Cynulliad Cenedlaethol Cymru
National Assembly for Wales

Y Pwyllgor Deisebau

Adroddiad Cwblhau

Crynodeb o ystyriaeth y Pwyllgor Deisebau o P-03-122 Chwarel Hafod

Ebrill 2009

Derbyniwyd y ddeiseb
10 Gorffennaf 2008

Dyfarnwyd yn dderbyniadwy
5 Awst 2008

Ystyriaeth gychwynnol

16 Hydref 2008

Ystyriodd y Pwyllgor y ddeiseb am y tro cyntaf a chytunodd i ysgrifennu at y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai yn gofyn am fanylion y penderfyniad i beidio â nodi Chwarel Hafod yn safle o bwysigrwydd cenedlaethol

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 16 Hydref 2008 ac Atodiad 2 am y llythyr a anfonodd y Cadeirydd at y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai)

Ystyriaeth bellach

13 Ionawr 2009

Ystyriodd y Pwyllgor ymateb gan y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai a chytunodd ar y camau gweithredu canlynol:

- Ysgrifennu at Gyngor Cefn Gwlad Cymru i ofyn am ei farn ar ddynodiad y safle hwn
- Ysgrifennu at Asiantaeth yr Amgylchedd i ofyn a oes ganddi unrhyw swyddogaeth ffurfiol o ran dynodi safleoedd
- Gofyn i Wasanaeth Ymchwil Aelodau'r Cynulliad am bapur ar y broses o enwebu a chymeradwyo safleoedd posibl

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 13 Ionawr 2009, Atodiad 2 am yr ymateb a gafwyd gan y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai, Atodiad 3 am y llythyr a anfonwyd at Gyngor Cefn Gwlad Cymru ac Atodiad 4 am y llythyr a anfonwyd at Asiantaeth yr Amgylchedd)

10 Chwefror 2009

Ystyriodd y Pwyllgor ymatebion a gafwyd gan Gyngor Cefn Gwlad Cymru, Asiantaeth yr Amgylchedd a phapur gan Wasanaeth Ymchwil yr Aelodau, a gwahoddwyd y deisebydd i ymateb yn ysgrifenedig i'r llythyrau gan Gyngor Cefn Gwlad Cymru ac Asiantaeth yr Amgylchedd

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 10 Chwefror 2009, Atodiad 3 am yr ymateb a gafwyd gan Gyngor Cefn Gwlad Cymru ac Atodiad 4 am yr ymateb a gafwyd gan Asiantaeth yr Amgylchedd)

31 Mawrth 2009

Ystyriodd y Pwyllgor ymateb gan y prif ddeisebydd a chytunodd i gloi ei ystyriaethau o'r ddeiseb gan ei fod wedi mynd â hi mor bell ag y gallai

(Gweler Atodiad 1 am y dyfyniad perthnasol o drawsgrifiad cyfarfod 31 Mawrth 2009)

Clerc y Pwyllgor Deisebau
Ebrill 2009

Atodiad 1

Trawsgrifiadau o gyfarfodydd y Pwyllgor Deisebau

16 Hydref 2008

Val Lloyd: We have a number of new petitions to deal with. They are not set out on the agenda in the same order as they were sent to us, so, for clarity, I will follow the agenda—just in case your papers are a little muddled up.

The first petition—I do not think that there is a problem with this one, because it was the same on both sets—is on Hafod quarry. This is a new petition calling on the National Assembly for Wales to investigate the Welsh Assembly Government's decision not to identify Hafod quarry as a site of national importance. From memory—this has come before us, I think, in the first Assembly—Hafod quarry is in the Wrexham area. The petition has been raised by the Hafod environmental group and focuses on a small part of a much larger ongoing campaign by that group to halt landfill activities at the quarry.

Michael German: If I remember rightly, Chair, this was basically about planning permission that had been in existence for a long time, and the position of the petitioners was to object as a way of frustrating the planning permission, as I understand it. I do not mean that in a negative way, but it has been another way around the planning permission.

Val Lloyd: I have the same issue in my constituency. I think that the group would like to see that landfill permission withdrawn; however, it is not asking us to deal with anything like that.

Michael German: In which case, perhaps we should ask the Minister why the Government made the decision not to designate it as a special area of conservation.

Val Lloyd: The group is basing its application on the fact that there is a colony of great crested newts at the site. I agree with Mike.

Bethan Jenkins: It would be interesting to have the petitioners before us, because, as we know, having visited Brussels, they have an ongoing petition there, but I do not think that there are plans in the near future for that to be heard. Perhaps it would be interesting for them to give their perspective in Wales. Having spoken to them in Brussels, we know that they were frustrated that they did not know that much about our Petitions Committee, and they submitted this petition as a result of meeting us in Brussels. So, perhaps we should give them the opportunity to come before us and give their opinion as to how this process should be taken forward.

Val Lloyd: I am not speaking against that at all, but, following on from something from last week, I think that we should wait for the Minister's reply before we make a firm decision to ask anyone in. I am not arguing against you, particularly—I just think that it would be wise. There have been instances where the Minister's response has overridden the need to ask people in, and I do not want to fall into that position again. Could we, therefore, defer this until we hear from the Minister?

Michael German: I was not going to speak in favour of having them in yet, but I certainly think that we ought to, provided that the Minister's response does not obviate the need for a petition.

Val Lloyd: Then we are all agreed that the next step is to wait for the Minister's letter.

13 Ionawr 2009

Val Lloyd: P-03-122, Hafod Quarry, is the next petition. We considered this in October, and we agreed to write to the Minister for Environment, Sustainability and Housing to ask for the Government's position, and the Minister has responded. I open this up to Members.

Bethan Jenkins: The letter indicates that the decision is made by the European Commission and that the Countryside Council for Wales then takes the recommendations made on board, and that,

'the Welsh Ministers must then designate them.'

I do not know whether it is worth contacting the Countryside Council for Wales to see why it decides that some sites should be designated as special areas of conservation and others should not. The Minister indicates that the part of the site where there are newts will continue to be protected, but I do not think that that is what the campaigners are looking for. So, I think that, at this point, contacting the CCW is the avenue to take. I do not see any other.

Michael German: If my understanding is correct, the commission takes a view on the candidate sites that are put forward by the Welsh Assembly Government, but the body that will have recommended sites for the Ministers to put forward is probably the CCW, so it is worth finding out from it why it put this forward and what its recommendations for the site are.

Andrew R.T. Davies: Has the Environment Agency played any role in this?

Michael German: It could have done.

Val Lloyd: Yes, it could have done.

Andrew R.T. Davies: Is it worth our seeking, in parallel with contacting the Countryside Council for Wales, the Environment Agency's—

Michael German: It might be useful to know what the process is for nominating candidate sites. Who tells the commission, 'This might be something that you might want to consider'? There is not a man in Brussels who goes around with a little red flag saying, 'I'll have this one'.

Val Lloyd: Yes, we could ask what its criteria are. It is not competitive, but each one is judged on its merits according to the criteria.

Ms Phipps: We thought that the Members' research service might be able to help us tease out some of those issues. So perhaps we could ask the service for a short paper on it.

Andrew R.T. Davies: So, we have three things to do: contact the Countryside Council for Wales and the Environment Agency, and get an understanding of how the sites arrive on the nomination list that is forwarded.

Val Lloyd: Yes. The Members' research service will do that admirably, I am sure.

10 Chwefror 2009

Val Lloyd: That takes us to petition P-03-122 on Hafod Quarry. We have received a comprehensive letter from the Countryside Council for Wales, following our request. It is summarised for you. I thought that it was an interesting and detailed response. Its conclusion is that there is no scientific justification for including the whole of the quarry within the boundaries of the site of special scientific interest and the special area of conservation.

Bethan Jenkins: I have not read the Record of Proceedings of that meeting, but I think that I asked that we receive information from CCW and then I suggested that we inform the petitioners of its response. I think that that is what was agreed, namely that the response would tell us how these particular sites of special scientific interest were designated, and then we would go back to the petitioners to see what they thought. I would prefer to go back to them before closing the petition to see whether they have a different opinion from that of the countryside council.

Andrew R.T. Davies: I would not be averse to that.

Val Lloyd: No, that is an open way forward. We will do that.

31 Mawrth 2009

Val Lloyd: The next petition is P-03-122, on Hafod quarry. The petition calls upon the National Assembly for Wales to investigate the Welsh Assembly Government's decision not to identify Hafod quarry as a site of national importance. We have had evidence in the form of letters from the Environment Agency and the Countryside Council for Wales, and a paper from the Members' research service regarding the designation of special areas of conservation.

Andrew R.T. Davies: I believe that we have taken this petition as far as we can. The non-designation of the site is fully compliant. Our role is to see if we can progress this any further, but having read the correspondence, I do not see how we can progress it further. I therefore recommend that the petition is closed.

Val Lloyd: I do not think that we can do more. It is clear that the whole of the quarry did not warrant designation, but that part of it did. Bethan, do you have a point to make?

Bethan Jenkins: I do not see at this point that we can do more.

Val Lloyd: In that case, we will close the petition, as we have fulfilled the request for us to investigate the non-designation of the site.

Atodiad 2

Y Pwyllgor Deisebau

Petitions Committee

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Jane Davidson AM
Minister for Environment, Sustainability and Housing
Welsh Assembly Government
Cardiff Bay
CF99 1NA

Our ref: PET-03-122

21 October 2008

Dear

Petition: P-03-122 Hafod Quarry

At its meeting on 16 October, the Petitions Committee gave initial consideration to a petition calling on the National Assembly for Wales to investigate the Welsh Assembly Government's decision not to identify Hafod Quarry as a site of national importance. A link to the exact wording of the petition is attached below:

http://assemblywales.org/gethome/e-petitions/dogfennau-busnes-deisebau/p-03-122.htm

The Committee resolved at that meeting to write to you to ask why the site of the quarry was not designated as such.

Thank you for your consideration and I look forward to your response.

Yours sincerely

Val Lloyd
Chair, Petitions Committee

Jane Davidson AC/AM
Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai
Minister for Environment, Sustainability and Housing

Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Eich cyf/Your ref PET-03-122
Ein cyf/Our ref JD/01404/08

01 2008

Val Lloyd AM
Chair
Petitions Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

- 1 DEC

25 November 2008

Dear Val,

PETITION RECEIVED RE: HAFOD QUARRY

Thank you for you letter of 21st October about the Welsh Assembly Government's decision not to designate Hafod Quarry as a special area of conservation.

As you may be aware, special areas of conservation (or SACs) are sites which are of importance at the European Community level and host one or more of special natural habitat types and/or species. Member States are required to take appropriate steps to avoid the deterioration of the features and the disturbance of the species for which SACs are designated.

The legal requirements for designating SACs are set out in Article 4 of the Habitats Directive. Member States are required to propose a list of candidate SACs on the basis of the criteria in Annex III (Stage 1) of that Directive and on the basis of relevant scientific information. That function rests with the Welsh Ministers in relation to Wales and we carry out that function on the basis of recommendations received by the Countryside Council for Wales (CCW) and any relevant evidence submitted by other persons. CCW, in turn, make their recommendations in accordance with the published methodology of the Joint Nature Conservation Committee (JNCC) and the JNCC oversees the consistent application of that methodology throughout the UK. The list of candidate SACs are then considered by the European Commission and if the Commission chooses any such candidate SACs as sites of Community Importance, the Welsh Ministers must then designate them.

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Part of Hafod Quarry does, in fact, fall within the boundaries of the Johnston Newt Sites Special Area of Conservation (SAC). That SAC was designated in accordance with the process described above. The boundaries of SACs are usually defined by boundaries such as roads or fences as well as by reference to information taken from surveys, in accordance with the JNCC methodology. in this case, I understand the part of the quarry containing a population of great crested newts has been fenced off and continues to provide a suitable habitat for this species. The whole of the quarry area has not warranted designation as a SAC, however, as it does not meet the criteria for such designation.

I hope this information will helpfully clarify the position for the Committee.

Yours,

Jane Davidson AM
Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a Thai
Minister for Environment, Sustainability and Housing

Atodiad 3

Y Pwyllgor Deisebau

Petitions Committee

Roger Thomas
Chief Executive
Countryside Council for Wales
Maes y Ffynnon
Penrhosgarnedd
Bangor
Gwynedd
LL57 2DW

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-122

20 January 2009

Dear Mr Thomas

Petition on Hafod Quarry

The Petitions Committee of the National Assembly for Wales is considering a petition that is calling for the National Assembly to:

"investigate the Welsh Assembly Government's decision not to identify Hafod Quarry as a site of National Importance."

The Committee has been informed by the Minister for Environment, Sustainability and Housing, that part of the quarry contains a population of great crested newts but that the whole area does not warrant designation as a Special Area of Conservation as it does not meet the qualifying criteria. The Committee agreed that I would write to you to ask for CCW's view on this site, and whether in your view it has adequate protection to protect its integrity.

Thank you for your consideration of this matter, and I look forward to your response.

Yours sincerely

Val Lloyd

Val Lloyd,
Chair, Petitions Committee

Cyngor Cefn Gwlad Cymru
Countryside Council for Wales

CADEIRYDD/CHAIRMAN: JOHN LLOYD JONES OBE • PRIF WEITHREDWR/CHIEF EXECUTIVE: ROGER THOMAS

Anfonwch eich ateb at/Please reply to: Roger Thomas, Prif Weithredwr/Chief Executive
Cyfeiriad Isod/Address Below
Llinell Union/Direct Dial: (01248) 387141; Ffacs/Fax: (01248) 385506
Ebost/Email: n.sanpher@ccw.gov.uk

Ms Val Lloyd AM
Chair, Petitions Committee
National Assembly for Wales
Cardiff Bay
CARDIFF
CF99 1NA

2 February 2009

Dear Ms Lloyd,

PETITION ON HAFOD QUARRY

Thank you for your letter dated 20 January 2009.

I understand that you have received a petition that calls for the National Assembly for Wales to investigate the Welsh Assembly Government's decision not to identify Hafod Quarry as a site of national importance. Questions raised by the Committee were to ascertain CCW's view on this site and whether it has adequate protection to protect its integrity.

1. Great Crested Newt (GCN) Status and Distribution

As background, the current UK distribution of GCNs extends across most of England, apart from Cornwall, north to the central lowlands of Scotland and westwards into the north of Wales, Powys and Glamorgan. In the UK, GCNs are estimated to be present in approximately 75,000 localities. Many of the largest populations are centred on disused mineral extraction sites, though lowland farmland still makes up the majority of GCN habitat. Major concentrations occur where pond density is high, eg the Cheshire and Lancashire Plain, Kent, north Denbighshire, Flintshire and Wrexham. In respect of North East Wales, the ponds used are often natural, but many are anthropogenic in origin, occurring in quarries, mining sites, brickworks and marl ponds.

2. Background to the Scientific Interest of the Hafod Quarry Site

GCNs and other amphibians (ie common frogs and toads) were originally recorded in Hafod Quarry in 1992, whilst the site was s ubject to active clay extraction operations. Amphibians

were present within a deep clay pit pond situated in steep sided workings together with a series of smaller pools. When planning permission for landfill was granted in 1995, a conservation scheme was devised that entailed the translocation of amphibians to adjacent "mitigation" land. The mitigation land is immediately adjacent to the Hafod claypit/landfill site and consists of the Vauxhall Colliery site to the south and a coal spoil heap to the north. These scrubby areas have had a number of ponds constructed and we believe that they are ideal habitats for GCNs.

This translocation, which took place between 1999 and 2001, was regulated under the provisions of derogation licences issued by CCW and subsequently WAG. These licences can only be issued for projects that are not detrimental to the maintenance of favourable conservation status of European protected species, such as the great crested newt. It was on receipt of the reports of these translocations that the importance of the newt population became apparent to CCW. As part of the overall mitigation scheme, and to prevent dispersal of amphibians back into the quarry where they would clearly be in considerable danger, the working area of the landfill site was enclosed with newt barrier fencing. Following the discovery of a remaining population within the working area of the quarry in 2004, a further relocation of amphibians was undertaken in 2005 under licence issued by WAG.

3. Designation of Parts of the Hafod Quarry as a Special Area of Conservation and Site of Special Scientific Interest

CCW initiated a public consultation in respect of the proposed Johnstown Newt Sites Special Area of Conservation (SAC) in October 2000, and subsequently made a recommendation to the National Assembly for Wales that the area should be submitted to the European Commission as a candidate SAC in accordance with the UK's obligations under the 1992 EC Habitats and Species Directive to identify sites of European importance for biodiversity. The area proposed for SAC designation included part of Hafod Quarry corresponding to the "mitigation" areas to where the GCNs had been translocated under licence, and excluded the area of the quarry enclosed by newt barrier fencing from which the great majority of GCNs had been removed under licence. That recommendation was accepted and the UK Government, on behalf of the National Assembly for Wales, formally submitted the candidate SAC to the EC in March 2001. Following adoption of the site by the EC, the site was subject formal designation as a Special Area of Conservation (SAC) on 13 December 2004. In Great Britain terrestrial SACs are underpinned by the notification of the land concerned as Sites of Special Scientific Interest (SSSIs) under Section 28 of the Wildlife and Countryside Act 1981. In respect of Johnstown Newt Sites, the underpinning Stryt Las a'r Hafod SSSI was notified by CCW on 9 November 2000. The boundary of the SAC in the vicinity of Hafod Quarry is coincident with the boundary of the SSSI.

4. Boundary Considerations of the Designated Sites

The statutory nature conservation agencies' published guidelines for the selection of SSSIs, which also provide the basis for identifying possible SACs, indicate that boundaries should include suitable terrestrial habitat contiguous to or near to the breeding ponds of GCNs and other species of amphibians in order to maintain their conservation status. The location of SSSI and SAC boundaries at Hafod was informed by the presence of physical barriers to dispersal between amphibian populations, eg roads and fast flowing rivers. In addition, in respect of Hafod Quarry the permanent newt-proof (exclusion) fencing around the operational area of the quarry constitutes a physical barrier to GCNs and hence this was used as the SSSI

and SAC boundary. Any remaining GCNs within the quarry would therefore be isolated from populations in the SAC and in the wider countryside. Consequently, including the entirety of the quarry within the boundaries of the SSSI and SAC could not be scientifically justified.

5. Conclusions

In CCW's view, the boundaries of the SAC and SSSI provide an appropriate basis for management designed to ensure the integrity and continued ecological functionality of the SAC and SSSI and to maintain the conservations status of great crested newts and other species of amphibian within the site.

I trust this information helps your investigations in respect of the submitted petition. Please let me know if we can be of any further assistance in this matter.

Yours Sincerely,

Roger Thomas
Chief Executive

Atodiad 4

Y Pwyllgor Deisebau

Petitions Committee

Chris Mills
Director
Environment Agency Wales
Ty Cambria
29 Newport Road
Cardiff
CF24 0TP

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff CF99 1NA

Our ref: PET-03-122

19 January 2009

Dear Mr Mills

Petition on Hafod Quarry

The Petitions Committee of the National Assembly for Wales is considering a petition that is calling for the National Assembly to:

"investigate the Welsh Assembly Government's decision not to identify Hafod Quarry as a site of National Importance."

The Committee understands you have had involvement with this site. We should like to know what comments the Environment Agency submitted in relation to its designation (or part of its designation) as a Special Area of Conservation and as a Site of Special Scientific Interest; your view of the adequacy of protection afforded to the site; and to the integrity of its conservation.

Thank you for your consideration of this matter, and I look forward to your response.

Yours sincerely

Val Lloyd

Val Lloyd,
Chair, Petitions Committee

Asiantaeth yr
Amgylchedd Cymru
Environment
Agency Wales

Ms Val Lloyd
Chair
Petitions Committee
Cardiff Bay
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Ein cyf/Our ref: 09 01 Lloyd V 22

Eich cyf/Your ref: PET-03-122

Dyddiad/Date: 22 January 2009

Dear Ms Lloyd

Re. Petition on Hafod Quarry

Thank you for your letter dated 19 January 2009 asking for details of the comments Environment Agency Wales submitted in relation to designations of Hafod as a Special Area of Conservation (SAC) and a Site of Specific Scientific Interest (SSSI).

The initial designations (SSSI and cSAC) were made in 2000 and at this time we made no formal reply as no concerns over the designation existed.

In 2004, the site was granted full SAC status and we did not raise any objections to this.

The Countryside Council for Wales (CCW) are the lead authority for the designations and they make the final decisions. I suggest they may be able to advise further on the actual reasons regarding the designations.

With regard to your query regarding protection and integrity of conservation, our role with the Hafod site involved the determination of a PPC permit when the landfill was proposed. As you are aware, the decision to allow a landfill to be constructed lies with the Local Authority. Our role is to ensure that it is constructed to the appropriate standards and with adequate controls. In this case, I can assure you that the PPC application was determined and issued once the operators had provided sufficient evidence to show compliance with the current legislation.

As part of the determination, we consult with CCW to ensure that any conservation concerns are addressed. In this case, due to the proximity of the SSSI and SAC a Habitats Directive risk assessment was undertaken and the recommendations from this were implemented during the construction of the landfill to ensure adequate protection.

The full details of the permit application including the consultations and risk assessment are available for viewing on our public register in our office at Buckley.

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If you would like to see these documents, I can certainly arrange for this for you. I am, however, happy that the process was followed correctly and, therefore, there is suitable legislative control and protection of the SAC and SSSI from the landfill operations.

Please do let me know if you require anything further.

Yours sincerely

Chris Mills

CHRIS MILLS
DIRECTOR WALES

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cc: David Edwell, Area Manager North

Cont/d..