

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.

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