REVIT

revitalising industrial sites

David James, Bauke Lagarde

Formal Policy Instruments for Community Participation

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It was written under the lead of projekt partners Torfaen County Borough Council
And City of Tilburg
david.james2@torfaen.gov.uk, PH: (+44) 1633648258
bauke.lagarde@tilburg.nl, PH: (+31) 135428558

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Abstract

This report investigates which legislation governs the requirements for community consultation in the process of development of brownfield land in each of the six REVIT partners' areas. The research examined how the legislation was interpreted by each of the local governments involved in the trans-national project. Although most of the national legislation that governs the requirements to consult is mostly vague, local interpretation of the legislation means that there is a strong emphasis on consulting interested parties. As a result of global and European agreements, it is most likely that in all future legislation the requirements to consult will be greater than they are at present. A research project which follows this one will attempt to identify best practice consultation methods that are used by the six REVIT partners.

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Annex

1 Introduction

Six European partners have come together to undertake a project under the auspices of the Interreg IIIB programme to develop joint approaches to the development, management and promotion of “brownfield sites” in their areas. The transnational project is called “Towards More Effective and Sustainable Brownfield Revitalisation Policies” (REVIT). The project will run up to 2007.

The EU Partners are the City of Stuttgart (lead partner), the Conurbation of Nantes, The City of Tilburg, The City of Hengelo, Torfaen County Borough Council and Medway Council. The project comprises a combination of local actions and joint initiatives. The joint initiatives are centred around three themes, or “Common Co-operation Issues” (CCI´s), aimed at establishing best practice and the development of a joint approach. This assignment is concerned with the first of these issues (CCI No. 1), which focuses on the theme of community consultation.

1.1 Aim of CCI 1

Partner co-operation will initially focus on the practical application of “formal policy instruments” such as national/regional/local planning rules for the revitalisation of brownfield sites or specific intervention instruments. Partners will then focus on “informal policy instruments” such as technical methods and policy support tools which should enable a better understanding of the existing portfolio of brownfield sites and of related development potentialities.

The partners will also employ this collaborative approach to address the existing methods that attempt to enhance the involvement of third parties concerned by regeneration processes for brownfield sites. As such, the holistic aim of the REVIT project is to “share” the definition of regeneration measures and to increase their overall “degree of acceptability”.

Operational Objectives:

Through its collaborative nature REVIT will lead to an “exchange of experience”, which will help to improve partners know-how on existing formal and informal regeneration instruments and on methods or policy approaches that allow for wider participation and community involvement.

Co-operation will allow partners to measure the various situations and practical experiences of different formal/informal policy instruments for regeneration of brownfield sites (on a comparative basis) and further explore best practice examples for participatory brownfield regeneration/community participation. This will allow partners to jointly formulate general recommendations for developing further policy instruments and designing new/innovatory instruments, and also to elaborate model approaches and new procedures for participatory regeneration/community involvement processes.

Finally, co-operation will allow partners to improve/expand the set of formal/informal policy instruments available for regeneration of brownfield sites and to practically stimulate participatory regeneration/community participation processes in different project partner areas. This will mainly be achieved through the realisation of joint and area-specific pilot projects.

Introduction

The specific focus of co-operation for CCI No. 1 covers existing formal/informal policy instruments for regeneration of brownfield sites and methods/activities that help to implement regeneration and community involvement processes.

This focus breaks down into 3 areas:

- Formal policy instruments such as national/regional/local planning rules or intervention instruments or statutory requirements.
- Informal policy instruments such as specific technical methods and support tools for decision making (i.e. tools for enabling a better identification and understanding of existing portfolio of brownfield sites and related development potentials), SPG's, Development Briefs, Consultees.
- Methods that enhance an involvement of third parties in the process of regeneration of brownfield sites (i.e. through information, communication or direct involvement of inhabitants and current areas of brownfield land), range and models of consultation and participation.

The aim is to share best practice. To achieve this, an understanding of the policy approaches and instruments and the decision-making framework in each partner area needs to be established. This will provide the context for taking forward the development of model approaches. There is also a requirement to establish the basic principles of public and community involvement.

Therefore, a research assignment is needed to pull together the understanding of the environment within which partners are bringing forward regeneration. This assignment also breaks down into three issues.

1) Policy and Structures Framework

a) Undertake research of baseline data on strategy and the legal framework for decision making within each particular area. This work is to include an understanding of consultation and representation included in this framework.
b) Analysis of common instruments and structures and highlighting significant differences or influences.

2) Informal Instruments

Co-ordinate data from the partners, areas of informal structures, policies that shape the regeneration of brownfield sites i.e. specific local structures, partnerships, and approaches. Detail examples of innovation, best practice and highlight opportunities for exchanges, shared knowledge.

3) Community Participation

a) Check out standard activities in partner areas.
b) Co-ordinate existing guidance, research on different methodologies and best practice.
c) Produce recommendations on way forward to develop models and up-skill partners.

The policy and structures framework of the assignment will be described in this report. The other two parts will be done in a later assignment.

1.2 Aim of this Assignment

The output expected from this assignment is a report detailing:

- which policy and decision-making frameworks the partner areas are working with.
- which statutory requirements for involvement in each partner area are used.
- which protocols and principles of involvement in each partner area are used.

In order to achieve these outputs the following research questions have to be asked.

- *Which formal national, regional and local legislations or policies govern the requirements for community consultation in the process of regeneration of brownfield land?*
- *How does this formal legislation and policy work in practice? In other words, how are the local governments dealing with these rules and how have they been dealing with community participation?*

In order to answer these questions effectively, this report will be structured so as to initially detail agreements which are made on the global and European level. These agreements are likely to influence all legislation in the partners' areas. This will then be followed by details of the different national, regional and local legislation. To highlight how this legislation works in practice a summary of local interpretations for each of the partners' areas will be included. Finally, the similarities and differences between the legislation in all of the partner areas will be discussed.

2 Global/European Agreements about Community Consultation

Although the focus of this research has been to identify the statutory requirements for community consultation in the process of regeneration of previously developed land in each of the six REVIT partner areas, there are a number of global and European agreements that influence individual countries' circumstances and as a result, these must be introduced prior to examining the legislation in each area. Three agreements have been identified which contain references to community consultation; Agenda 21, the Aarhus Convention and the European Charter.

2.1 Agenda 21

Agenda 21 is a comprehensive plan of action to be taken globally, nationally and locally by organisations of the United Nations System, Governments, and Major Groups in every area in which human actions impact on the environment.

Agenda 21, the Rio Declaration on Environment and Development was adopted by more than 178 Governments at the United Nations Conference on Environment and Development (UNCED) held in Rio de Janerio, Brazil, 3 to 14 June 1992.

Section III of Agenda 21 is *'Strengthening the Role of Major Groups'*. In this section the Agenda calls for the committment and genuine involvement of all social groups for it objectives, policies and mechanisms to be effective. The Agenda also states

> *"One of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making. Furthermore, in the more specific context of environment and development, the need for new forms of participation has emerged. This includes the need of individuals, groups and organizations to participate in environmental impact assessment procedures and to know about and participate in decisions, particularly those which potentially affect the communities in which they live and work."*

Agenda 21 recognises that so many of the problems attempting to be addressed have their roots in local activities and therefore local authorities will be a determining factor in fulfilling its objectives. The following objectives were proposed for local authorities initiatives in support of Agenda 21:

> *By 1996, most local authorities in each country should have undertaken a consultative process with their populations and achieved a consensus on "a local Agenda 21" for the community;*
> *By 1993, the international community should have initiated a consultative process aimed at increasing cooperation between local authorities;*
> *By 1994, representatives of associations of cities and other local authorities should have increased levels of cooperation and coordination with the goal of enhancing the exchange of information and experience among local authorities;*
> *All local authorities in each country should be encouraged to implement and monitor programmes which aim at ensuring that women and youth are represented in decision-making, planning and implementation processes*. (URL 1).

2.2 Aarhus Convention

The United Nations Economic Commission for Europe (UN/ECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental

Matters was adopted on 25th June 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference in the 'Environment for Europe' process. As its title suggests, the Convention contains three broad themes: access to information, public participation and access to justice. The Aarhus Convention entered into force on 30th October 2001 after Germany became the sixteenth country to ratify the agreement. It is open to the 55 members of the UN/ECE as well as to non-member states. All of the REVIT partners' countries were signatories to the Convention.

The Convention is an elaboration of principle 10 of the Rio Declaration, which stresses the need for citizen's participation in environmental issues and for access to information on the environment held by public authorities. According to the UN/ECE, the Aarhus Convention

> '*establishes that sustainable development can be achieved only through the involvement of all stakeholders. It links government accountability and environmental protection. It focuses on interactions between the public and public authorities in a democratic context and it is forging a new process for public participation in the negotiation and implementation of international agreements.*' (URL 2)

The obligations contained in the Aarhus Convention are focused towards public authorities, which are defined so as to cover governmental bodies from all sectors and at all levels (national, regional, local), and bodies performing public administrative functions.

2.2.1 Public Participation and Aarhus Convention

Articles 6, 7 and 8 of the Aarhus Convention cover public participation. The Convention sets out minimum requirements for public participation in various categories of environmental decision making.

Public Participation in Decisions on Specific Activities establishes the participation requirements for Parties that include: timely and effective notification of the public concerned[1]; reasonable timeframes for participation, including provision for participation at an early stage; a right for the public concerned to inspect information which is relevant to the decision-making free of charge; an obligation on the decision-making body to take due account of the outcome of the public participation; and prompt public notification of the decision, with the text of the decision and the reasons and considerations on which it is based being made publicly accessible.

Public Participation Concerning Plans, Programmes and Policies Relating to the Environment requires Parties to make 'appropriate practical and/or other provisions for the public to

[1] The 'public concerned' is defined as 'the public affected or likely to be affected by, or having an interest in, the environmental decision-making', and explicitly includes NGOs promoting environmental protection and meeting any requirements under national law.

participate during the preparation of plans and programmes relating to the environment[2], within a transparent and fair framework, having provided the necessary information to the public.' Article 7 also states 'each party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.'

Public Participation During the Preparation of Executive Regulations and/or Generally Applicable Legally Binding Normative Instruments.

'*Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment.*' (URL 2)

2.3 European Urban Charter

The European Urban Charter which originates from 1992, is a legislative guideline produced to assist with the framing of policy, which defines citizens' rights in European towns and cities. In terms of its philosophy, the charter has a number of distinct, clear, underlying threads, one of which is the relationship between local government and their communities.

Theme 4.12 of the European Urban Charter is '*Citizen participation, urban management and urban planning*' and is the basis for authorities when defining their approaches to citizen participation and local democracy.

There are seven principles for citizen participation, urban management and urban planning defined under this section of the Charter, one of which is particularly relevant to this research assignment.

Principle 3 states:

> *'Citizens are entitled to be consulted over all major projects affecting the future of the community.*
> *They must be informed about all principal plans conceived by their elected representatives and officials.*
> *The outcome of consultation on projects affecting the urban environment in the widest sense must be open to inspection by elected representatives, developers and members of the public.*
> *This is achieved through developing formal public consultation procedures; by providing guarantees of the impartiality in the process of consultation; by allowing free access to all public documents; by publicising all projects on site; through publishing an official local interest news sheet; through allowing, recognising and enhancing the role of voluntary organisations in bridging the gap between local government and the general public.*

[2] It can be argued that the term 'relating to the environment' is quite broad, covering not just plans or programmes prepared by an environment ministry, but also sectoral plans (transport, energy, tourism etc.) where these have significant environmental implications.

Although the other six principles all refer to participation and local democracy they are not as specific about plans, projects and participation as the above principle and tend to refer more about policy and decision-making. For example, Principle 7 is concerned about participation of young people in local life and details how this can be achieved through a deliberate local youth policy. (URL 3).

3 National/Local Legislation about Community Consultation

This chapter details the national and local legislation which governs community consultation in the process of regeneration of brownfield land for each of the partners' areas. In order to clarify the basis for the legislation in the different countries, a synopsis of national policy is included

3.1 France

Urban political organisation

France is divided into 22 regions, 90 *départements* and 36,000 communes. Certain communes are grouped into conurbations. Urban planning and development have a long tradition of strong central government action.

Since 1983, conurbations and communes have been responsible for their own urban development. Conurbations must create a *Schéma de Cohérence Territoriale* (SCOT) [Territorial Coherence Scheme] that sets forth their development plans, including urban development, economic development, transportation infrastructures and environmental protection. Communes must draw up a *Plan Local de l'Urbanisme* [Local Urban Development Plan] that sets forth the construction and the zoning rules: buildable, constructed, protected, environmental, industrial, port, etc.

These plans are drawn up after regulatory consultation with the residents. This month, Nantes is beginning work on its new Local Urban Development Plan, which will establish the urban planning rules for the next 10 years, in accordance with its development goals.

National legislation

Official consultation is governed by article L300-2 of the French Urban Development Code, which has been modified by recent laws:

- *1983:* the Bouchardeau Law extends prior public enquiry to development or work likely to affect the environment.
- *1995:* the Barnier Law institutes the National Commission for Public Debate upstream of the realisation of major public projects (law 95-101 of 2 February 1995).
- *2002:* The Proximity Democracy Law updates public debate organisation procedures and requires communes of more than 80,000 inhabitants to set up district councils. They must be consulted and are invited to make proposals on all issues relating to the district. (art L 2143-1 of the CGCT)
- *2002:* The Solidarity and Urban Renewal Law modifies the Urban Development Code L 300-2 and extends the notion of prior consultation.

In France, the entity responsible for regulatory consultation is the project owner, namely the central government for national rail lines, the *département* for roads, the urban community for waste treatment plants and public spaces, and the city for housing. For complex urban development projects, special structures are created, for example the SAMOA in Nantes or Euromed in Marseille.

A public enquiry must be conducted for all projects that require regulatory consultation. The enquiry is designed to verify the necessity of the project and officially ascertain the opinions of the residents. The judge appoints an enquiry commissioner who is independent from the project owner. The commissioner submits an opinion based on the enquiry, but may also voice concerns about the project. These concerns will be taken into account in the decision of the judge.

Local legislation

In 1995, the City of Nantes created consultative district committees. Each district represents approximately 30,000 residents. These committees are open to all and operate in theme-based working groups, including urban planning and development, civics-education, and community life. An elected representative for the district heads the consultative committee. Their objectives are to facilitate citizen involvement in the management of public affairs and to create collective or community initiatives. The committees decide on small development projects and give their opinion on larger operations. Today in Nantes, 3,000 residents are registered in these groups. In 2004, 310 district committee meetings and regulatory public meetings were held. (Stephan, 2005)

3.2 Germany

Urban political organisation

Germany has a polycentric urban structure. Due to the politico-administrative structure of the country, urban policies are being formulated and implemented both at the federal level and at the level of the 16 states and city states. German federalism concentrates legislative power at the federal level and places administrative and judicial powers at the state level. Each state has a popularly elected legislature, which chooses a minister-president or a first mayor (in Hamburg and Bremen) to serve as chief executive. There is very little for the 16 state assemblies to legislate because the Basic Law subordinates most state legislative powers to the federal government. The states are equipped with independent parliaments. They have a policy monopoly in education and culture and the power to formulate and implement their own urban development policies, as long as this does not conflict with legally binding federal regulations. Embedded in a culture of consensus, there is neither a clear top-down command structure, nor an effort to harmonise urban policies at the state level. A state senate, the Bundestag, controls the national government.

For many years Germany did not have any special legislation for the urban area at the federal level. At the end of the nineties, however, it was realised that urban problems such as de-industrialisation, unemployment, poverty, social exclusion and immigration necessitate a structural approach. Soziale Stadt, Germany's first federal urban initiative, was launched in 1999. In it, the states and the federal government are working together to improve life in the city through integrated measures in the areas of funding and the economy, social affairs, spatial planning and the environment. The Soziale Stadt, is having a major effect on urban policy, but the states themselves determine the focus. That is why urban policies vary from state to state according to the respective regional tradition and culture of decision-making. (URL 4)

National legislations

The German federal laws do not descibe public participation extensively, but the German Federal Building Code is explicit about public participation. In section 3 it states

> *"the public is to be informed at the earliest possible stage about the general aims and purposes of planning, about significantly different solutions, which are being considered for the redesign or development of an area, and of the probable impact of the scheme; the public is to be given suitable opportunity for comment and discussion"*

In this German Federal Building Code the different times of when to make the drafts for land-use plans public and how to handle with suggestions and comments from the public are defined.

In the Federal Regional Planning Act it is decided on a regional impact assessment procedure, to what extent the public will participate. For every spatial plan the requirements for participation will be different and decided by the authority concerned.

Local legislations

There is no legislation or public participation regulation on municipality level. Concerning formal policy instruments in the process of community involvement in planning processes, Stuttgart has very little except for a few paragraphs in Law. Stuttgart is working on a local agenda based on the global agreement Agenda 21, detailed previously. In the context of the Agenda 21 structures to involve community and to achieve better overall community participation were tested in Stuttgart and were set up in some parts of the city. The local Government decided on a local "Local Agenda 21" to start the process. An initiative and working group Agenda 21 was founded in Stuttgart and tested in four model districts of Stuttgart and centres for information, contact and consultation were appointed. The themes for these centres of information are city development, energy, transportation, economy, life, consumption, health, sport, education, culture, migrants
social affairs, leisure. An important aspect in the whole process is voluntary community participation.

3.3 United Kingdom

Political organisation

The United Kingdom is divided into regions, districts and about a hundred counties. The districts and counties are run by councils, which are directly elected once every four years. Mayors are also elected. Since the Local Government Act 2000, local authorities have a choice of three systems: a mayor directly elected by the voters, a mayor elected by the local council, or an elected mayor assisted by a city manager. (URL 5)

National Legislation

Although the focus of this research has been to identify the statutory requirements for community consultation in the process of regeneration of previously developed land in each of the six REVIT partners' areas, in the cases of Medway (England) and Torfaen (Wales) most of the requirements for consultation are detailed in the same UK Acts of Parliament. Therefore, in order to highlight the differences between the two areas, references to the specific sections of the Act of Parliament are included in the text covering Medway and Torfaen.

3.3.1 Medway

Planning Policy Guidance Notes (PPGs).
The Governments planning policy guidance notes set out the policy framework within which local planning authorities are required to draw up their development plans. There are currently twenty five PPGs. *Planning Policy Guidance 1: General policy and principles* makes reference to 'The Citizen's Charter' which was launched by the Government in 1991 to raise the standard of public services and make them more responsive to the wishes and needs of their users. One of the six principles of the Charter, which applies to all public services is 'choice and consultation'.

In 1994, the Department of the Environment, the Welsh Office and the National Planning Forum made their own Charter commitments on the quality of service their customers can expect by publishing "Planning: Charter Standards". This document is aimed at the public and gives a clear statement of the levels of service everyone can expect from central and local government on planning matters. (URL 6).

Planning and Compulsory Purchase Act 2004.
The Planning and Compulsory Purchase Act became law on 13th May 2004. The Act is intended to overcome several perceived difficulties in the current planning system, one of which is the failure to engage communities (URL 7).

The Act states that '*For each region there is to be a regional spatial strategy*' (RSS)(Part 1. 1. (1)). Regional Planning Bodies (RPB) must monitor the implementation of the RSS throughout the region and consider whether the implementation is achieving the purposes of the RSS. All RPBs must prepare a draft revision of the RSS and as part of this exercise '*the RPB must prepare and publish a statement of its policies as to the involvement of persons who appear to the RPB to have an interest in the exercise of those functions.*'(Part 1. 6 (1)).

Local planning authorities, which can be county councils, district councils, or unitary councils (URL 8), *'must prepare and maintain a scheme to be known as their local development scheme.*'(Part 2. 15. (1)). As part of the requirement for local development schemes, documents which must be specified as local development documents, which set out the planning authorities policies, must in general conform with the RSS. One such local development document which must be specified as part of the local development scheme is '*the local planning authority's statement of community involvement.*'(Part 2. 17 (1) (b)).

'*The statement of community involvement is a statement of the authority's policy as to the involvement in the exercise of the authority's functions … of persons who appear to the authority to have an interest in matters relating to development in their area.*'(Part 2. 18 (2)). When preparing the statement of community involvement the local planning authority must have regard to the community strategy prepared by the local authority. (URL 9).

Although the Planning and Compulsory Purchase Act 2004 includes the requirement to produce a statement of community involvement, there is no guidance in the Act on the standards this statement of involvement must include (URL 10).

Town and Country Planning Act 1990.
The full effectiveness of the Planning and Compulsory Purchase Act 2004 in terms of community consultation will not materialise until the full introduction of its constituent parts. In the

case of Medway these parts will consist of the South East Plan (including a sub-regional strategy) and the local development scheme, which will include a statement of community involvement. Until this time, the statutory requirements for community consultation are catered for by the requirements stipulated in the Town and Country Planning Act 1990.

The Town and Country Planning Act 1990 was the major act which set the framework for planning and development in the UK. The Act required non-metropolitan areas such as Medway to produce Structure and Local Plans. Chapter II, section 39 of the Town and Country Planning Act stipulates the publicity and consultation procedure for local planning authorities when making their local plans. The Act states (Section 39. (2)) that local planning authorities

> '*shall take such steps as will in their opinion secure – (a) that adequate publicity is given to the proposals in the area to which the plan relates; (b) that persons who may be expected to wish to make representations about the proposals are made aware that they are entitled to do so; and (c) that such persons are given an adequate opportunity of making such representations.*'

In response to representations made about local plans, '*The local planning authority may cause a local inquiry or other hearing to be held for the purpose of considering objections to their proposal…*'

In addition to laying down the requirements for publicity and consultation at a local planning authority level, the Town and Country Planning Act 1990 details the requirements that individual developers must abide by before planning applications can be entertained by the local planning authority. There are specific requirements when the proposed development is for mineral working or on agricultural land, but in the main, the Act details the requirements for developers to put up notices of their proposed developments at specified locations and for certain periods of time. (URL 11)

As with the Planning and Compulsory Purchase Act 2004, there is no guidance in the 1990 Act as to the standards of publicity and consultation that local planning authorities are required to make. On the contrary, the wording of the Act is such that the level of community consultation is left entirely at the discretion of each local planning authority.

Medway Community Plan

The Medway Community Plan is produced by the Medway Local Strategic Partnership which brings together all the main organisations representing the community of Medway including businesses, voluntary and community organisations and public bodies.

Medway's current community plan sets priorities and targets for the period 2004 – 2007. The plan also includes the timeframe for delivery, how the targets will be monitored and measured, and who will be responsible for delivering them. (Jeffery, 2004)

Under the requirements of The Planning and Compulsory Purchase Act 2004, the Medway Community Plan will have to be given due regard when the local authority in Medway are preparing their statement of community involvement. With regard to community consultation for brownfield sites the current community plan states

> '*Neighbourhood plans will ensure areas and groups of people within Medway most in need are engaged in planning for their communities. Consultation and the involvement of people in regeneration areas, such as Chatham Waterfront are also critical to the development of sustainable communities within these areas. It is especially important that hard to reach groups are engaged and consulted.*' (URL 12)

3.3.2 Torfaen

Within Wales, the National Assembly for Wales is responsible for the development and implementation of the planning system. Current land use planning policy is contained in '*Planning Policy Wales'* which provides the strategic policy framework for the effective preparation of local planning authorities' development plans. This is supplemented by 20 topic based Technical Advice Notes (Wales) (TANs) and circulars.

Section 2.11 of Planning Policy Wales is '*Involving the community and preparing community strategies*'. Reference is made in this section of the policy to section 4 of The Local Government Act 2000 which requires every county and county borough council in Wales to prepare a community strategy. This section of the policy also confirms that community strategies and unitary development plans (UDPs) need to be complimentary. (URL 13).

In the case of Torfaen, a UDP was not developed so the local authority is applying the requirements laid down in the Planning and Compulsory Purchase Act 2004 with regards to planning.

Planning and Compulsory Purchase Act 2004

Part 6 of the Planning and Compulsory Purchase Act 2004 relates specifically to Wales. The Act states (Part 6. 60. (1))

> '*There must be a spatial plan for Wales to be known as the "Wales Spatial Plan"'*, which '*must set out such of the policies (however expressed) of the National Assembly for Wales as it thinks appropriate in relation to the development and use of land in Wales.*'
>
> '*The Assembly must consult such persons or bodies as it considers appropriate in preparing or revising the Plan.*'

Local planning authorities must prepare local development plans for their own areas which must have regard to the 'Wales Spatial Plan' and the community strategy prepared by the authority. In addition (Part 6. 63. (1)). *A local development plan must be prepared in accordance with - (a) the local planning authority's community involvement scheme.*' Community involvement schemes are statements of local authorities policies as to the involvement of persons that either the Assembly prescribes, or persons that appear to the authority to have an interest in the matters of development in the area of the authority. (URL 9).

At present, the statutory instruments to bring the above detailed legislation into effect has not been passed, therefore the only legislation governing community consultation in Torfaen is the Local Government Act 2000. In response to this Act of Parliament, Torfaen is currently in the development stage of its community strategy. There is a Local Plan for Torfaen which was introduced in 2000 under the requirements of the Town and Country Planning Act 1990, but although it was subject to consultation before it was implemented, it does not specify community consultation when planning development.

As was the case for Medway, there are no standards for community involvement stipulated in the Part 6 of the Planning and Compulsory Purchase Act 2004 which relates to Wales.

3.4 The Netherlands

Political Organisation

Two levels of government implement current Dutch urban policy. Firstly, the Ministry of the Interior and Kingdom Relations is responsible for the development and maintenance of the urban policy system. The government assumes collective responsibility for coherent, co-ordinated and result-oriented policy to tackle the problems facing the country's towns and cities. The relevant individual ministers are directly responsible for policy in their respective sectors while the ministry has oversight of co-ordination between the social, physical and economic areas of overall policy. Secondly, the towns and cities themselves have primary responsibility for the implementation of urban policy both with and for their citizens, businesses and institutions. To create greater coherence in the approach to urban problems, in 1994 the government launched its first official Urban Policy. The policy framework was developed under close consultation with the cities because the objectives formulated for this purpose must match up closely with the local social situations. Therefore the towns and cities are divided into two groups: G4, the four largest cities in the Netherlands: Amsterdam, Rotterdam, The Hague and Utrecht. G26, which include the cities of Tilburg and Hengelo.

The cities are deemed to formulate their own ambitions in a long-term development programme. The central government offers cities financial security for a five-year period. Within designated themes, cities can spend the money freely and are thus better able to respond to local conditions. Prior to 2005 the cities did not have this flexibility. The central government makes agreements with the cities on measurable achievements. A dialogue takes place annually on the stipulated objectives. At the end of the agreement period the city will give a one-off account of the achievements realised. (URL 14).

National legislation

In the Netherlands the *Spatial Planning Act 1962* (URL 15), which is most relevant to the REVIT project, refers to the participation of citizens when local government is preparing or reconsidering spatial plans. The Spatial Planning Act does not specify how to deal with the community but instead refers to the *Local Council Act 1992*. The Local Council Act is more specific about community participation and states '*that every local council should formulate a public participation regulation' (URL 16).* There is some guidance in the Act as to which standards this statement of participation must include, but they are very general. The public participation regulation must include rules about how inhabitants and corporate bodies must be involved in the preparation of local policy. To elucidate, this public participation regulation is locally based and is set up differently in every municipality. Therefore, the cities of Tilburg and Hengelo have different public participation regulations and these are described in the following text.

3.4.1 Tilburg

Public participation regulation 1997

Tilburg has a special public participation regulation. This regulation states that in every area of municipal policy, the public concerned has the right to participate. The mayor and aldermen decide when developing new (spatial) plans which members of the public are likely to be concerned and therefore allowed to participate. If it is the case that these people are represented by organisations, the mayor and aldermen are able to discuss with them about how the participation should proceed.

Participating public

The participating public must be affected or likely to be affected by, or have an interest in, the environmental decision-making. The mayor and aldermen must provide information to all these parties in such a way that the people are able to have an understanding of the preparation of the plan and the procedures for participation. They must also determine:

- edge conditions; decisions which have previously been made and which will not be discussed
- issues on which people are asked to give their view and wishes
- available time
- financial funds

The public concerned will be given the opportunity to formulate supplementary issues, which need to be decided on.

Non-participating public

Parties which do not take part in the participation procedure detailed above, must be informed about the participation process and the subsequent results.

After the participation process has been completed citizens must be informed of the results. If the final decision is different from the views and wishes expressed by those involved in the participation, the mayor and aldermen must provide reasons why this has been the case.

Communication plan

A communication plan is set up for bigger planning and brownfield regeneration projects. This plan details how communication throughout projects should take place. At least every three months the communication plan is revised, but this depends on the project planning. In this plan the different target groups, the communication strategy, the internal and external communication and different ways of communicating are defined. The communication plan also gives a detailed agenda about when, where and with whom the communication should take place.

On some occasions a participation protocol is made in conjunction with a community organisation (sound-board group) that is representing a neighbourhood. This protocol defines what the organisation's tasks are, how many members they should have, how they should work and what they can expect from other parties, such as the municipality. This communication plan is supplementary to the official public participation regulation. For neither of the two REVIT project areas has a communication plan been made.

3.4.2 Hengelo

Public Participation Regulation 1994

The city of Hengelo has a public participation regulation although it is less detailed than the one produced by Tilburg. The regulation gives guidelines about participation, but also highlights that the city wishes to deregulate the process. The regulations state that at the end of the participation process a written account must be made detailing the methods of participation used and this should also include information about the results of the participation and the reasoning behind any decisions which are made as a result of the process.

Agreement of citizen participation Hart van Zuid 2002.

The City of Hengelo produced an agreement for citizen participation in the REVIT area, Hart van Zuid, in a partnership between the project organisation (market parties and the munici-

pality) and a foundation in which all community organisations are taking part. The agreement is a declaration of intent to high standards of co-operation which contains specific details of methods which guarantee this quality. The agreement is supplementary to the official public participation regulation and as a result, makes it easier to determine the views of the area's users and then use these for sustainable solutions. The partnership has a number of different roles; firstly as informer, secondly as adviser, thirdly as co-producer. These three roles and the details of when to participate are clearly defined, so that both civil servants and the foundation are fully aware of their rights.

The different roles:

> *Informing*: The foundation will be given all the information needed in order to develop a valid point of view. The foundation will inform the project organisation about all issues which impact the Hart van Zuid area.
>
> *Advising*: The foundation is able to advise any party at any time, whether or not the advice has been requested.
>
> *Co-producing*: A joint product, which has to be agreed by all parties.

The City of Hengelo has made a distinction between formal participation, practical participation and continuous communication. In each phase of the project Hengelo details which type of influence is used.

4 Similarities and Differences

As there has been a series of important global and European agreements covering community consultation it might have been expected that there would be a great deal of similarity between REVIT partners in terms of the statutory requirements for consultation, but that is certainly not the case. On the contrary, the statutory requirements for consultation in the partners´areas have greater differences between them than they are similar. Although the legislation does appear to be significantly different, in practice, local interpretation of the legislation means the methods of community consultation in partner´s areas are indeed very much alike. This chapter will confirm both the similarities and differences between partners and give examples from both statute as well as examples of how legislation is locally applied.

The most significant similarity as far as this research assignment is concerned is that in all six partners' areas there is no specific legislation that governs brownfield sites. The requirements for consultation in brownfield areas are contained in planning laws that are mostly dealing with large or national scales. As a result, smaller areas, such as brownfields, are not referred to and the requirements for consultation apply to all planning in general.

Another significant feature of national legislation in five of the countries involved in the REVIT project, Germany being the exception, is that there are no specific details of why and how local authorities should consult. In Germany legislation contains details about the type of consultation process which should take place and how feedback from the consultation should be dealt with, but in all other areas, both legislation and policy guidelines are vague and as a result, it allows local governments to be flexible. The vagueness in legislation maybe seen as a failing by some interested parties, but what is does do is allow local governments to tailor their methods of consultation to suit the individual neighbourhoods where the consultation will take place.

In all of the partners' areas, the more recent the legislation, the greater the requirements to consult. These requirements for consultation that are found in the most recent legislation are most likely to be as a result of national governments applying the principles of European and gloabl agreements, therefore in future legislation, the requirements for consultation are likely to become greater still.

If a detailed explanation of the differences between each partners' countries legislation that governs community consultation was produced, it would not make for easy reading and would not clearly illustrate the differences in methods of consultation that are used. Therefore the following examples do not examine the differences between legislation on a small scale, but rather concentrate on how the national legislation is locally interpreted.

In Tilburg and Hengelo both the local governments specify the communication and participation methods for bigger spatial planning projects. The local government in Hengelo has produced a citizen participation convenant in partnership with a foundation of different citizen groups, which governs the Hart van Zuid REVIT area. This convenant details the duties of, and the rights of both the local government and the foundation.

Nantes has a well established community consultation structure which allows the local government to receive regular citizen feedback on a variety of issues, including small scale development projects. Eleven district committees have been set up in the Nantes area to deal with local issues, but these committees are also able to give opinions on larger scale pro-

jects. In addition to the district committees there are a number of other consultation structures in place which feedback their views to local government. For example, Nantes has a Youth Council which represents the younger citizens of the region.

Within the UK there is a very structured, hierarchical approach to planning and consultation. Although theoretically, this structured approach to planning might be expected to produce a uniform, high standard of community consultation throughout England and Wales, because the national legislation is so general about when and how to consult, there is little consistency across local government when it comes to consultion with the concerned public.

5 Conclusions

This research assignment set out to investigate which legislation or policies govern the requirements for community consultation in the process of regeneration of brownfield land in each of the REVIT partners' areas. An investigation of the legislation in isolation would not have been sufficient to illustrate how it is used therefore the research has also included an investigation into how the legislation is interpreted by each of the local governments involved in the project.

Before examining specific legislation at national, regional and local level, it was important to investigate what, if any, global or European-wide agreements govern the requirements for community consultation in the process of regeneration of brownfield land. Three such agreements exist that refer to community consultation; Agenda 21, the Aarhus Convention and the European Urban Charter. As is the case with all national and local legislation, these three agreements do not refer specifically to brownfield land, but cover the broad theme of public participation in decision-making. It does appear that Agenda 21, which was adopted at the United Nations Conference on Environment and Development at Rio de Janeiro in 1992, has been one of the main drivers for subsequent European and national legislation establishing participation requirements for interested parties.

At a national level, legislation governing the requirements for community consultation is generally vague and more often than not allow for local interpretation. Even so, in the majority of partners' areas local initiatives mean that community consultation is given considerable importance and as a result there are a number of local policies which contain greater detail about the methods an authority intends to use when consulting with interested parties.

In France, official consultation is governed by the French Urban Development Code, but this has subsequently been modified by more recent legislation. At a local level, in 1995 Nantes created consultative district committees, each of which represents about 30,000 inhabitants. These committees decide on small development projects and give their opinions on larger ones.

In Germany, the main driver behind public consultation is the German Federal Building Code. This Code is quite specific about when the public must be consulted and also contains detailed guidance on how feedback from consultation is dealt with. The Federal Regional Planning Act legislates to what extent the public will participate, although in reality it is ultimately decided by each local authority. In Stuttgart, the local government is working with an agenda based on Agenda 21 to improve community participation.

In the cases of Medway and Torfaen, although the requirements for consultation are mainly governed by the same United Kingdom Acts of Parliament, there are differences between the two areas. In Medway, the 2004 Planning and Compulsory Purchase Act requires the local authority to develop a local development scheme, which must include the local planning authorities statement of community involvement. Under the requirements of the 2004 Act, this statement of community involvement must relate to Medway's Community Plan, which is produced by the Local Strategic Partnership. Part 6 of the Planning and Compulsory Purchase Act relates specifically to Wales. This legislation requires Torfaen to prepare a local development plan for its area, which must have regard to the Wales Spatial Plan and the community strategy prepared by the authority. The local development plan must also be prepared in accordance with the local planning authority's community involvement scheme.

In the Netherlands the Spatial Planning Act, which is most relevant to REVIT, dates from 1962 and refers to the participation of citizens when local government is preparing spatial plans. The Local Council Act of 1992 is more specific about community participation and it requires every local authority to formulate a public participation regulation. As a result, con-

sultation and participation is set up differently in every municipality. Tilburg has a special public participation regulation which is very detailed and states that in every area of municipality policy the public concerned has a right to participate. For larger projects a communication plan is set up which defines target groups and the methods of communication. The city of Hengelo also has a public participation regulation although it is less detailed than Tilburg's. The regulation produced by Hengelo states that at the end of a consultation process a written account must be made detailing the methods of consultation used, the results of the consultation and the reasoning behind any decisions which have been made as a result of the process.

After examining the legislation and its interpretation at a local level in all six partners' areas, it is significant, especially in terms of REVIT, that there is no specific legislation that governs consultation for brownfield development. The requirements for consultation in brownfield areas come under the requirements stipulated in planning laws. Only in Germany does the legislation contain details about the type of consultation process that should take place, but in all other areas the legislation is vague and allows local governments to tailor their consultation methods to suit their communities. In all of the partners' areas, the more recent the legislation then the greater the requirements to consult.

There is little doubt that Agenda 21 and the Aarhus Convention have forced most REVIT partners' countries to legislate for greater emphasis on the role that consultation must play in providing sustainable solutions for communities. As citizens of those countries become more aware of their rights about consultation, it is most likely that in future legislation, the specific requirements for consultation are likely to become greater still.

Annex

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Text

Global

- Agenda 21. Attention to Chapter 28 Local Authorities' initiatives in support of Agenda 21

The City of Tilburg

- Inspraakverordening.
- Communicatieplan Herstructurering Uitvindersbuurt/Zeeheldenbuurt

The city of Hengelo

- Inspraakverordening
- Convenant Bewonersparticipatie in Hart van Zuid, 6-12-2002

The city of Stuttgart

- Federal Regional Planning Act of 18 August 1997 amended by Article 3 of federal law of 15 December 1997.Attention on Section 15 Regional Impact Assessment Procedures.

- Federal Soil Protection Act of March 1998. Attention on Part one, General Provisions and Part Three Supplemantary Provisions für Contaminated Sites, Article 12 Informing Affected Parties and 13 Investigations and Planning for Remediation.

- Land Use Plan Stuttgart 2010

- Federal Building Code. Attention on subdivision one, section three and four

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