



**Cyfoeth
Naturiol**
Cymru
**Natural
Resources**
Wales

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Protecting Community Assets Consultation
Welsh Government
Communities Division
Rhydycar
Merthyr Tydfil
CF48 1UZ

10 September 2015

Dear Sir,

Welsh Government Consultation: Protecting Community Assets

Natural Resources Wales (NRW) brings together the work of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales, as well as some functions of Welsh Government. Our purpose is to ensure that the environment and natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

The Natural Resources Body for Wales (Functions) Order 2012 gives NRW duties relating to access and recreation, historic sites and well-being – specifically the health and social well-being of individuals and communities, and the economic well-being of individuals, businesses and communities. Our response to the consultation is made in relation to these specific duties.

We agree that transfer to communities of publically or privately owned assets proposed for closure or sale can deliver powerful benefits. Community management can also open up many more sources of funding and support than are available to the public or private sector. Where associated resources are available to underpin this, we are in full support of models which empower communities and safeguard such local assets. However, as *operational land* (such as that managed by NRW) fulfils a number of strategic objectives for a wider population, it is important that management remains primarily with the statutory undertaker – unless such land is identified for disposal.

This does not in any way prevent us and other statutory undertakers working collaboratively with communities to support community empowerment and participation to increase community cohesion and resilience. NRW's Mynediad scheme is one approach to facilitating such activity. It is not always necessary to *own* an asset to influence its management and achieve community objectives. Asset transfer should be one of a range of options to ensure that publically and privately owned assets continue to contribute to community well-being and development.

Thank you for the opportunity to comment on these proposals.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Rhian Jardine', with a horizontal line underneath.

Rhian Jardine
Head of Sustainable Communities

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Croesewir gohebiaeth yn y Gymraeg a'r Saesneg
Correspondence welcomed in Welsh and English

Welsh Government Protecting Community Assets Consultation

Natural Resources Wales Response

Name:		
Question 1 – Do you feel the definition of Assets of Community Value contained in the Localism Act 2011 is appropriate for use in relation to protecting assets in Wales?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Please say why you have answered this way.		
<p>Definition</p> <p>We are happy with the definition in the Localism Act 2011, i.e. <i>a building or other land in a Local Authority's area is of community value if in the opinion of the Authority its actual current primary use (or use in the recent past) furthers the social well-being or social interests of the local community.</i> The definition includes both land and buildings, and requires consideration of both primary use and wide local community benefits. We would recommend that woodland, ponds and green spaces should be given explicit and equal emphasis alongside buildings – they are equally as important in forging community identity and sense of place.</p> <p>Statutory Undertakers and Natural Resources Wales' Role</p> <p>Under the Localism Act 2011, residential or <i>statutory operational land or property</i>, are exempt from being placed on the Assets of Community Value register. 'Operational land' is defined in section 263 of the Town and Country Planning Act 1990 in relation to 'statutory undertakers': (a) land which is used for the purpose of carrying on their undertaking; and (b) land in which an interest is held for that purpose. Natural Resources Wales (NRW) is defined as being a 'statutory undertaker' for this purpose by section 262(3) and (4) of the Town and Country Planning Act 1990.</p> <p>NRW manages flood assets, 42 National Nature Reserves, the 120,000ha Welsh Government Woodland Estate and 5 Visitor Centres as part of its undertakings - 7% of the land area of Wales. All would be classified as 'operational land' delivering multiple environmental, social and economic services and benefits. There is no single 'primary use'. Following the model in force in England, land managed by NRW would be exempt from being designated as Assets of Community Value – unless it was identified as suitable for sale or disposal. We would recommend that this model is adopted in Wales.</p> <p>NRW's Commitment to Communities and Regeneration</p> <p>Our Corporate Plan states our commitment to <i>'work with local communities to get more people involved in place-based decisions, and develop future plans together using a principle of community ownership and co-production, particularly close to land and water we manage'</i>. Strategic commitments emphasise our priority aim to invest resources to deliver benefits for communities - specifically to:</p> <ul style="list-style-type: none"> • Work more closely in partnership with communities - listening to and working with local citizens, including people from protected characteristics groups, focussing our efforts on the most deprived communities • Focus our access and recreation development activities on those sites which are the most popular with people or are in our poorest communities • Maximise the economic benefits of our work, focussing particularly on Communities First areas and other communities with evidence of deprivation 		

- Provide learning and skills opportunities, advice and guidance, in and about the environment, including visits for all ages and abilities and in particular for young people

Delivery actions in our suite of Good for People Enabling Plans (Recreation and Access; Communities and Regeneration; Education and Skills) identify key priorities for teams across the organisation. The Plans were developed in partnership with external stakeholders and share common, over-arching principles:

- Our work with communities takes place within a natural resource management framework, optimising social, environmental and economic benefits
- Work programmes are developed and delivered in accordance with the Equality Act 2010.
- We use a spatial, evidence based approach, focussing first on actions that deliver the greatest multiple benefits for people and communities – especially those in Wales’ most deprived areas.

Question 2 – Please give your views on the following three questions

1 - Should Community Assets registers be administered at a National level or by Local Authorities?
(please tick one box)

National **Local**

A single national register of community assets would ensure management consistency and coherence, and provide a searchable spatial database.

2 - Should communities have power to initiate asset transfer from Public Sector Bodies?
(please tick one box)

Yes **No**

However, a range of potential incremental and tailored options should be available – particularly but not only for statutory undertakers – see response to Q3 below.

3 - Should communities have greater opportunity than in England to bid and purchase privately owned community assets when they are put up for sale (“first refusal”)?
(please tick one box)

Yes **No**

Question 3 – Which is your preferred option for the development of an Assets of Community Value Model in Wales?

For Private Sector Asset Owners and Public Bodies who are not statutory undertakers – **OPTION C**

A **B** **C**

For statutory undertakers – **OPTION A** – but with a clear requirement to put in place a public access scheme and offer communities ‘first refusal’ to purchase assets identified for disposal, wherever appropriate and possible.

We need a range of incremental and scale-able options tailored to different ownerships, capacity and resources.

In relation to your responses for Questions 2 and 3 please say why you have answered this way.

Community Asset Management – a Range of Models

Transfer to communities of publically or privately owned assets proposed for closure or sale can deliver powerful benefits. Community management can also open up many more sources of funding and support than are available to the public or private sector. Where associated resources are available to underpin this, we are in full support of models which empower communities and safeguard such local assets. However, as *operational land* (such as that managed by NRW) fulfils a number of strategic objectives for a wider population, it is important that management remains primarily with the statutory undertaker – unless such land is identified for disposal.

This does not in any way prevent statutory undertakers working collaboratively with communities to support community empowerment and participation to increase community cohesion and resilience. It is not always necessary to *own* an asset to influence its management and achieve community objectives. Asset transfer should be one of a range of options to ensure that publically and privately owned assets continue to contribute to community well-being and development.

[Woodlands and You](#) is NRW's national scheme through which communities are able to propose and undertake a wide range of initiatives – from longer term projects, enterprises and training schemes to one off activities and events. Soon to be extended to all assets managed by NRW, the scheme will be rebranded and promoted as 'Mynediad' in early 2016. We will continue to work with stakeholders to build on the scheme and improve delivery support. Whilst the scheme can include lease and sale disposals, the vast majority of activities are supported without an asset transfer taking place, through Permits and Management Agreements and collaborative working. Communities and social enterprises can often deliver greater community benefits than can NRW through their involvement and we are keen to extend these opportunities. Assets are made available for communities to use and benefit from – and they are safeguarded in public ownership should projects or groups fail.

We work closely with applicants to arrive at the best solutions to meet their aims. Some groups start with a basic activity Permit, and then move on to a Management Agreement with greater involvement as plans and ideas develop.

Examples of land-based schemes supported through Woodlands and You Management Agreements (NB – buildings can also be included):

- [Golygfa Gwydyr](#) is a Llanrwst based social enterprise. Amongst their wide-ranging activities, the group has a Management Agreement with NRW on a 15 hectare site in Gwydyr Forest. This is linked to the town and the group's community building by Llwybr y Ceirw Sculpture trail and NRW access routes. Within the site, the group has developed the Caerdroia - a mile long labyrinth pathway, an outdoor performance space, an outdoor education space and a registered orchard. The space can be freely accessed by community members and visitors to walk the pathway and enjoy the forest environment.
- Wisewoods Wales is a social enterprise based in NRW managed woodlands just south of Aberystwyth. With an agreed woodland management plan, the group is bringing the woodland back into good ecological condition and is also delivering accredited training, trading, volunteers, family activity days.

- Coed y Bont community group in Pontrhydfendigaid has installed footpath networks, picnic sites and bird, bat and dormouse boxes in their local NRW managed woodland – raising thousands of pounds to support the work. Volunteers are involved in all aspects of maintenance surveys and conservation management.
- In the last Community Asset Transfer round, [Longwood Community Woodland Group](#) was successful in its bid for funding to purchase the Welsh Government’s Longwood at full market value (using the Woodlands and You process). It’s now managed as a social enterprise for community benefit, providing local jobs and supporting local enterprise.

We are constrained by land ownerships (some of the Welsh Government Woodland Estate is leasehold) and multiple uses of the sites we manage, so leases and sales can normally only be considered where:

- The land or building concerned is freehold;
- There is limited existing stakeholder interest in the land or building;
- The land is in a either a stand-alone block or on the edge of a larger block with its own access routes;
- It is clear that the applicant’s plans could only be met by a lease or purchase of the woodland and that a Management Agreement or Permit would be inappropriate.

The Coed y Bont group have made useful comments in a [Llais y Goedwig case study](#) about the collaborative model offered by Woodlands and You:

“A significant benefit of the Management Agreement is the advantage of ready access to expertise, advice and services in NRW in many relevant areas at no cost to us. The importance of all of this assistance cannot be understated. Clearly NRW wish to ensure that work carried out on Welsh Government woodlands is well undertaken and is of a good quality and to have the necessary controls over it. However, without these inputs it is difficult to see how our aim of improving access in the way we envisaged could have been achieved. Certainly we do not have this expertise in-house and to buy it in would have been very costly and would have involved us in a lot more fund raising.

One of the main advantages of having a community woodland in a Welsh Government woodland is that we are not burdened with the ownership responsibilities of a woodland property such as the costs of silvicultural management and the associated health and safety and insurance obligations and legal liabilities.”

Question 4 – What issues related to resources (including costs and community support) do you feel are most important in protecting community assets?

1. **Development and management resources** – it’s essential that development and management resources are available to communities considering taking on the management of community assets – financial support, specialist advice and guidance. Such resources (particularly from public bodies) are increasingly thin on the ground. If owners are disposing of assets because they are not generating income or are a revenue drain, it can be difficult for communities to turn things round and make them self-sustaining. The social enterprises operating on land managed by NRW have been heavily grant dependent. It will be interesting to see the evaluation of the one year WG funded Community Asset Transfer Support Officer

post in Blaenau Gwent hosted by GAVO. It will be essential to extend the Community Asset Transfer Toolkit for sport and culture facilities to create a generic resource pack for all asset types – or develop a suite. Clear guidance is needed on the roles and responsibilities of both communities and asset owners in any transfer process.

- 2. Social Inequity** - the consultation acknowledges inequalities in Wales – more affluent communities are more likely to be able to take advantage of any scheme which obliges land owners to offer them first refusal, but disadvantaged communities are less likely to be in a position to proceed quickly. Any new measure may require provision for local authorities or voluntary organisations to be allowed to register an asset on behalf of communities with higher levels of measureable deprivation and where there is a deficit in access to green space.
- 3. Sustainability** – any transfer process will need to include an assessment of the legal structures of community groups and their ability to be self-sustaining. Long-term security of funding for asset management and protection of those using them will be essential. This will include provisions of public liability insurance and the financial and practical burdens imposed by the Health and Safety at Work legislation and Occupier's Liability Acts, UK Woodland Assurance Scheme accreditation and Forest Works Manager qualifications (in respect of woodland) and a level of expertise either within or readily available to groups on these and other legal matters.
- 4. Project Failure and Ownership Change** - if community groups fold, will provisions be imposed on re-sale of the asset? Should the local authority or public body have the first refusal to re-purchase the asset? How is profit on re-sale dealt with? Are claw-back provisions for redevelopment required or user clauses to restrict groups to the use for which the asset was originally envisaged?

Question 5 – Do you have any further comments or queries related to this consultation? If so, please use this space to report them.

Asset transfer should be only one of a range of options - and is only available for communities who have access to skills and resources – it's a significant commitment in a range of ways to take on management of a public resource. Any guidance and legislation should ensure flexibility, scale-ability, collaboration and the provision of sufficient support systems. There are ways other than straight transfer of ensuring that publically and privately owned assets contribute to community well-being and development - it will not be appropriate for everyone.