The issue is about what is reasonable and what is effective. There is a balance to be struck, depending on the nature of the development. You could have a very process-driven system, in which you set out what you have to do in legislation, and the planner says, 'I have done that, that and that', or you could have system that is based on judgment, asking yourself how big an impact a development will have. If it will affect a lot of people, you could conduct a proper consultation, or if the development is to be really small such as the corner of a playing field, which will not affect many people, you could just ask one or two of the people living near where it will take place. That is a matter of judgment, but people then get concerned about whether others will make the right judgment. Sometimes, we introduce systems and processes and procedures simply because we do not trust people to make the right judgment, and that is the balance that has to be struck.

[102] My personal preference would be to have a system in which you rely on us to make the right judgment, and if we do not make the right judgment, take us to task on it. I would not want a tick-box system in which we just go through a list because somebody has predetermined how we should go about it, as that can lead to enormous costs but not necessarily to effective consultation or even to effective decision-making.

[103] **Rosemary Butler:** Joyce, do you want to come back, or are you happy that that has answered your earlier question?

[104] **Joyce Watson:** That is fine.

[105] **Rosemary Butler:** Okay. Nick, do you want to ask question 17?

[106] **Nick Ramsay:** The proposed Measure makes no provision to ensure that the public is aware of its right to make representations to Welsh Ministers in respect of section 7(1), namely where an authority has failed to comply with the requirements of sections 3 and 6. What are the implications of that for the effectiveness of section 7?

[107] **Dr Jones:** That is a reasonable point. I will take an example that is similar. Let us say that somebody is dissatisfied with a decision made by our organisation and appeals it, we would be required to inform that person that they could make a complaint to the public administration ombudsman, the information commissioner or whoever. So, they know that they have further rights of appeal outside the organisation. In those instances, it is good administrative practice for any organisation to tell people about an alternative appeals system and structure. Whether you include that in legislation or whether you expect people to do that through administrative processes is a matter for discussion and consideration.

[108] **Nick Ramsay:** You might say that my next question is not specifically an issue for you, but you will have an input and a view on it. It has been suggested by local government representatives that the power of Welsh Ministers to issue directions, as is provided for in section 7, could be construed as being out of line with the principle of local determination and local democracy. What are your views on that?

[109] **Dr Jones:** That is a point of view. This is one of those areas where, if a process has been followed reasonably and effectively, there is no need to use the stop directions and the powers set down in the proposed Measure. On the other hand, if the processes have not been followed properly and effectively, those stop directions are in place. In many ways, I think that that is actually quite reasonable.

[110] **Rosemary Butler:** Does anyone want to make any additional points? Is there anything that you want to add that you think might be helpful?

[111] **Dr Jones:** I do not think so, Chair. We seem to have covered everything.

[112] **Rosemary Butler:** Thank you very much for coming this afternoon, and for answering our questions in such detail. Our difficulty will now be in trying to assess all the information that we have received to come up with a recommendation. Thank you very much indeed.

[113] The next part of our agenda is questions to Fields in Trust Cymru, and I invite Rhodri Edwards to the table. Thank you for coming this afternoon. I am sure that most of the members of the committee already know you through their experiences as Assembly Members. I have the first question. In your submission, you are supportive of the proposed Measure. Can you confirm why you think that it is needed, given the protection that is already afforded to playing fields and pitches through the land-use planning system?

[114] **Mr Edwards:** Thank you for the opportunity to give evidence today. We are fully supportive of the proposed Measure for two reasons. The depth and detail of the impact statement will go beyond that included in the current process of land disposal and what is usually involved in the planning process. Secondly, the method and scale of consultation will be far wider and more thorough than it is at present. So, we fully support it.

[115] **Janet Ryder:** What are your views about the suggestion from local government, in response to the consultation on the proposed Measure, that the proposed revision to technical advice note 16 will provide adequate and appropriate safeguards in the disposal of playing fields?

[116] **Mr Edwards:** The planning process provides protection, but we believe that the proposed Measure, particularly the impact statement, will go much deeper and provide more detail when assessing disposals. For example, the proposed Measure takes into account the provision, quality and accessibility of, and demand for, playing fields in the area. That will help to build a clear picture of the local playing fields and of whether they are sufficient to meet demand locally. The planning process does not go into such detail; for example, under the proposed Measure, supply will be compared with demand. For example, you may have X number of football teams and so you know that you need Y number of pitches to support that number of teams. Under the planning process, 20 of the local authorities refer to our own recommendations on the provision of playing space, which suggest 6 acres of recreational land per 1,000 people. However, that does not tell you whether supply is meeting demand; it is just a blanket universal recommendation. It does not begin to get close to telling you whether there is enough to meet demand. So, overall, planning will help.

1.50 p.m.

[117] With the new TAN 16 coming up, if a lot of the recommendations that were in the draft are included in the final copy, it will certainly strengthen the current planning process. We were fully supportive of the recommendations, and we are really pleased with it. We hope that a lot of the recommendations are included in the final version. However, you have to remember that that is advice, and local authorities do not have to follow it. They will follow any guidance in it, but they do not have to follow it to the letter. This proposed Measure is about a duty on local authorities to consider the issues that I mentioned, such as provision, accessibility and demand. TAN 16 does not do that.

[118] **Janet Ryder:** In light of what you have said about TAN 16 and the imminent proposed revisions to it, do you think that the introduction of the proposed Measure could be seen as being premature?

[119] **Mr Edwards:** I think that the proposed Measure should take into account what TAN 16 includes, but I emphasise again that whatever is in it is just advice. This proposed Measure is about placing a duty on local authorities to have regard to the issues that I mentioned. Planning authorities do not have to follow TAN 16. I will give you an example. Planning policy guidance 17, the equivalent document in England, was last published in 2002. It recommended pretty much the same things as those we expect TAN 16 to recommend. In England, they have been pretty disappointed with local authorities' response in taking the recommendations on board, such as in carrying out the open-space assessments. Of those that have conducted such assessments, they have been disappointing as they have not been kept up to date. So, there has been a poor response, which is mainly due, I think, to the resources, time, and the money that will be needed for them to conduct these assessments and to keep them up to date. So, if England is any example, the same situation might arise in Wales, with authorities not following the guidance of TAN 16.

[120] **Janet Ryder:** I think that I can guess what your answer will be to this next question, but I will still ask it, just for the record. Would it be more sensible to have a better understanding of the impact of the proposed revisions to TAN 16 before deciding whether there is a need for further legislation in this area?

[121] **Mr Edwards:** It is worth taking into account what TAN 16 states, but I would just emphasise that this proposed Measure is about placing a duty on local authorities to consider issues surrounding a particular playing field. Whatever is in TAN 16 is only advice and guidance.

[122] There will be those authorities that follow the TAN quite closely, and they will conduct open-space assessments and come up with their own local standards. However, when you compare the impact statement in this proposed Measure with open-space assessments, you will see that the impact statement focuses and concentrates on a particular playing field and looks at a particular locality while open-space assessments will be conducted county-wide and will not give you that focus on a particular area. As I mentioned, there may be a time lag between the completion of an open-space assessment and the disposal of the land; it may be a few years down the line. The information in the open-space assessment might be out of date and may not be as useful. The impact statement will give up to date, focused and concentrated information on that issue.

[123] **Janet Ryder:** Finally on this section—and I know that you have touched on this—it has been suggested that the cost of the proposed Measure in terms of local authorities' time and resources may be disproportionate to the benefits derived from it. What are your views on that?

[124] **Mr Edwards:** As the sports council mentioned, we do not think that there are many cases where playing fields are being disposed of; it is not a widespread problem. So, when a situation arises, structures and systems must be in place to ensure that the playing field in question has sufficient protection. The cost should be accepted, because of the importance of playing fields and because it will not be of such regular occurrence to be of huge burden to local authorities.

[125] **Nick Ramsay:** I will move on to the restriction on the disposal of playing fields by local authorities. Can you give us your views on the exemptions provided for in section 1(2) of the proposed Measure?

[126] **Mr Edwards:** We have no problem with it in general. That seems reasonable with regard to a local authority, because you often get a case where a unitary authority might pass the ownership of a playing field to a town or community council, and I do not see a problem with that. With regard to charities, it may be worth including some sort of condition or reference that the playing field must be kept as such, a condition regarding the objective of the charity, which may conflict with the playing field. I know that Dai Lloyd said that exempting charities would be of benefit to the community, but if this Measure is about protecting playing fields, perhaps it should include a condition that the objectives of the charity must conform to the objectives of the Measure.

[127] **Nick Ramsay:** That is an interesting view. This is certainly a concern of ours, and I remember asking Dai Lloyd about the interests of the charities, and he seemed eager for there to be exemptions on all charities, on the basis that they would be looking out for the community's interest. However, from what you have just said, there is a case for looking at the motives of the exempted charities or organisations before there is an across-the-board exemption.

[128] **Mr Edwards:** Fields in Trust is a charity, and local authorities pass land into our ownership, and we protect playing fields by way of establishing charitable trusts. In our case, we keep the playing fields as they are, but other charities may have different objectives; they might be charitable objectives for the benefit of the community, but they might conflict with the purpose of this Measure.

[129] **Joyce Watson:** I can think immediately of a trusteeship that was given away, with charitable status, where land that was bequeathed, right in the centre of a town—which could have been a fantastic preservation of green space—was sold to developers by a town council. So, I must concur that, even though that was given under charitable status and everyone felt that it was safe, that could legally be done, even though the community fought hard to overturn the decision. So, I have experience of where that has happened and where it certainly had a negative impact on protecting that green space, and there are serious concerns that the same organisation is about to do the same thing in the same town.

2.00 p.m.

[130] **Nick Ramsay:** I asked the next questions to the sports council, as you may have heard earlier. They are important questions in terms of what we mean by a local authority. Concerns have been raised about community and town councils; if they are consultees, do they have the capacity to respond in a meaningful way? It has been suggested that they could be excluded from the process. What are your views on that? Are they worthwhile consultees, or do you think that there is a case for exempting them?

[131] **Mr Edwards:** First, you should recognise that a lot of playing fields are under the ownership of town and community councils. For example, Pembrokeshire and Anglesey councils have a policy of passing the ownership of playing fields on to town and community

councils, so you could end up exempting Pembrokeshire and Anglesey from the Measure.

[132] It is important that these councils are included, but I appreciate the concerns over their capacity to conform to the Measure. If they are lucky, they might have a clerk working part-time; do they have the expertise and resources to comply fully with the Measure? We think that they should be included because many town and community councils own playing fields, and in terms of helping them to meet the costs, it is possible that any money raised from the disposal of the fields could be used to employ consultants, for example. I know that that is dependent on the land eventually being sold, but we feel that the importance of the playing field is such that town and community councils must be included in the Measure.

[133] **Nick Ramsay:** That is interesting. I imagine that town and community councils themselves would share those views. Moving on, in your response to Dai Lloyd's consultation you made several suggestions regarding amendments to the definition of a playing pitch so that it includes more than just a basic field. I think that I am right in saying that you suggested that an additional point be added to cover netball and basketball. I ask that because I thought that the sports council had made that suggestion, but it seems that it did not. I am determined to find out where the reference to basketball came from.

[134] **Mr Edwards:** In terms of the definition, you would have to move netball from point (i) to point (iii), because a netball pitch is only about 0.05 hectares in size; similarly, you may want to include basketball there. The sports council had the view that, although they are popular sports, they are mainly played indoors, and so perhaps should not be included in that definition. Generally speaking, in terms of the definition, our charity would like to see all land used for sport, play and recreation being subject to this Measure. We feel that any open space used for playing sport or recreation has value to the community, not just those with pitches and goalposts. An area for recreational open space that does not have formal sports facilities is probably just as valuable to local children as a sports pitch is to a local football club. This has been brought up in the Assembly before, and I mentioned it in my submission, but the difficulty is in pinning down the definition of playing fields, because a sports pitch has defining characteristics—white lines and a goalpost—whereas an area of green recreational open space does not have those characteristics.

[135] What came out of the debating of this in the Assembly, back in 2006 and 2007, was that you need to come up with something clear and pin it down so that it does not capture areas of land that you do not want to include. Having said that, the Measure is concerned with land under the ownership of local authorities, whereas, before, we were talking about planning regardless of ownership. In the Measure, you could look at local authority land that has been allocated for play, sport and recreation in the local development plans. In that way, you would capture all areas of land, and not just those with formal sports facilities. However, again, you would have to check that legally to ensure that there are no problems in terms of capturing areas of land that you do not want to include.

[136] **Nick Ramsay:** That is an interesting point. I had two questions on the back of that. The first was whether you are content that the definition of a playing pitch is sufficiently broad to capture all forms of sporting and recreational activity, which you have pretty much covered. Do you feel that what you have just said about the possibility of using local development plans, if it worked legally, would be a better and simpler way of doing this than trying to list in a Measure the various sports, given the problem that we have discussed of missing things out or seeming to prioritise certain sports? As you said earlier, the consideration of selling off a playing field is not a normal event, so one of my fears is that, when that does happen, if the land does not tick all the right boxes, the people in the area concerned could lose the land simply because the activity that took place on it was not clearly defined at the time, and the purpose of the Measure is to protect such land. Therefore, I was interested to hear your point about the possibility of using the LDP system, and it would be

good if we could look into that.

[137] **Rosemary Butler:** It is quite interesting, because you are suggesting that we widen what Dai Lloyd is asking for. When he was here, he was quite specific about the fact that it would cover land with some sort of pitch marking on it. That was his approach. Therefore, we will need to take legal advice on this issue, and the committee will consider it at a later date, but this is an interesting variation.

[138] **Mr Edwards:** I would just like to add that play organisations, such as Play Wales and the North Wales Play and Playing Fields Association, are keen for land used for play to be included in some sort of Measure, because they would benefit from better protection. Therefore, that is something that might be brought to the committee's attention at some point.

[139] **Eleanor Burnham:** In your submission, you said that, under the proposed revised TAN 16

[140] 'planning authorities will not be duty bound to conduct open space assessments'.

[141] Can you clarify whether you think that the section 3 requirement will be necessary in the event of a policy requirement being placed on local authorities to undertake open-space assessments, as envisaged in the draft revised TAN 16, the development of which we were told earlier is still ongoing?

[142] **Mr Edwards:** Are you asking whether I think that it will be a legal requirement?

[143] **Eleanor Burnham:** Do you think that the section 3 requirement will be necessary in the event of a policy requirement being placed on local authorities to undertake an open-space assessment, as envisaged in the draft TAN 16?

[144] **Mr Edwards:** The technical advice note will strongly advise local authorities to carry out open-space assessments. As I mentioned, I think that many authorities will do that, but I do not think that all will, particularly when you consider the costs. For an open-space assessment to be effective, maintenance and constant updating are required. Unless money is made available for local authorities to do that, I am not sure that many of them will be able to follow the TAN 16 recommendations to the letter.

2.10 p.m.

[145] **Eleanor Burnham:** And, as you say, it is not a legal requirement; it is an advice note.

[146] **Mr Edwards:** Yes, they will be advised to do so. 'Planning Policy Wales' has a policy in paragraph 11.1.11 relating to the protection of playing fields, and it lists exceptions where playing fields should be protected. If you look at the authorities' development plans, you will see that not one of them is exactly the same as that. They are similar, but some are a bit stricter in terms of protecting playing fields and others have more exceptions, so the protection is not as tight. That just goes to show that the authorities will not follow planning guidance to the letter.

[147] **Eleanor Burnham:** But things change, do they not? There is one under threat in a local authority in my region, according to the list. I made inquiries of the local authority before we started committees, a couple of weeks ago and discovered that the proposal will be amended anyway. So, that is fine.

[148] Section 3(1)(b) of the proposed Measure requires local authorities, in preparing an impact statement, to identify,

[149] ‘the level of demand, including any foreseeable future demand,’—

[150] which was referred to by the sports council—

[151] ‘for the use of playing fields in the locality’.

[152] In practice, how reasonable and practical do you think it will be for local authorities to meet that requirement?

[153] **Mr Edwards:** This goes back to the benefit of this proposed Measure over planning in that it is quite specific and it ensures that the authorities will look at important issues and compare supply against demand to find out whether there are sufficient facilities.

[154] On whether it is reasonable to ask that of authorities, there is guidance. In terms of formal sports facilities, I would imagine that it is relatively straightforward because authorities will know how many sports teams they have and how many hours are available on their playing pitches. It gets a bit more difficult with regard to the number of play areas you need for local children, but that is not the concern of this proposed Measure, unless the definition is amended. So, with the definition of the playing pitches as it stands, I would imagine that it is fairly straightforward to assess demand and compare that against supply.

[155] **Eleanor Burnham:** My next question is not an easy one to answer, and the sports council suggested that this would be impossible. It appears from your submission that you would support the requirement on local authorities to identify the impact of the proposed disposal on the health and wellbeing of the residents of the locality, generally, and of children and young persons in particular. In practice, how reasonable and practical do you think it would be for local authorities to meet this perhaps quite difficult requirement?

[156] **Mr Edwards:** I do not think that I can comment with much authority on this but, before the meeting, I had a look at the Assembly Government’s health, social care and wellbeing policy guidance and found that there are a number of components to health and wellbeing. To try to measure the impact of losing a playing field on those components would be very difficult.

[157] **Rosemary Butler:** You are leaving now, are you, Eleanor?

[158] **Eleanor Burnham:** Yes.

[159] **Rosemary Butler:** Janet Ryder has the next question.

[160] **Janet Ryder:** Why do you think it is necessary to consult as extensively as provided for in section 4(1), in particular 4(1)(c), which states that consultation should include the occupiers of every household for each local government electoral division? That is quite an extensive consultation process.

[161] **Mr Edwards:** Under the current process of disposing of open space, all that is required is a notice in a newspaper for two successive weeks. So, it needs to be wider and more thorough than that. However, it should also be compared with the planning process, because there is a possibility that the local authority would seek planning permission before disposal. There will be some consultation there. However, that is insufficient and would involve consulting only immediate neighbours, notices being displayed at the playing field and perhaps a notice being displayed in the newspaper. It has to be wider than that. To use the example of Ely Recreation Ground, local residents who use that playing field who were not living in properties adjoining the playing field were aggrieved that they were not informed

about proposals. So, it needs to be wider, but whether it needs to be as wide as is suggested is perhaps a matter for debate. Because this is legislation, you have to be definite in setting limits. If you go beyond the immediate neighbours of the land, what is the next boundary that you could use? The logical step would be the electoral ward. So, unless there is another way of capturing the local consultees, I am supportive of what has been included in the Measure.

[162] **Janet Ryder:** There needs to be more than a laminated notice on a field boundary fence.

[163] **Mr Edwards:** The consultation certainly needs to be wider and more extensive than it is currently. How wide it is could perhaps be discussed at another time.

[164] **Janet Ryder:** Concerns have been raised by local government and others, including the sports council, about the cost for local authorities. I have already asked you about this, but there is a considerable cost for local authorities in meeting the requirements to consult provided for in section 4. Will you express, once again, your views on that?

[165] **Mr Edwards:** As has been said, we feel that the disposal of playing fields is not a regular occurrence and it will not be a massive burden on authorities to conduct these consultations. As has been mentioned, local authorities are well used to sending out mailshots to every household within the county, so I do not think that it will be a big burden for them. As we are dealing with an important community facility, it is something that should be carried out.

[166] **Janet Ryder:** You have already talked about the impact statement. In his evidence to the committee, Dai Lloyd suggested that he would consider amending the proposed Measure to require local authorities to send a summary of the impact statement to persons identified in section 4(1). What are your views on that?

[167] **Mr Edwards:** That is reasonable. I do not think that it is necessary to send a copy of the impact statement to every person. The key is making people aware of what is happening. Those with a specific interest can then make efforts to look at the full impact statements. I think that that is fine and totally reasonable.

[168] **Janet Ryder:** In your submission, you stated that you are happy with the statutory consultees. How would you respond to the concern that those included in the list may have a predisposition to oppose disposal?

[169] **Mr Edwards:** Obviously, I cannot speak for all of the bodies listed, but perhaps you would think that our organisation would object hands down every time. However, that is not the case. Our concern is to safeguard recreation and sporting opportunities for the community. We do not want to see a detrimental impact on that. There may be a case where we would support disposal. It may facilitate improvement or investment in a playing field, so Fields in Trust might support a disposal. For example, there might be a playing field with a football pitch that is constantly waterlogged and that cannot be used, but if an area of land were to be disposed of and the money generated from that sale ploughed back into the site to install drainage systems, you could end up with a much better facility. We are concerned about the effect on the play, sport and recreational opportunities of the local community. That may involve supporting or objecting to a disposal. We would consider the circumstances of the proposal and make a judgment on that basis. I am sure that the Sports Council for Wales would have a similar policy.

2.20 p.m.

[170] **Janet Ryder:** Moving on to section 5 and the consideration of responses, what are

your views on this section, which requires a local authority to consider any representations received in relation to the proposed disposal. Are you content that the way in which, and the extent to which, an authority considers any representations is a matter for the authority to decide?

[171] **Mr Edwards:** Local authorities will be well used to that process through the current process of disposal and through the planning process. So, they are well used to having representations and to summarising what those tell them. If there is a majority view against or for disposal and the authority takes the opposite view, it has to provide adequate justification for opposing that view. I do not have any problems with that issue because local authorities would be well used to that process.

[172] **Janet Ryder:** May I ask a supplementary?

[173] **Rosemary Butler:** On which question?

[174] **Janet Ryder:** On some of the WLGA evidence.

[175] **Rosemary Butler:** Nick was going to ask a question on that and I think that it has been answered, but you can certainly cover it again.

[176] **Janet Ryder:** No, that is fine.

[177] **Nick Ramsay:** You have touched on it, but it was such an important point that I would like you to clarify it. In its written evidence to the committee, the WLGA stated that Fields in Trust Cymru,

[178] ‘would be obliged to oppose any disposal of a playing field, even if there were strong and sensible reasons for the disposal and replacement fields and pitches identified.’

[179] I could see you laughing at that. So, are you biased?

[180] **Mr Edwards:** No, not at all.

[181] **Nick Ramsay:** I did not think that you were, but I thought I would ask; I do not know whether you mention the WLGA to the same extent in your submission. However, in terms of supporting a disposal, you gave us the example of a waterlogged field earlier and said that it would be advantageous for the community if it were sold off and if provision were made elsewhere in a better location.

[182] **Mr Edwards:** Just to explain, Field in Trust Cymru holds fields in its trust and the trustees of any charity are under obligation to act in the best interests of the charity. Therefore, if we protect a playing field somewhere and a housing developer or supermarket comes to us and says that they want our field and that they will give us another field 200 yards away that is twice the size with an endowment fund and better facilities, we would be under obligation to accept that proposal because it is in the interest of the charity, and the end result is improved facilities for the community. So, to say that we make blanket refusals and turn down every proposal is just wrong.

[183] **Irene James:** Section 7 provides for Welsh Ministers to issue a direction to a local authority not to proceed with a disposal, having received representations that the authority has failed to comply with the requirements of the proposed Measure. However, the proposed Measure makes no provision to ensure that the public is aware of its right to make representations to Welsh Ministers in respect of Section 7(1). If an authority fails to comply with the requirements in sections 3 and 6, there are implications. So, what, in your view,

would be the possible implications of that?

[184] **Mr Edwards:** Perhaps something should be included in the letter that is sent out with the summary of the impact statement to inform people of their right to refer the issue to Welsh Ministers. They should be made aware of that. The sports council mentioned that there have been cases where it has not been consulted on planning applications and perhaps if there was a process, as is proposed, that meant that it could be referred to Welsh Ministers, then that would make sure that there was full compliance with the proposed Measure.

[185] **Irene James:** Do you think that this has any bearing on the effectiveness of section 7 of the proposed Measure?

[186] **Mr Edwards:** Certainly, yes. If local authorities are aware that the process will be stopped and that they will have to ensure that they comply fully with the proposed Measure, I think that that will be effective. It will ensure that they follow what is required and if people are aware of their ability to refer it to Welsh Ministers, I think that that will help to ensure that there is full compliance.

[187] **Joyce Watson:** The proposed Measure, in its current form, makes no provision to ensure that the public is aware of its right to make representations to Welsh Ministers in respect of subsection 7(1), that an authority has—

[188] **Rosemary Butler:** We just covered that, Joyce. You can leave that one. I think that Irene asked it instead of question number 19. She did not go back to number 19.

[189] **Joyce Watson:** That is number 19.

[190] **Rosemary Butler:** Sorry, it is number 20 on my paper. I beg your pardon.

[191] **Joyce Watson:** Never mind; we will go on. I do not know where I am now.

[192] It has been suggested by representatives of local government that the power of the Welsh Ministers to issue directions, as provided for in section 7, appears to be out of line with the principle of local determination on local matters. What is your view on that?

[193] **Mr Edwards:** Sorry, but could you repeat that?

[194] **Joyce Watson:** It has been suggested by representatives of local government that the power of Welsh Ministers to issue directions, as provided for in section 7, appears to be out of line with the principle of local determination on local matters. What they are saying is that it is removing the right of local government to determine on local matters and putting it in the hands of Welsh Ministers. What is your view on that?

[195] **Mr Edwards:** My understanding was that the Welsh Ministers were only able to issue a stop direction and stop the process of disposal. I understood that they were not allowed to make the decision for the local authority, only to ensure that the local authority complied with the proposed Measure, which I think is important. Going back to the example of the Sports Council for Wales, there have been occasions where there has been a lack of consultation, maybe because there is no penalty or the Assembly Government has not directed the local authority to go back a step and comply. The sports council asks why it has not been consulted and the answer that it receives is, 'Sorry, it was an oversight', but the process goes on regardless.

[196] **Joyce Watson:** In a way, you have answered the next question because you have said that powers should be given to the Welsh Ministers that allow them to put a stop to disposal

on the grounds that it will have an adverse effect on the play provision in the locality. As you have already answered that question, I will move on.

[197] In giving evidence to the committee, Dai Lloyd made it clear that the intention of section 7 was to enable Welsh Ministers to ensure that the correct processes were followed in relation to predisposal, as opposed to influencing the disposal decision itself. How do you respond to that?

2.30 p.m.

[198] **Mr Edwards:** I reiterate that it is important that Welsh Ministers have a power to intervene to ensure that authorities fully comply with this proposed Measure.

[199] **Rosemary Butler:** I see that Members do not have any further points to raise. Do you have any other points to make, Mr Edwards?

[200] **Mr Edwards:** I wish to reiterate our view that the proposed Measure adds depth and detail that does not exist at the moment. The current process of disposal is just a notice in the paper for two weeks, which is in no way sufficient. If the planning process is undertaken before disposal, which happens on occasion because local authorities are under an obligation to get best value, I do not think that the planning process is as thorough as the process in this proposed Measure. So, it is needed. I used the example of assessing supply against demand. This proposed Measure will ensure that questions are asked about whether there are sufficient facilities available and whether the local community will be able to withstand the loss of the playing field, whereas I do not think that the planning process is as thorough. In deciding whether there are sufficient facilities, a local planning authority uses a universal standard that does not tell you whether there are in fact sufficient facilities. The impact statement will add depth and detail, and the method and scale of consultation will ensure that there is greater protection of playing fields.

[201] **Rosemary Butler:** Thank you very much for giving evidence this afternoon. A copy of the draft report will be made available to you before it is finalised. That concludes our business for today. I remind Members that we will meet the Minister at our meeting next week, at 1.10 p.m.

*Daeth y cyfarfod i ben am 2.32 p.m.
The meeting ended at 2.32 p.m.*