

Environment and Sustainability Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date:

27 November 2014

Meeting time:

09.15

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Alun Davidson

Committee Clerk

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Agenda – Supplementary Documents

Consultation Responses

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

Consultation Responses –

General principles of the Planning (Wales) Bill (Pages 1 – 345)

Agenda Item 8.1

Consultation Responses – Planning (Wales) Bill

- PB 01 Tenovus
- PB 02 Sian Elin Jones (Welsh Only)
- PB 03 Pembrokeshire Access Group
- PB 04 Three
- PB 05 Dathlu'r Gymraeg (Welsh Only)
- PB 06 Dyfodol I'r Iaith (Welsh Only)
- PB 07 Brecon Beacons National Park Authority
- PB 08 Institution of Civil Engineers Wales
- PB 09 Various Councillors
- PB 10 Leonard Cheshire Disability
- PB 11 Commissioner for Sustainable Futures
- PB 12 Institute for Archaeologists
- PB 13 Mobile Operators Association (MOA)
- PB 14 Campaign for the Protection of Rural Wales
- PB 15 Open Spaces Society
- PB 16 Wales Environment Link
- PB 17 Ceredigion County Council
- PB 18 Association of Convenience Stores
- PB 19 Campaign for National Parks
- PB 20 Taylor Wimpey UK Limited
- PB 21 Redrow Homes
- PB 22 RNIB Cymru
- PB 23 RenewableUK Cymru
- PB 24 Royal Town Planning Institute
- PB 25 Wales Health Impact Assessment Support Unit
- PB 26 Disability Wales
- PB 27 Planning Aid Wales
- PB 28 The Llandaff Society
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- PB 31 Vattenfall
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- PB 35 Boyer Planning
- PB 36 Welsh Language Commissioner
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- PB 38 Mentrau Iaith Cymru (Welsh Only)
- PB 39 Natural Resources Wales.
- PB 40 BMA Cymru Wales
- PB 41 Tidal Lagoon Power
- PB 42 Severn Trent Water
- PB 43 Energy UK
- PB 44 Friends of the Earth Cymru
- PB 45 Community Housing Cymru

- **PB 46 UK Environmental Law Association**
- **PB 47 Gareth Young**
- **PB 48 Guide Dogs Cymru**
- **PB 49 Cylch yr Iaith (Welsh only)**
- **PB 50 Aldi**
- **PB 51 Cymdeithas yr Iaith Gymraeg (Welsh Only)**
- **PB 52 RICS**
- **PB 53 Planning Officers Society for Wales**
- **PB 54 Welsh Local Government Association**
- **PB 55 The Law Society of England and Wales**
- **PB 56 Wales Planning Consultants Forum**

14 October 2014

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Response to the Environment and Sustainability Committee's inquiry into the general principles of the Planning (Wales) Bill.

- 1.1 As Wales' leading cancer charity, Tenovus welcomes the opportunity to respond to this inquiry on the general principles of the Planning (Wales) Bill. Tenovus is well-known as a charity that funds research and supports those affected by cancer, but it is also central to our purpose to campaign to lower the instances of cancer in Wales by targeting some key causes. For this consultation we will keep our observations focused on the intrinsic linkages between planning and healthy lifestyles and wellbeing. According to the latest publication of the Wales Health Survey: *'Around 3 in 10 (29 per cent) adults reported being physically active on five or more days in the previous week. Around a third (34 per cent) of adults reported not being physically active on any day in the previous week. Around 3 in 5 (58 per cent) adults were classified as overweight or obese, including just over 1 in 5 (22 per cent) adults classified as obese. Men were more likely to be overweight than women, but there was little difference between the sexes for obesity. Obesity was more prevalent in middle age for both men and women.'*
- 1.3 The evidence and trends presented in the 2013 Wales Health Survey show that rates of obesity and physical inactivity have continued to be stubbornly high across Welsh communities particularly some of the most deprived. It is with this context that Tenovus believes the Welsh Government should be using all of the policy levers at its disposal to improve the health and wellbeing of the country.
- 1.4 In the Welsh Government's Public Health (Wales) Green Paper the use of Health Impact Assessments (HIA) in planning were a key aspect of the initial consultation. HIA has been defined as 'a combination of procedures, methods and tools by which a policy, programme or project may be judged as to its potential effects on the health of a population, and the distribution of those effects within the population'¹. HIA uses a range of methods and evidence to identify potential or actual health impacts of policies or proposals in order to maximise positive impacts and minimise any negative impacts on health.
- 1.5 Tenovus strongly supports the adoption of a mandatory requirement for HIA in planning policy. It is a major recommendation in the Acheson report on inequalities in health and it is also recognised by Article 152 of the Amsterdam Treaty which calls for the European Union to examine the possible impact of major policies on health. HIA is effective because it has the following key features:
- ☐ It is a social model of health and wellbeing which means an explicit focus on equity and social justice.
 - ☐ It involves a multidisciplinary, participatory approach this avoids decisions being made in isolation and short term decisions adopted. For example closing a local swimming pool to alleviate Council budgets with no consideration of the loss of a physical activity opportunity to the community's health.
 - ☐ It uses qualitative as well as quantitative evidence.

¹ Health Impact Assessment: main concepts and suggested approach, World Health Organisation Gothenburg consensus paper, 1999, www.euro.who.int/document/PAE/Gothenburgpaper.pdf

National Assembly for Wales
Environment and Sustainability Committee
PB 01

Planning (Wales) Bill

~~Response from Tenovus~~ **Response from Tenovus** to a decision and the decision making process is transparent.

- HIA requires that the process involves the population that is affected by the policy or decision. It gives a voice to vulnerable groups.
 - HIA allows you to explore how a decision will impact on a community and to mitigate any negative impacts.
- 1.6 Following the initial Green Paper, the Public Health White Paper consultation contained only one specific reference to 'health impact' and this was in relation to the planning system. Tenovus believes that there is a real opportunity for the Welsh planning system to improve the health and wellbeing of the people of Wales and in turn lower the instances of cancer through encouraging healthier lifestyles. We would strongly urge the committee to take note of the work currently undertaken by the Wales Health Impact Assessment Support Unit through their deliberations.
- 1.7 The Planning (Wales) Bill in its present form does not go far enough to take advantage of the intrinsic link that planning has with improving the health and wellbeing of communities across Wales. The Bill in its current form does have some recognition of the benefits that planning can have on health, however it does not provide firm enough provisions that would allow for the full potential benefits to be realized.
- 1.8 Tenovus believe that a statutory duty on Local Authorities and partners to carry out HIAs could create opportunities to manage the local environment better. Managing spaces for physical activity and addressing concerns around safety, crime and inclusion. For example providing facilities and schemes such as cycling and walking routes, safe play areas, traffic calming and congestion charging. HIA could ensure buildings and spaces are designed to encourage people to be more physically active (For example, through positioning and signing of stairs, entrances and walkways). As obesity and associated ill health increases in Wales there is a need to make these connections more explicit.
- 1.9 HIAs provide a further opportunity for strengthening community engagement in the planning process in by:
- Ensuring transparency and clarity of information on health-related interventions/changes/plans and Impact Assessments. For example when proposing planning applications.
 - Ensuring that communication between local authorities and community group on health related activity is not tokenistic.
 - Making HIA assessments clear and straightforward so that non-experts can be involved and comment (Avoiding jargon and complex language).
- 1.10 **Tenovus recommends that Health Impact Assessments, which considers the wider determinants of health (including, but not restricted to, access to public toilets, exercise, active travel, green space for wellbeing), become a statutory requirement within planning processes and Local Development Plans (LDPs).**

Yours sincerely,



Claudia McVie
Chief Executive

Est. 1943



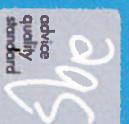
Worried about cancer? Just call us...

Tenovus Freephone Cancer Support Line

0808 808 1010

Pack Page 4

Fundraising
Standards Board



**Ymchwiliad Pwyllgor Amgylchedd a
Chynaliadwyedd Cynulliad Cenedlaethol
PB 02
Bil Cynllunio (Cymru)
Ymateb gan Sian Elin Jones**

Carem gynnig awgrym syml ar gyfer y bil uchod.

Hoffwn weld y Cynulliad yn ddeddfu ei fod yn rhaid i bob ddatblygiad o dai neu strydoedd newydd gael enw dwyieithog.

Bydd hynny yn help i greu Cymru dwyieithog, o leiaf yn weledol.

Diolch yn fawr

Sian Elin Jones

Here are some thoughts for consideration,

A Planning Stage DAS merely describes how the development (site) is accessed by pedestrians, motorists and cyclists etc and takes no account (or very little account) of the accessibility of the inside of the buildings which is covered by Building Control; primarily under Part M – Access & Use.

What is lacking at planning stage is a distinct requirement that a development **MUST** be fully accessible and adhere to the principles of inclusive design and that developers **MUST** properly address inclusive access at an early stage and that this **WILL** be robustly enforced at building regulations stage.

Problem is that most building control bodies do not fully understand Part M and make their own interpretation of the requirements, often to the detriment of inclusive access. I can give examples...

Also designers still consider access as an optional extra, an add-on, and therefore fail to address the issues at the design stage. This often leads to compromises being made at building regulations stage, making access to the development less than it should be and often less than adequate.

It is vital if DASs are to be removed from the legislation that at least an Access Statement of some sort (without the design

element) is required to commit developers and designers to full compliance with the relevant parts of the building regulations, building bulletins (in schools) and other design requirements & standards to ensure equality of opportunity for disabled people, older people and children.

It is vital that building control bodies and approved inspectors follow Part M to the letter.

It is vital that Part M in Wales is reviewed to remove anomalies and misleading or out of date requirements and recommendations and add any new improvements or developments.

It is vital that building control bodies and approved inspectors are told by Welsh Government that Part M is not an optional extra, that "reasonable" in this context means reasonable access for disabled and older people and children and NOT reasonable for the developer.

Yours sincerely,

Henry Langen.

(Chair Pembrokeshire Access Group)

Mae'r neges e-bost hon wedi cael ei sganio gan wasanaeth Symantec Email Security.cloud.

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For more information please visit <http://www.symanteccloud.com>

National Assembly for Wales
Environment and Sustainability Committee
PB 04
Planning (Wales) Bill
Response from Three

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5th November 2014

The Committee Clerk
Environment and Sustainability Committee
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Consultation Response – General principles of the Planning (Wales) Bill

1. Introduction.

- 1.1 Three welcomes the opportunity to respond to the Planning (Wales) Bill Consultation. The Bill represents an important opportunity to recalibrate the planning system, to support both economic development and enhanced connectivity in Wales.
- 1.2 Three was launched in 2003 to introduce competition to the UK mobile market, to deliver better outcomes for consumers. It was Three that pioneered all-you-can-eat-data, campaigned for an end to costly mobile termination rates, and launched 4G mobile services at no extra cost. We now carry over 45% of the UK's mobile data traffic, so we are uniquely placed to comment on connectivity.
- 1.3 Securing better connectivity, both in fixed and mobile, must be central to the development of an effective planning framework. Over 90% of UK adults now use at least one mobile phone¹ and 16% of households are mobile-only.² Through its provisions, the planning framework in Wales can help facilitate higher quality mobile services for consumers. The planned use Strategic Development Plans for example, and enhanced planning intervention powers for Ministers, intended to tackle cross-boundary issues, illustrate how the planning framework can facilitate better coverage for consumers
- 1.4 The Bill's Section 6 commitments to enhance the transparency, speed and fairness of the appeals system in Wales are also to be welcomed and will help support the deployment of

¹ http://www.mobiletoday.co.uk/news/industry/28014/uk_mobile_market_penetration_at_92_per_cent_.aspx

² Source: Ofcom, Facts & Figures, <http://media.ofcom.org.uk/facts/>

future sites and upgraded infrastructure, facilitating consumer to access continuous mobile network infrastructure.

1.5 Our submission focuses on two areas in particular, which have not been discussed in the Bill, but which the Welsh Government should make the case for reform on to Westminster, to support greater connectivity in Wales. These are:

- **Reforming the Electronic Communications Code** to fix a broken site rentals market to ensure continued investment in rural network areas.
- Ensuring Mobile Network Operators (MNOs) have reasonable **Access for Repair and Upgrades** to their network infrastructure, which benefits consumers in Wales

2. Background

2.1 Our network infrastructure in Wales will change considerably over the next two years, with new technology installed at mast sites bringing faster data speeds for customers. 4G mobile data is already available in the largest metropolitan areas of Wales, including Cardiff, Swansea, Wrexham and Newport. By the end of the year dozens of smaller towns and cities will be added to this list, including: Bridgend, Haverfordwest, Porthmadog and Carmarthen. The rollout of low frequency spectrum as well, which covers three times the distance of our current high frequency spectrum, will allow us to offer 4G data services to 97% of the Welsh population by the end of 2015.

2.2 These changes, which include continued site upgrades to 'Advanced' 3G HSDPA, and the development of new sites, can easily be supported with simple changes to the planning framework, most importantly in the Electronic Communication Code (ECC).

3. Reforming the Electronic Communications Code.

3.1 Given the substantial economic and social benefits this enhanced connectivity has to offer rural areas, Welsh policymakers should aim to develop a planning framework which incentivises the extension of coverage where possible. This must go beyond the introduction of the Planning (Wales) Bill. The Welsh Government should argue at the highest possible level for reform of the Electronics Communications Code to enable better connectivity.

3.2 Unfortunately, while the UK mobile market in general is among the most competitive in Europe, the rural site rental market is badly broken and in need to realignment, to ensure fair and open competition. As it stands, it costs far more to put up a mast in rural areas, with a typical mast costing as much as £500,000 to install compared to an average of £100,000 for our network as a whole. This is the result of a combination of factors, including the increased expense of connecting a site to the National Grid, or fibre backhaul for example.

3.3 This framework was designed to govern the relationship between operators and landowners, and to prevent abuse of market power, but it is long overdue for reform. The Code hasn't been amended since 1984, almost twenty years before 3G services were launched in the UK. The Code in its current form not only fails to recognise the importance of continuous mobile coverage to the general public, its provisions also inhibit the construction of new mast sites, and consequently better coverage for Welsh consumers.

4. The Site Rentals Market

4.1 Our single greatest item of expenditure though is the rent we pay the landowners at our mast sites. This accounts for 30% of our entire infrastructure cost across the network. In rural areas there tends to be only a limited choice of sites available, owing to a number of technological, geographical and environmental factors. The result of this is that landlords have abused their market position to charge rental rates far above any comparable use value, increasing costs for consumers in general but more particularly making commercial rollout impossible in many rural areas.

4.2 We want to see the language of the ECC changed, to reflect the fact that the rural site rental market is neither functioning nor competitive, and to bring the rights of mobile operators in line with other essential services. This could have a transformative effect on the rural economy. We have calculated that by halving our rental costs we would be able to fund the building of 2,000 new masts which, for example, could eliminate not-spots on all UK A roads.

5. Access, Repair and Upgrades

5.1 Planning regulations, including the Electronic Communications Code, also need to recognise the need for Mobile Network Operators to have access to their sites, for maintenance, repair, and upgrade – not least the continued rollout of 4G.

5.2 However, many landlords have been unnecessarily restrictive in granting access to sites. While under existing site agreements operators theoretically have the right to 24/7 access, in practice this is rarely achievable or enforceable. Three regularly experiences incidents where landowners block access to sites, or have demanded extortionate ransom fees for access. In 2013, 15% of all weekly repairs were cancelled because of access disputes, resulting in severe and unnecessary service disruption for our customers.

6 The Planning (Wales) Bill

6.1 In order to ensure that Wales can enjoy the full benefits of enhanced connectivity, the Welsh Government should call on Westminster to reform the Electronics Communications Code, not only to help make the site rental market more competitive, but also to facilitate timely repairs and upgrades.

6.2 These reforms would remove the largest obstacle to increased mobile coverage, faster data speeds and more reliable services in rural Wales by ensuring meaningful competition, to the benefit of consumers. The Planning (Wales) Bill represents a unique opportunity to raise this issue with the UK Government, while also developing a framework that removes obstacles to investment in this key infrastructure in Wales.

I hope the above has been of interest. Please do not hesitate to contact me on Justin.Kempley@three.co.uk if you have any further questions.

Yours sincerely,

Justin Kempley
Public Affairs Manager

Ymchwiliad Pwyllgor Amgylchedd a
Chynaliadwyedd Cynulliad Cenedlaethol
PB 05
Bil Cynllunio (Cymru)
Ymateb gan Dathlu'r Gymraeg



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5 Tachwedd 2014

**Clerc y Pwyllgor,
Y Pwyllgor Amgylchedd a Chynaliadwyedd,
Cynulliad Cenedlaethol Cymru,**

Bil Cynllunio Llywodraeth Cymru

Mae Dathlu'r Gymraeg yn galw ar y Cynulliad i gryfhau'r Bil Cynllunio a gyhoeddwyd gan Lywodraeth Cymru i sicrhau fod ystyriaeth ddigonol i effaith cynllunio ar yr iaith Gymraeg yn ein Cymunedau.

Nid yw'r Bil a gyflwynwyd i'r Cynulliad ar 6ed Hydref 2014 yn newid statws y Gymraeg o fewn y system gynllunio o gwbl. Dim ond un cyfeiriad sydd at yr iaith wrth sicrhau fod "panel cynllunio strategol" newydd yn cydymffurfio â'r safonau iaith newydd

Mae Dathlu'r Gymraeg yn galw ar y Cynulliad i ddiwygio'r Bil i gynnwys

- gwneud y Gymraeg yn ystyriaeth cynllunio berthnasol ledled Cymru fel bod modd gwrthod ceisiadau cynllunio ar sail eu heffaith ar yr iaith;
- gwneud asesiadau effaith iaith yn ofyniad statudol ar gyfer rhai datblygiadau;
- sefydlu Tribiwnlys Cynllunio i Gymru, yn lle'r Arolygiaeth Gynllunio bresennol;
- gosod llwybr a fframwaith er mwyn i'r Gymraeg ddod yn brif iaith gymunedol ar hyd a lled y wlad; a
- sefydlu mai pwrpas y system gynllunio fyddai diwallu anghenion lleol, yn lle cyrraedd targedau tai cenedlaethol wedi ei seilio ar batrymau hanesyddol a rheoli tir mewn ffordd sy'n gynaliadwy'n amgylcheddol, yn taclo tloedi ac yn hybu'r Gymraeg

Mae crynodeb a gyhoeddwyd o drafodaethau'r Gynhadledd Fawr ym mis Gorffennaf 2013 yn galw am newidiadau i'r sustem gynllunio ac yn dweud mai symudoldeb poblogaeth yw'r '*her gyfredol fwyaf*' i'r iaith.

Mae Cyfrifiad 2011 yn dangos gostyngiad yn nifer yr adrannau etholiadol lle'r oedd dros 70% o'r boblogaeth yn gallu siarad Cymraeg: gostyngiad o 54 ardal yn 2001 i 39 ardal yn 2011. Roed cwmp yn nifer y bobl yng Nghymru dros 3 oed sy'n siarad Cymraeg, o 20.76% o'r boblogaeth yn 2001 i 19% yn 2011.

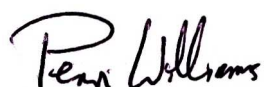
Ym mis Awst 2014, cyhoeddodd y Prif Weinidog ddogfen bolisi "Bwrw Mlaen" lle addawodd ystyried '*pob cam ymarferol ar gyfer atgyfnerthu'r Gymraeg o fewn y system gynllunio*'.

Anfonodd Comisiynydd y Gymraeg gyngor ysgrifenedig at y Llywodraeth ynghylch y Bil gan nodi mai *dim ond hanner cyngorau sir Cymru sydd wedi cynnwys polisiâu iaith Gymraeg yn eu cynlluniau datblygu lleol*.

Mae targedau tai cenedlaethol yn creu problemau i'r Gymraeg ac anfodlonrwydd mewn nifer o gymunedau megis ym Modelwyddan, Sir Gaerfyrddin a Gwynedd. Mae angen dileu'r targedau tai ac, yn eu lle, seilio'r system ar anghenion lleol yn unig.

Rydym yn galw ar y Llywodraeth a'r Cynulliad i gynnwys ystyriaeth lawn i'r iaith Gymraeg ym maes Cynllunio.

Yr eiddoch



Penri Williams

Cadeirydd
Dathlu'r Gymraeg

Cefndir a chefnogaeth i Dathlu'r Gymraeg

Mae 23 o fudiadau sy'n cynrychioli y rhan fwyaf o siaradwyr Cymraeg yn rhan o Dathlu'r Gymraeg.

CAER, Cronfa Glyndwr, Cwlwm Cyhoeddwyr Cymru, CYDAG, Cyfeillion y Ddaear, Coleg Cymraeg Cenedlaethol, Cymdeithas Alawon Gwerin, Cymdeithas Bob Owen, Cymdeithas Cerdd Dant Cymru, Cymdeithas Cyfieithwyr Cymru, Cymdeithas y Cymod, Cymdeithas yr Iaith Gymraeg, Eglwys Bresbyteraidd Cymru, Eisteddfod Genedlaethol Cymru, Merched y Wawr, Mentrau Iaith Cymru, Mudiad Meithrin, RhAG, UAC, UCAC, UMCA, UMCB, Urdd Gobaith Cymru

Ein nod yw Sicrhau bod pawb yng Nghymru yn cael defnyddio'r Gymraeg
Diogelu'r Gymraeg fel iaith gymunedol.
Neilltuo adnoddau ychwanegol i sicrhau ffyniant yr iaith Gymraeg.
Creu 'Cynlluniau Gweithredol' ar gyfer Strategaeth Iaith Fyw : Iaith Byw.
Gwireddu'r cerrig milltir yn y Strategaeth Addysg Cyfrwng Gymraeg.
Sicrhau dyfodol llewyrchus ac annibynnol i S4C.

Ymchwiliad Pwyllgor Amgylchedd a
Chynaliadwyedd Cynulliad Cenedlaethol
PB 06
Bil Cynllunio (Cymru)
Ymateb gan Dyfodol I'r Iaith

DYFODOL

Llais i'r Iaith

**TYSTIOLAETH YSGRIFENEDIG
DYFODOL I'R IAITH**

Ymgynghoriad ar egwyddorion cyffredinol y Bil Cynllunio (Cymru)

I sylw

Rheolwr Craffu

Y Pwyllgor Amgylchedd a Chynaliadwyedd

Cynulliad Cenedlaethol Cymru

5 Tachwedd 2015

**Cyswllt:
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01792 455410

Y CEFNDIR POLISI

Mae'n argyfwng ar y Gymraeg fel iaith hyfyw, yn yr ychydig gymunedau a threfi lle y mae hi'n dal i fod yn iaith y mwyafrif. Mae cefnogaeth eang yng Nghymru i'r syniad o gynnal yr iaith Gymraeg fel iaith gymunedol. Mae nifer fawr o Gymry nad ydynt yn ei siarad yn rhyfedd o falch o'r ffaith fod yna lefydd yn ein gwlad lle "na chlywch chi ddim byd ond y Gymraeg". Hynny yw mae bodolaeth y cymunedau ieithyddol hyn yn fater dirfodol i bobl Cymru, y tu hwnt i'r rhai sy'n siarad yr iaith.

PWRPAS CYFRAITH CYNLLUNIO

Heb gyfraith cynllunio, byddai rhyddid llwyr gan berchnogion a datblygwyr eiddo i wneud beth bynnag a fynnent ar eu tir, o godi adeiladau i brosesu cemegolion gwenwynig. Diben cyfraith cynllunio yw gosod rhyddid tirfeddianwyr a datblygwyr yn y glorian a'i bwysu yn erbyn ystyriaethau eraill. Mae'r rhain yn cynnwys buddiannau cymdogion, yr amgylchedd neu'r gymuned, yn ogystal â materion sy'n cael eu hystyried i fod yn rhai y dylid eu diogelu o ran egwyddor e.e. henebion neu ystlumod. Felly er enghraifft, yn achos tyrbeini gwynt, rhoddir yn y glorian ar y naill law hawl y tirlfeddiannwr a'r angen am ynni glân, ac ar y llall ymyrraeth â byd natur a harddwch naturiol.

EFFAITH RHYDDID Y FARCHNAD AR YR IAITH GYMRAEG

Yn achos yr iaith Gymraeg, mae "rhyddid y farchnad" wedi gwneud lles ac wedi gwneud drwg. Er enghraifft, gellir dadlau bod y datblygu dwys a fu yng nghymoedd glofaol y de, cyn bod deddfau datblygu, wedi arwain at ddosbarth gweithiol a dosbarth canol diwydiannol Cymraeg eu hiaith sydd wedi galluogi'r Gymraeg i ddatblygu yn iaith fodern mewn modd na wnaeth yr un iaith Geltaidd arall. Mae hefyd wedi gwneud drwg, er enghraifft, ym maes ail gartrefi a thai haf.

Yng nghyd-destun y Gymraeg, gor-ddatblygu stadau tai a throi carafannau gwyliau yn anheddau parhaol ar sail eang yw'r enghreifftiau amlycaf o sefyllfa lle mae yna annhegwch sylfaenol

o ffafrio rhyddid y farchnad dros ddymuniadau pobl leol a'u cynrychiolwyr etholedig i warchod natur ieithyddol yr ardal.

PAM FOD RHEOLI DATBLYGU TAI AC ANHEDDAU MOR BWYSIG?

Nododd ffigurau'r Cyfrifiad diweddar fod cwmp wedi bod yn nifer y siaradwyr Cymraeg mewn ardaloedd a ystyrir i fod yn gadarnleodd. Mae'r rhesymau dros y cwmp ac ystyr y ffigurau eu hunain yn gymhleth. Yn sicr mae ffactorau cymdeithasol a seicolegol ar waith, yn arbennig o ran trosglwyddo'r iaith o fewn teuluoedd. Ystyriwn fod tebygolrwydd parhad yr iaith a'i throsglwyddiad yn uwch lle mae hi'n fyw fel iaith gymunedol bob dydd, ac mae rhywbeth y gellir ei wneud am hynny.

Mae'r iaith Gymraeg a chymunedau Cymraeg wedi croesawu pobl o'r tu allan erioed, ac mae amrywiaeth cyfenwau pobl sy'n siarad Cymraeg (yn Wyddelig, Seisnig, Eidalaid, Llychlynaidd, Ffrengig ac yn y blaen) yn dyst i hyn. Yr hyn sy'n wahanol nawr yw gallu'r cymunedau i gymhathu newydd-ddyfodiaid yn effeithiol, ymdrech a wneir yn anoddach fyth os cynyddir nifer y tai y tu hwnt i anghenion lleol.

Dengys gwaith ystadegol Hywel Jones (gynt o Fwrdd yr Iaith) yn eithaf clir fod iaith y "cyfarchiad cyntaf" yn troi o fod yn Gymraeg i fod yn Saesneg pan fo canran y siaradwyr Cymraeg mewn cymuned yn disgyn o dan 70%. Mewn geiriau eraill, does dim rhaid i'r Gymraeg fynd yn iaith leiafrifol cyn colli ei lle fel prif iaith y stryd.

Mae caniatáu adeiladu stadau tai mawrion sy'n mynd y tu hwnt i'r galw lleol am dai yn golygu bod y trothwy yma mewn peryg o gael ei gyrraedd yn gynt, gan (1) nad siaradwyr Cymraeg sy'n dod i fyw yno gan fwyaf a (2) fod y niferoedd gyfryw fel na ellir eu cymhathu i'r gymuned leol.

Gymaint yn fwy felly yw'r anawsterau i'r Gymraeg mewn llefydd lle mae hi'n iaith fwyafrifol o drwch blewyn, neu'n iaith lleiafrif swmpus. Yma mae'n parhau i gael ei defnyddio fel iaith gymunedol, ond nid iaith y cyfarchiad cyntaf. Mae datblygiadau tai mawrion yn prysuro ei thranc fel iaith gymunedol, ac mae'r ymdrechion i gymhathu hyd yn oed yn anos.

Gall cyfraith cynllunio helpu drwy sicrhau bod ystyriaethau fel hyn yn cael eu rhoi yn y glorian wrth ystyried ceisiadau, ac yn dwyn pwysau priodol, fel y mae ystyriaethau sy'n ymwneud â chadwraeth naturiol neu gadwraeth y "dreftadaeth adeiledig".

Er enghraifft, yn achos pentref Penybanc yn Sir Gaerfyrddin, lle mae'r Gymraeg yn iaith fwyafrifol o drwch blewyn, fe bleidleisiodd y cynghorwyr yn erbyn adeiladu nifer fawr o dai yn yr ardal ar y sail y byddai hynny'n peryglu sefyllfa'r Gymraeg.

Er gwaethaf hyn fodd bynnag, gwyrdröwyd penderfyniad y cynghorwyr yn dilyn cyngor gan y swyddogion cynllunio. Sut all hyn fod?

Mae'r ateb i'w ganfod yn natur y gyfundrefn gynllunio ei hun.

Sail y gyfundrefn yw deddfau cynllunio a wnaed yn San Steffan ac is-ddeddfau a wnaed gan weinidogion llywodraethau Whitehall a Chaerdydd.

At hyn, ceir dogfennau polisi sy'n datgan polisi canolog, a dogfennau "cyngor technegol", sy'n rhoi canllawiau i awdurdodau cynllunio sut i fynd ati i weithredu'r deddfau mewn amgylchiadau penodol.

O ran lle'r iaith Gymraeg yn y drefn cynllunio, ac eithrio pedwar paragraff go annelwig ym mhrif Bolisi Cynllunio Cymru, un o'r dogfennau "cyngor technegol" yma, sef TAN 20 fel y'i gelwir, yw'r cwbl sydd gennym.

ANNIGONOLRWYDD TAN 20

Yn y lle cyntaf, canllaw yw TAN 20, nid deddf. I'r graddau y bo'n gyfraith o gwbl, cyfraith feddal iawn yw. Dim ond talu sylw iddo y mae'n rhaid i awdurdod cynllunio ei wneud. Os na chedwir ato, beth wedyn? Mae hawl gan y datblygwr eiddo i apelio yn y fath amgylchiadau, ond dim hawl gan y cyhoedd fel y cyfryw.

Yn ail, mae TAN 20 yn weithredol ar lefel y cynllun datblygu lleol. Nid yw'n weithredol ar lefel cais cynllunio unigol.

Yn drydydd, mae pob TAN 20, gan gynnwys yr un diweddaraf, wedi pwysleisio mai "ystyriaethau cynllunio" sydd yn gorfod bod

yn drech wrth benderfynu ar geisiadau. Nid ymhelaethir ryw lawer ar hyn, ond mae'n ddigon eglur nad yw gwarchod y Gymraeg yn ystyriaeth o'r fath.

Yn bwysicach na hyn oll, oherwydd nad yw'n ddeddf, gellir *herio dilysrwydd TAN 20 ei hun* yn y llysoedd gan ddatblygwr y gwrthodir ei gais.

Mae mwy na sŷn ym mrig y morwydd fod rhai cyfreithwyr yn cynghori ei bod hi'n gyfreithiol annilys i gymryd sylw o effaith ar y Gymraeg *o gwbl* mewn penderfyniadau cynllunio, a felly bod TAN 20 ei hun yn anghyfreithlon.

Hyd yn oed os yw'r cyfreithwyr hyn yn anghywir, mae'r sefyllfa yn anghytbwys yn ei gwraidd, gan fod nerfusrwydd neu gyndynrwydd ar ran swyddogion a chynghorwyr polisi yn mynd i barhau. Ni ellir eu beio am hyn. Yn y pen draw, asesu risg yw gwaith swyddogion o'r fath. Mae'n haws rhoi cyngor diogel a gwneud penderfyniad na ellir mo'i herio yn y llysoedd, na chreu risg o gyfreitha yn erbyn yr awdurdod cynllunio.

Mewn geiriau eraill, nid yw'n eglur fod yr iaith Gymraeg yn gallu bod yn y glorian o gwbl dan y drefn bresennol, ac os yw yn y glorian, ychydig iawn iawn o bwysau y mae hi'n ei ddwyn. Yn gyfreithiol ac yn ymarferol, mae rhyddid y farchnad a'r datblygwyr yn drech na hi.

YR ANGEN AM SYLFAEN MEWN DEDDF

Beth sydd i'w wneud felly? Mae angen sicrhau dau beth:

- yn gyntaf, fod yr iaith Gymraeg yn y glorian,
- yn ail bod ganddi'r pwysau priodol mewn achosion priodol

a hynny heb unrhyw amheuaeth cyfreithiol.

Ni fydd dogfen bolisi newydd na chyngor technegol newydd yn ddigon i gyflawni hyn. Mae angen sylfaen mewn deddf.

Mae'n briodol cymharu sut y mae gan adeiladau hanesyddol, creaduriaid gwyllt ac ardaloedd pwysig o ran cadwraeth naturiol gyfundrefnau statudol sydd yn sicrhau eu bod yn cael eu diogelu

a'u rhoi yn y glorian mewn achosion cynllunio. Mae deddfau sy'n rhoi dyletswyddau, hawliau a grymoedd penodol i Cadw a Chyfoeth Naturiol Cymru yn rhan o'r cyd-destun hwn. Digwyddodd hyn gan nad oedd cyfraith feddal yn ddigonol i sicrhau'r warchodaeth angenrheidiol.

BETH YW'R ANGHENION?

Rhestr siopa fras yw hon, ond dyma y mae Dyfodol i'r Iaith yn credu sydd ei angen:

- 1. Datganiad statudol diamwys ei bod hi'n gyfreithlon i gymryd ystyriaeth o faterion yn ymwneud â hyfywedd y Gymraeg fel iaith gymunedol wrth ystyried ceisiadau cynllunio. Dyma'r lleiafswm y gellir ei ddisgwyl, ac ni fydd yn costio dim i'r pwrs cyhoeddus.**
- 2. Sefydlu cyfundrefn statudol (ar batrwm Cadw neu Gyfoeth Naturiol Cymru) dan oruchwyliaeth awdurdod lled braich oddi wrth y Llywodraeth sydd yn gyfrifol am ofalu nad yw datblygiadau yn effeithio yn andwyol ar hyfywedd y Gymraeg fel iaith gymunedol. Fel rhan o'r gyfundrefn gellid ystyried dynodi ardaloedd fel rhai o sensitifrwydd ieithyddol, lle byddai rhai mesurau penodol ar waith ee rhagdybiaeth yn erbyn caniatáu datblygiadau sy'n cynyddu nifer yr anheddau y tu hwnt i ryw ganran benodol**
- 3. Camau penodol eraill er mwyn diogelu'r Gymraeg gan gynnwys mewn perthynas ag enwau lleoedd.**

By virtue of paragraph(s) ix of Standing Order 17.42

Document is Restricted

National Assembly for Wales
Environment and Sustainability Committee
PB 07

Planning (Wales) Bill

Joint response from Welsh National Park Authorities

We refer to the Planning (Wales) Bill and the consultation on its general principles which is due to close on Friday 7th November 2014. To confirm, this email comprises a joint response to the consultation on behalf of the three Welsh National Park Authorities at the Brecon Beacons, Pembrokeshire Coast and Snowdonia.

Firstly, we are pleased to note the intention to retain the planning functions of the National Park Authorities and consider this to be wholly in the best interests of delivering on our statutory purposes and duty. Indeed, we were pleased to note the level of support for National Park Authorities in the responses to the initial 'Positive Planning' consultation and in the findings of the Commission on Public Service Governance and Delivery.

The '3 Parks' are generally supportive of the principles of the Planning (Wales) Bill as introduced and set out below is our response to the consultation.

Development Planning
National Development Framework

In terms of the NDF, the strategic approach is welcomed and it is considered that this will assist in dealing with cross boundary issues as set out in our response to the 'Positive Planning' consultation in February 2014.

Strategic Development Plans

The intended provision of a legal framework to provide formalised SDPs is also supported. However, in light of the intention for National Park Authorities to retain their planning function and to remain separate from Councils and/or Joint Planning Boards, clarification is sought on how an SDP would effect a NPA area. This is particularly relevant for the Brecon Beacons National Park Authority given its proximity to both Cardiff and Swansea. Should it be determined that the boundary for the Cardiff SDP (for example) was to include the Council areas that make up the South East Wales Strategic Planning Group (SEWSPG), the SDP would cover a significant part of the National Park (i.e. the Monmouthshire, Caerphilly, Torfaen, Blaenau Gwent, Merthyr Tydfil and Rhondda Cynon Taf areas within the Brecon Beacons National Park). How would the rationalisation of LDPs be applied in LPA areas only partially covered by SDPs.

Local Development Plans

As referred to above, the provision to retain the separation between National Park Authorities and Councils/Planning Boards is welcomed and it should be noted that all three National Park Authorities have up-to-date and adopted Local Development Plans. The provisions of the Bill are generally accepted in this regard, although a detailed '3 Parks' response will be provided to the consultation on the review of the LDP subordinate legislation and guidance.

Development Management
Pre-Application Advice

Turning to the issue of pre-application advice, the requirement for LPAs to offer a pre-application advice service is generally welcomed (A more detailed response on this will be provided as part of a '3 Parks' submission on the consultation relating to 'Frontloading the Development System'). Indeed, the Brecon Beacons National Park Authority has been operating a formalised pre-application service since April 2010. A guidance note is available to 'pre-applicants' which clearly sets out the nature and level of information and detail required from them, the level of advice that will be provided by the Authority and, crucially, a schedule of the fees relevant to different types of development. The pre-application advice service provided by the Authority is reviewed on an annual basis. Pembrokeshire

Coast and Snowdonia National Park Authority also offer a pre-application advice service and protocol. These services are similar to that operated by the Brecon Beacons National Park Authority.

Option to make a planning application direct to the Welsh Ministers

We refer again to National Park Authority functions remaining separate from the Councils/Joint Planning Boards. To this end, would the provision of an option to make an application directly to the Welsh Ministers extend to the National Park Authorities? In any event, it should be noted that the three National Park Authorities are amongst the best performing LPAs in Wales and have demonstrated this throughout 2014 (see table below which sets out 8 week performance for 2014 to date).

Table

NPA	Q1 2014 (%)	Q2 2014 (%)	Q3 2014 (%)
Brecon Beacons	84	95	93
Pembrokeshire	76	88	85
Snowdonia	75	69	94

Planning Committees and Delegation

In terms of the national scheme of delegation, we would express some concern. The proposal for a national scheme of delegation was contained in the consultation document Positive Planning. Of those who directly answered the question, a slight majority 53.5% agreed that there should be local variation within a national scheme of delegation and the RTP1 research into planning committees also recommended local variation. Whilst the Welsh Government categorically state that they do not agree with this approach (as they do not consider it will achieve greater consistency in decision making across Wales), it is suggested that some variation should be applied to National Park Authorities given the fact that National Park Authorities have specific purposes which need to be upheld through the development process and smaller applications have a disproportionate impact on these protected landscapes.

It is considered reasonable to suggest that there should be some local discretion in terms of how some applications (which do not meet size or objection number thresholds) are dealt with. Snowdonia National Park Authority has estimated that the proposals would result in the number of applications being reported to Committee would be reduced by 90%. Clearly, this would have consequences in terms of accountability and the local democratic decision making process. Incidentally, only 10-15% of applications are reported to Members so we are referring to a relatively small number under the existing local schemes of delegation. It should also be noted that the Committee process assists in terms of Member knowledge and understanding as well as in providing an element of scrutiny and common sense.

Should you require any further information, please do not hesitate to contact me (Ryan Greaney) as the three Park Authorities point of contact on this consultation.

Regards

**Ryan Greaney BSc MSc AMInstLM MRTPI
Principal Planning Officer**

Brecon Beacons National Park Authority - Awdurdod Parc Cenedlaethol Bannau Brecheiniog
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National Assembly for Wales
Environment and Sustainability Committee
PB 08
Planning (Wales) Bill
Response from Institution of Civil Engineers Wales Cymru

ice | wales cymru



Consultation on the General Principles of the Planning (Wales) Bill

This response is from **Keith Jones, Director**

Organisation: **Institution of Civil Engineers Wales Cymru**

email / telephone number: Keith.jones@ice.org.uk / 029 2063 0561

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1. The Planning (Wales) Bill ('The Bill') contains a set of provisions intended to provide a modern legislative framework for the operation of the planning system to make it fit for purpose in the 21st century. Subject only to the following reservations it is accepted that it represents an improvement to the current planning legislation.
2. Whilst the proposal to establish a National Development Framework to replace the Wales Spatial Plan is sound, the continuing status of the current and proposed Local Development Plans, which may well not be in accord with this framework and which have differing periods of validity, has not been addressed.
3. The introduction of Strategic Development Plans, Strategic Planning Areas and associated Strategic Planning Panels with panel members in part nominated and thereby appointed by the Welsh Ministers is a backward step from normal democratic accountability.
4. Where a blight notice has been served in respect of land falling within paragraph 1C of Schedule 13, the Bill states that Welsh Ministers have power to acquire compulsorily any interest in the land in pursuance of the blight notice served by virtue of that paragraph. This is insufficient; the power should require acquisition of land affected in this way.

5. 'The requirement that the applicant must publicise the proposed application in such manner as the applicant reasonably considers likely to bring it to the attention of a majority of the persons who own or occupy premises in the vicinity of the land' is not sufficiently well defined to avoid subsequent dispute from any person not so consulted.
6. It is appropriate that applications for developments of national significance should be determined by the Welsh Ministers, but there is an anomaly in that the decision of the Welsh Ministers on a secondary such application is final. This appears to be an inconsistency, as both levels of decision should be capable of appeal.
7. There is also an option to refer applications to the Welsh Ministers for a decision on applications which are not of national significance. Again the decision of the Welsh Ministers on such applications is declared to be final. These decisions should also be capable of appeal.
8. There is no requirement within the Bill for Welsh Ministers to advertise when they will hold meetings to consider planning applications so that affected members of the public may also attend. The public should be able to witness these discussions and decisions on planning applications made by the Welsh Ministers and they should also be able to make representation. This is a significant omission from the Bill and one which represents a considerable democratic deficiency.
9. The opportunity to avoid duplication by retaining the power of the National Park Authorities to act as Local Planning Authorities has not been taken. This is a wasted opportunity to create uniformity across Wales and to avoid an anomaly.
10. The general impression to be gained from this Bill is one of increased centralism coupled with a reduction in power of local planning authorities. In the absence of the right of appeal to decisions made by the Welsh Ministers, they will be seen to be acting autocratically. The National Assembly for Wales is a democratically elected institution. It would be wrong for it to lose sight of its accountability to the public in this way.

Notes:

- The Institution of Civil Engineers (ICE) was founded in 1818 to ensure professionalism in civil engineering. It represents over 84,000 civil engineers in the UK and across the globe and has over 3500 members in Wales.
- ICE has long worked with the government of the day to help it to achieve its objectives, and has worked with industry to ensure that construction and civil engineering remain major contributors to the UK economy and UK exports.
- For further information visit: www.ice.org.uk and www.ice.org.uk/wales

National Assembly for Wales
Environment and Sustainability Committee
PB 09
Planning (Wales) Bill
Response from Various local authority leaders

We write to urge you to re-consider the contents of the Welsh Government's Planning Bill in order to create a planning system which answers Wales' needs through tackling poverty, protecting our environment, and strengthening our unique national language.

The state of the Welsh language is very fragile at a community level. As you know, at the moment, there is no means for councillors, under the present statutory framework, to permit or refuse developments on the basis of their impact on the Welsh language alone. That situation needs to change through the Bill, given that the matter cannot be solved without legislation. If this historic opportunity is lost to ensure a planning system which reflects the needs of Wales, it would endanger our ability to strengthen the Welsh language in our communities for a number of years to come.

We are concerned as well about the number of ways in which the Bill proposes centralising power in Cardiff, we strongly believe that councils should have the freedom to set housing targets based on local needs independent of central government. Again, the Bill's framework must devolve that power as well as establishing a new process which leads and supports us in assessing that local need in a thorough way.

We also agree with your committee of experts that there needs to be a statutory purpose for the planning system, which gives direction to the system, and explains that protecting our environment, getting to grips with poverty and strengthening the Welsh language are some of the foundations running right through the planning system.

Yours,

Cllr. John Nott, Leader, Bridgend Council

Cllr. Jamie Adams, Leader, Pembrokeshire Council

Cllr. Mark Pritchard, Leader, Wrexham Council

Cllr. Kevin Madge, Leader, Carmarthenshire Council

Cllr. Dilwyn Roberts, Leader, Conwy Council

Cllr. Ieuan Williams, Leader, Ynys Môn Council

Cllr. Ellen ap Gwynn, Ceredigion Council

Cllr. Phil Edwards, Conwy Council Cabinet

Cllr. Sian Gwenllian, Gwynedd Council

Cllr. Bob Parry, Ynys Môn Council

Cllr. Victor Hughes, Ynys Môn Council

Cllr. Ann Griffiths, Ynys Môn Council

cc: Assembly Environment Committee

National Assembly for Wales
Environment and Sustainability Committee
PB 10
Planning (Wales) Bill
Response from Leonard Cheshire Disability

The Planning (Wales) Bill: Consultation response by Leonard Cheshire Disability



1. Leonard Cheshire Disability is very grateful to have the opportunity to respond to the Environment and Sustainability Committee's consultation on the general principles of the Planning (Wales) Bill.

About Leonard Cheshire Disability

2. At Leonard Cheshire Disability we work for a society in which everyone is equally valued. We believe that disabled people should have the freedom to live their lives the way they choose - with the opportunity and support to live independently, to contribute economically and to participate fully in society.
3. We are one of the UK's largest voluntary sector providers of services for disabled people with over 250 services across the UK including care homes, care homes with nursing and homecare services. We aim to maximise personal choice and independence for people with disabilities and all of our services are designed to meet the needs and priorities of the people who use them.
4. This response focuses on issues where we have a specific expertise and knowledge, both as the UK's largest voluntary sector provider of social care services to disabled people and as a leading disability campaigning charity. As such, we have not sought to respond to all elements of the Committee's terms of reference for its inquiry

The general principles of the Planning (Wales) Bill

5. Leonard Cheshire Disability notes and welcomes the stated aim of the Bill to deliver a planning system which would help "to deliver sustainable places that include homes, jobs and infrastructure."¹
6. We believe that any conceptualisation of a 'sustainable home' needs to incorporate it being readily-adaptable to the needs of disabled people.

Disabled-Friendly Homes

7. Living in suitable accommodation is crucial to our wellbeing. The Building Research Establishment reported in 2010 that 45% of all injuries

¹ Welsh Government, Planning (Wales) Bill, Explanatory Memorandum, Paragraph 3.10

occur in the home - and that the less accessible someone's home is, the more likely they are to suffer an injury. In total, the cost of poor housing to the NHS alone amounts to more than £600m every year.²

8. Unsuitable housing can also have an enormous impact on quality of life. There are some things none of us should have to endure in twenty-first century Britain. That includes washing every day in your kitchen, at the sink where you peel your potatoes and wash your plates, sleeping in a living room instead of a bedroom or using a toilet that has no privacy because a door prevents someone using a wheelchair from entering. But our nation's shortage of disabled-friendly homes is forcing thousands of people to live in these Victorian conditions every day.
9. While some homes in Wales are either fully accessible, or ready for the adaptations that people will need as they age, or become disabled, too many more are simply not disabled-friendly.
10. A significant proportion of Welsh homes can only be adapted to include features such as stair lifts, grab rails or a wet room at significant cost, while for hundreds of thousands of others these adaptations are simply impossible. In 2008, the 'Living in Wales' survey found that 22% of households including someone with a long-term illness, disability, or infirmity had adaptation needs that had not been met.³
11. The severe shortage of adaptable and accessible homes is placing enormous stress and pressure on thousands of disabled and older people, as well as the care system and the health service.
12. As a result of their homes not being disabled-friendly, far too many people are forced into care or hospital when they would rather continue to live at home. This has a severe impact both on individuals and Welsh taxpayers as a whole, because a single trip to hospital (for someone who slips on the stairs because they can't install a stair-lift or a grab rail) costs an average of almost £1,800.⁴ This is 60% more than the average cost of building a new home to Lifetime Homes standards.
13. Further, every hip fracture costs the NHS over £28,000⁵ - and brings no end of pain and upset to families across the country - but many could easily be prevented by the installation of grab bars in halls and bathrooms, for less than a fifteenth of the price.⁶

² Roys, M. Davidson, M. Nicol, S. Ormandy, D. and Ambrose, P. (2010) The real cost of poor housing. BRE

³ The Living in Wales Survey 2008

⁴ Source: Cabinet Office unit cost database (2011/12)

⁵ Better outcomes, lower costs: Implications for health and social care budgets of investment in housing adaptations, improvements and equipment: a review of the evidence

⁶ Calculation based on £1800 / £28000 – Source: Cabinet Office unit cost database (2011/12)

14. These unnecessary accidents and hospital admissions place extraordinary resource pressures on care services, paramedics and hospital wards. It also contributes to preventing a large and growing section of society from living independently with dignity and being afforded the same rights as non-disabled people.
15. Worse still, as the number of disabled and older people grows, this hidden crisis is only going to get worse. 1 in 10 people in Great Britain report some kind of mobility problem⁷ - that's approximate 310,000 people in Wales who are likely to need a disabled-friendly home.⁸
16. Ultimately, the current shortage of disabled-friendly homes is not conducive to community or individuals' wellbeing. Nor is it in line with the aims and intentions of the 'Framework for Action on Independent Living' launched by the Welsh Government in September 2013.

What is the solution?

17. Building a home to disabled-friendly standards - called Lifetime Homes Standards⁹ or Welsh Quality Housing Standards - involves, among other things, building it with wider doors and walls strong enough for grab-rails to be installed in case the owners need them in the future.
18. It is estimated that building homes to such standards costs an average of only £1,100¹⁰ extra per property. Wheelchair accessible homes, specifically designed for those who use wheelchairs, cost a little more¹¹ but are essential to ensuring that disabled people can live comfortably and safely.
19. Building more of these homes is not only is this the right thing to do - it's also the sustainable thing to do; it's something that actively secures the well-being of future generations, and meet the needs of the current disabled population.
20. Adapting a property after it's built is much more expensive and less effective. While not adapting it condemns people to the misery of Victorian strip washes, forces them to sleep in their living room rather than their bedroom, or exposes them to nasty and costly slips, trips and falls caused by lack of grab rails, hoists or stair-lifts.

⁷ The Hidden Housing Crisis -Leonard Cheshire Disability

⁸ The Office of National Statistics' June 2014 population estimate for Wales was 3.1 million.
3.1 million / 10 = 310,000

⁹ Full details available here:

http://www.lifetimehomes.org.uk/data/files/For_Professionals/accessible_revisedlthstandard_fi nal.pdf

¹⁰ Estimates vary. The CLG Housing Standards Review Consultation Impact Assessment estimated the average cost as £1,100. A previous CLG estimate put the average cost at £547. DCLG The Future of the Code for Sustainable Homes, 2007

¹¹ Around £13,000 for all sizes of home, according to CLG, Housing Standards Review Consultation: Impact Assessment

21. In the worst circumstances, people like Ruby (below) lose valuable time with their disabled children due to the inaccessibility of their homes. This is a disgrace, and one which needs to be addressed immediately.

Case study: Ruby Nash

Ruby lives in Barry in South Wales with her son Cody, who has the degenerative muscle condition Duchenne muscular dystrophy. Cody currently finds it difficult getting up the stairs on his own, and this will only get worse as time goes on and his illness progresses.

Ruby: “I’m very worried about what will happen if we have to stay here once Cody has to use a wheelchair. He won’t be able to sleep in his bedroom, or use the bathroom privately, and the impact on his life, our lives, will be enormous.

“There are new developments being built in Barry, but neither the council nor private developers are building enough homes to cater for families like us who need them.

“We are gold priority on the Homes 4U list (the local housing association), but there’s not a single available home in the area which is suitable.

“The life expectancy for someone living with Duchenne is only 27 years. Our precious time together shouldn’t be wasted struggling to get out of the front door, or get down the stairs, we should be able to enjoy our lives together while we can.”

The potential value of the Planning (Wales) Bill

22. We understand that the Planning (Wales) Bill, as introduced, provides a statutory requirement for Welsh Ministers to prepare and keep up to date a national land use plan (to be known as the NDP).
23. We also understand that the intent of the Bill’s provisions is to provide a legal framework for addressing issues “such as housing demand, search areas for strategic employment sites and supporting transport infrastructure, which cut across a number of local planning authorities, to be considered and planned for in an integrated and comprehensive way.”¹²
24. We believe the Planning (Wales) Bill, therefore has the potential to provide a legal framework by which the shortage of accessible homes for disabled people across Wales can be addressed in a strategic fashion.

¹² Welsh Government, Planning (Wales) Bill, Explanatory Memorandum, Para 3.29

25. In particular, we believe that the Welsh Government should make a public commitment to using its prospective powers over planning to require:

- Every new home in Wales to be built to Lifetime Homes standards as part of the WHQS; and
- A minimum percentage (we believe this should be at least ten percent) of all new homes to be built to full wheelchair accessibility standards.

Conclusion

26. We hope our response to this consultation is helpful to the Committee in its consideration of the principles of this important legislation, and we would be very happy to provide further information as required.

27. For information, we have attached a link to our UK-wide [Home Truths Campaign](#) launched in July 2014, highlighting the very real housing crisis facing disabled people and their families.

Rhian Stangroom-Teel
Policy and Public Affairs Officer (Wales), Leonard Cheshire Disability
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National Assembly for Wales
Environment and Sustainability Committee
PB 11
Planning (Wales) Bill
Response from Commissioner for Sustainable Futures

Peter Davies
Comisiynydd Dyfodol Cynaliadwy
Commissioner for Sustainable Futures

6 November 2014

Mr Alun Davidson
Clerk, Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay CF99 1NA

Dear Mr Davidson

I am pleased to contribute to the Environment and Sustainability Committee's scrutiny of the Planning Bill in my role as Commissioner for Sustainable Futures and Chair of the Climate Change Commission.

Planning is a critical function in respect of decisions that will impact on future generations, with many of our worse problems of today resulting from poor planning decisions of the past.

It will be no surprise that planning issues have featured in my role as Commissioner as the dominant factor in public engagement, whether it be large scale infrastructure, business development or community led development. Much of the frustration has arisen from the slowness of process, mixed messages and lack of consistency in the application of Planning Policy Wales, which the Bill is intended to address.

However I hope that the Committee may be able to pursue the following points in the scrutiny process:

1. The alignment between the Goals and Principles of the Wellbeing of Future Generations Bill and the decision making processes for appropriate development
2. The role of the Commissioner for Future Generations in respect of the planning process and the relationship with the proposed Planning Advisory and Improvement Service
3. The future role of the Sustainable Development Indicators for the contribution of the planning system introduced by Welsh Government in the last 2 years
4. The alignment of the various area based strategies, e.g. City Regions, Area Based Natural Resource Planning, Local Wellbeing Plans – with those proposed in the Bill

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Peter Davies
Comisiynydd Dyfodol Cynaliadwy
Commissioner for Sustainable Futures

5. The degree to which the proposals meet the criteria of the Aarhus convention (<http://ec.europa.eu/environment/aarhus/>) in respect to public rights with regard to the environmental impacts of decision making
6. The role of community led Place Planning, which is now not referenced in the Bill, but holds significant potential
7. The capacity of the planning system to address the current problems associated with the expansion of community scale renewable energy through prioritising community owned renewable energy schemes and giving greater recognition to the economic and social benefits arising from such schemes

I would be pleased to provide further evidence related to these points if required.

Best wishes

Yours sincerely



Peter Davies
Comisiynydd Datblygu Cynaliadwy / Commissioner for Sustainable Futures
Cadeirydd, Comisiwn Cymru ar y Newid yn yr Hinsawdd / Chair, Climate Change Commission for Wales

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A professional institute for the study and care of the historic environment

The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA

06 November 2014

Dear Sir / Madam,

Inquiry into the general principles of the Planning (Wales) Bill

Thank you for the opportunity to submit evidence on the general principles of the Planning (Wales) Bill.

The Institute for Archaeologists

The Institute for Archaeologists (IfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

IfA has over 3,200 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

IfA's Wales / Cymru Group has over 300 members practising in the public, private and voluntary sector in Wales.

IfA has successfully petitioned for a Royal Charter of Incorporation which was granted on 03 June 2014.

IfA Evidence on the general principles of the Planning (Wales) Bill

General

1. The planning system plays a key role in the management and protection of the historic environment in Wales (which includes archaeological remains both above and below ground). That role is not confined simply to designated assets. Over 90% of the historic environment is undesignated (i.e. not specifically protected by listing, scheduling or some other statutory designation) and is, for the most part, solely protected as a 'material consideration' in the planning process.

2. In this regard, IfA submitted a response dated 26 February, 2014 to Welsh Government's consultation on *Proposals to Reform the Planning System in Wales*¹ in which it welcomed Welsh Government's aims to reposition the planning system in Wales 'as a tool to manage change in the public interest', to clarify and streamline the system and to enable 'appropriate development' provided that development was truly sustainable.

3. The Institute particularly welcomes provisions in the Bill to reinforce the plan-led system, to front-load the development management process by making provision for pre-application services and to modernise enforcement mechanisms. It confines its evidence in response to the terms of reference of this Inquiry to (1) the need for legislation in relation to planning committees and delegation (clause 37 of the Bill) and (2) the need for legislation to facilitate a review of Design and Access Statements (clause 27 of the Bill).

Planning Committees and Delegation

4. IfA welcomes the provisions in clause 37 of the Bill which allow for regulations to be made governing the discharge of functions by committee, sub-committee or officer. Such regulations are needed, in particular, to require *'compulsory training for members of planning committees, including procedures where training requirements have not been met by individuals'* (Independent Advisory Group recommendation cited at paragraph 3.84 of the Explanatory Memorandum). Such training should include training with regard to the historic environment. (Those not directly involved in the heritage sector may not need to attain levels of skill and knowledge required for a historic environment practitioner, but still need to have a basic knowledge and understanding of the historic environment and its significance in the planning system. Basic training of planners and members, however, does not remove the need for archaeological and wider historic environment expertise in the assessment of planning proposals.)

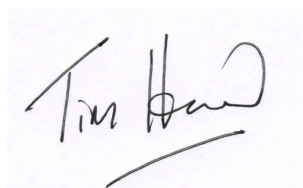
5. The Institute would welcome the opportunity to work with Welsh Government and other stakeholders to deliver training in this regard.

Design and Access Statements

6. The introduction of clause 27, facilitating a review of Design and Access Statements is necessary and supported by IfA. In an archaeological context, the relationship between Design and Access Statements (for which there is no professional, archaeological standard) and desk-based assessments (for which there is: see <http://www.archaeologists.net/sites/default/files/node-files/DBA2012-New Format.pdf>) is unclear and needs to be addressed.

The Institute would be happy to give oral evidence if required. In the meantime, if there is anything further that I can do to assist please do not hesitate to contact me.

Yours faithfully,



Tim Howard LLB, Dip Prof Arch
Senior Policy Advisor

¹ [http://www.archaeologists.net/sites/default/files/node-files/IfA-Response-to-Consultation-on-Positive-Planning-Proposals-to-Reform-the-Planning-System-in-Wales-\(WG20088\).Final_.pdf](http://www.archaeologists.net/sites/default/files/node-files/IfA-Response-to-Consultation-on-Positive-Planning-Proposals-to-Reform-the-Planning-System-in-Wales-(WG20088).Final_.pdf)

National Assembly for Wales
Environment and Sustainability Committee
PB 13
Planning (Wales) Bill
Response from Mobile Operators Association (MOA)



The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay,
CF99 1NA

6th November 2014

Dear Sir,

Planning (Wales) Bill

1. The Mobile Operators Association (MOA) represents the four UK mobile network operators – EE (including Orange and T-Mobile), Telefónica UK, Three UK, and Vodafone – on radio frequency, health and safety, and related town planning issues associated with the use of mobile phone technology.
2. We responded earlier this year to the Welsh Government's 'Positive Planning' consultation which closed on 26th February¹. In general terms, we broadly supported most of the proposals in that consultation, and are similarly broadly content with the Bill as now published. Where we proposed, in our response to the draft Bill, a different approach from that set out in the consultation, the vast bulk of those issues would be addressed in secondary legislation and/or in the various consultation papers that were published alongside the Bill, rather than on the face of the Bill itself. We have, however, comments on two issues in the Bill, both of which relate to Part 6 – Enforcement, Appeals Etc. as set out below.

Clause 42 – Variation after Appeal

3. As we understand it, Clause 42 of the Bill would prevent the variation or amendment of a planning application after an appeal has been made; and only allows new matters to be raised during an appeal in 'exceptional circumstances'. We believe that such an approach may be unduly inflexible; rather, we believe that an appeal inspector should

¹ Consultation reference: WG20088

have more discretion and flexibility as to whether changes to an application can be considered during the course of an appeal.

4. If the appeal inspector does not have the authority or flexibility to allow any changes, this would prevent the scenario where the developer would be willing to make some modification to a proposal in a way that would be acceptable to the local planning authority. In such a case, if the appeal is refused, the developer will then need to make another application, incorporating changes that the local planning authority (LPA) would have accepted at appeal. That will entail additional costs and other resources, both to developers and to LPAs and add significant delay to the planning process. Furthermore, we do think it reasonable that it should be possible to include new evidence that relates to the existing grounds or reasons for an appeal to enable a more flexible approach and reduce potential delays in the planning system

Clause 44 – Costs

5. Clause 44 of the Bill makes provision for costs to be awarded resulting from an application, appeal or reference to the Welsh Ministers. We would welcome clarification that a) subsection (6) means that costs may be awarded by ministers to any party to the appeal etc; and clarification that each party should be able to apply for costs in appeals etc, rather than simply relying on the discretion of ministers to award costs.

Yours faithfully

John Cooke
Executive Director
Mobile Operators Association



Ymgyrch Diogelu Cymru Wledig Campaign for the Protection of Rural Wales

Cadeirydd Chairman Dr Jean Rosenfeld
Cyfarwyddwr Director Peter Ogden
The Committee Clerk

Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay,
CF99 1NA
November 6th 2014

Dear Sir / Madam,

Planning (Wales) Bill

Response by the Campaign for the Protection of Rural Wales (CPRW)

CPRW key messages to the Committee

We are broadly supportive of the content of the Bill and pleased that the ethos of the Planning system in Wales remains Plan based and Plan lead.

We believe however the Bill should

- **Reflect a clearer and more direct synchronisation between the long term aims of the Planning system and the principles embedded in the Wellbeing of Future Generations Bill and proposed Environment Bill.**
 - **Ensure the role and headline principles of the National Development Framework set out positive framework for change and do not suffer the same ignominious fate of its predecessor, the Wales Spatial Plan.**
 - **Require the National Development Framework to incorporate and spatially reflect the importance of Wales' green infrastructure, in particular the national importance of the various designated Protected landscapes.**
 - **State the formal relationship between the Development Plan system and Natural Resources plans and require clear cross compliance and traceability.**
- **include provision which introduces a third party rights of Appeal under legitimate circumstances.**

1. Context

1.1 The manner, credibility and effectiveness of how all aspects of the Planning system operate in Wales is of fundamental importance and direct relevance to the Campaign for the Protection of Rural Wales interests. As a pan Wales charity whose aims are to protect the intrinsic values of the landscape of Wales and guide change in a responsible manner, the organisation has regular and direct involvement in all aspects of the planning system and is recognised as a non-statutory consultee by most Local Planning Authorities in Wales.

1.2 We therefore welcome the opportunity to respond to this important piece of legislation and recognise that any change that it brings could have potentially significant implications, both positive and negative, not only to the way in which the value of Wales' landscapes are perceived, but how they will be used to enable the Welsh Government to achieve its Sustainable Development agenda.

2. Detailed comments

2.1 CPRW supports and are pleased that the overall Plan led approach is recognised as essentially fit for purpose and should be able to provide a solid basis for promoting a sustainable approach to future development.

The requirement to produce a national land use plan: the National Development Framework

2.2 CPRW welcomes the proposals to retain a Development plan-led system in Wales, with its strong focus on the use of up to date Local Development Plans nesting within and conforming to a National Development Framework. In this context we agree that any national planning approaches should promote sustainable development but in so doing we contend they must give clear and equal weight to environmental as well as economic, and social considerations.

2.3 We believe the approaches in the National Development Framework must be spatially expressed and cascade logically into other Plans in a way which was clearly not the case with its predecessor the Wales Spatial Plan

2.4 We are also concerned that there is no indication in the Bill as to how the priority interests of the Future Generations Bill and the emerging proposals of the Environment Bill will relate to or impact upon the Development Plan process across

its various national, regional and local expressions or to the Planning system in general.

2.5 We believe the Bill should be explicitly drafted to refer to the need for the planning system to facilitate sustainable development in ways which foster the economic, social and environmental well-being of Wales, **within clearly defined environmental limits**. We refer to the particular recommendation made by the Independent Advisory Planning Group in respect of the purpose of the Planning system namely

*“the purpose of the town and country planning system is the regulation and management of the development and use of land in a way **that contributes to the achievement of sustainable development**”* (emphasis added)

2.6 We see no reason why this principle should not be included in the Bill. If the Planning system is a tool to deliver the aims of other Bills, the principles of one Bill should be traceable in others, so that their interpretation is properly understood and is fully expressed for instance in the context of the proposed National Development Framework.

National Development Framework

2.7 Whilst welcoming in principle such a Framework, it is clear that its predecessor the Wales Spatial Plan failed because its objectives, role and relevance to Local Development Plans was unclear.

2.8 Whilst supporting the introduction of a well-defined hierarchy for planning in Wales centred on a robust National Development Framework (NDF), this must be an inclusive document incorporating all the elements of WG policy including Sustainable development if it is to ensure cohesive and integrated outcomes.

2.9 To avoid the past weaknesses of the Wales Spatial Plan, the purpose, structure and role of the new National Development Framework must be clear. Similarly its policies and approaches must provide a realistic context for all Local Development plans. For this reason it is important that any issues of national importance must be spatially expressed.

2.10 That being the case, the status of nationally significant Green Infrastructure, including areas designated because of their national environmental or resource importance must feature prominently in the Plan. We would include in this context all Protected Landscapes and natural resources which provide valuable nationally significant public benefits.

2.11 We therefore anticipate the National Development Framework to eventually embed the principles of the national Natural Resource Management Strategy currently being developed by the Welsh Government, the approaches towards marine planning and also the principles of the Environment Bill.

2.12 Whilst we support Local and Strategic Development plans where they are prepared conforming to the NDF, we also believe the same conformity should apply with the Natural Resource Management Plan so there is absolute clarity about how its content will inform national priorities and influence the promotion of sustainable development. The NDF should not only be a plan for economic growth and infrastructure development but one which recognises the relevance of green infrastructure.

2.13 CPRW is also concerned about the process by which this NDF will be prepared and endorsed. We believe this this document should be subject to the same degree of scrutiny as other elements of the Development Plan scheme especially if it is to guide all the proposed Plans in its Hierarchy. At the moment it appears unclear in the Bill whether or how the NDF will be subject to any independent or public scrutiny, other than that by this Environment and Sustainability Committee.

The creation of Strategic Development Plans

2.14 PRW recognises that there may be merit in producing Strategic Development Plans for certain areas of Wales but our position is conditional on three factors

- A clear expression of how these SDPs (and the panels responsible for them) will interlock with the anticipated Wellbeing Plans or combinations of them (and their respective Public Service Boards), as required by the Wellbeing of Future Generations Bill
- How the strategic perspectives of the higher level National Development Framework and the local LDPs will successfully interlock to ensure that there is a clear relationship between their respective approaches, in any area not identified as requiring an needing an SDP

- The opportunity for a Strategic Development plan covering the rural areas of Wales to be prepared. We find it unrealistic that the proposed SDPs might only focus on growth hubs and economic centres. There are many parts of rural Wales where economic deprivation is rife, poverty is increasing and service provision is decreasing. If these areas are to have a sustainable future then their needs must not only be reflected in the complete hierarchy of plans from the National Development Framework through Strategic Developments to LDPs which can focus on implementing local solutions.

We also believe the status of those Strategic Development plans which guide the planning of Wales' Protected Landscapes reflect the Purposes of these designated areas. We would advocate that given the significant areas of Wales covered by the three National Parks, their existing Local Development Plans if not recognised as Strategic Development Plans in their own right should form the core of those regionally based Strategic Development Plans which include these areas.

We also note that there are no reference in the Bill as to how Strategic Development Plans will link with the Marine Planning system. Likewise it is not clear as to the relationship of the SDPs and the evolving Natural Resource Management Plans and Area based approaches as anticipated in the Environment Bill. We believe this relationship is critically important in recognising the value and planning and the future of Wales' Green and Blue infrastructure.

2.15 The Bill should be revised to reflect these three factors

Pre-application services

2.16 CPRW fully supports the increased use of pre-application discussions and the provisions to make this mandatory for Developments of National Significance (DNS). We are pleased that the Bill also require a "pre-application consultation report" to be submitted along with planning applications where pre-application consultation has taken place, as we believe this will increase transparency and the opportunity for the public to understand the critical issues which need to be tested.

Developments of National Significance to be determined by Welsh Ministers

2.17 CPRW notes the introduction of the new category of Developments of National Significance and mandatory pre-application notification and consultation process associated with them. We remain concerned however about the range of potential developments which will be included in this category and that the process of including policies in the NDF which favour and effectively give tacit support for specific proposals which cannot subsequently be challenged locally when the details of schemes are known. We believe this contrary to all the principles of the planning system as an open and democratic process.

2.18 We are also concerned regarding the implications within the Bill that Local Planning Authorities will be responsible for the discharge and enforcement of planning approvals for which they are not accountable.

2.19 We also contend the Bill should make specific reference to and provision for the determination of any Development of National significance proposed within any designated Protected area or in a location which would affect the interests of that area. The Bill should make it clear that any such proposals must continue to be subject to the SILKIN Test

Responsibilities for planning in National Parks

2.20 We welcome the fact that the Bill does not alter the status of National Park Authorities as Planning Authorities and therefore their ability to deliver both their planning and management functions in an integrated and efficient manner. CPRW strongly agrees this is the **only effective way** to protect and promote the active stewardship of the special qualities and range of social and economic benefits which Wales' National Parks provide.

Streamlining the development management system

2.21 Whilst accepting the principle that poorly performing Authorities are unacceptable, we cannot agree to an approach which enables the Minister to determine such applications especially if an Authority was deemed to be poorly performing purely on the basis of the speed it determines applications

2.22 Likewise we are concerned that this alternative approach provides a means for developers to bypass LPAs simply on the grounds that they want their application "fast-tracked", or in order to circumvent requirements for information on

environmental or social impacts to be made fully available to interested parties or to be properly scrutinised.

Design and access statements

2.23 CPRW does not support the complete removal of Design and access statements as we believe Design statements in particular are an important mechanism to ensure that any proposal respects the context of its location. We believe however that too often this procedure is used without any flexibility and in some instances is unnecessary. We would therefore believe an assessment of which schemes should be subject to this arrangement, should remain part of the pre application engagement statement suggested previously.

Third party rights of appeal

2.24 CPRW believes the Bill is deficient in not including provision for the introduction of Third Party Rights of Appeal. We believe it is justified in specific circumstances namely :

- When a development is unjustifiably approved contrary to the provisions of an adopted Development Plan
- When the application is one in which the local authority has an interest.
- When the original officer recommendation was to refuse the application

2.25 We do not accept the current provisions provide the necessary safeguards to ensure these circumstances will not arise. As long as the circumstances by which and when a Third Party Right of Appeal can be utilised are clear, then this would provide the certainty to ensure that this provision is used effectively. We contend the Bill should reflect this approach

Development affecting registered Town and Village greens

2.26 CPRW remains concerned that the provisions of the Bill which will result in local people losing access to land they rely on for exercise, leisure activities and general health and wellbeing, namely their Town and Village Greens

2.27 Whilst we appreciate the emphasis generally on greater engagement and pre-application discussions, it remains a fact that the majority of ordinary members of the public are not sufficiently engaged with the planning system to be involved with

producing a Local Development Plan. Therefore, they may not realise that land they have used as a green for 20 years or more could be taken from them, until it is actually threatened with development. We therefore feel the provisions of the Bill as they stand are unacceptable

2.28 CPRW trusts that our comments prove helpful in the Committee's deliberations

Thanking you in anticipation.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Ogden', with a long horizontal flourish extending to the right.

Peter Ogden
Director



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Open Spaces Society response to call for evidence: Inquiry into the general principles of Planning (Wales) Bill

Summary

- The Open Spaces Society objects to part 7 of the Planning (Wales) Bill which will prevent local people from applying to register land as a town or village green when it is threatened with development.
- There is no evidence that the TVG process is undermining the planning process.
- The changes will severely prejudice local people, their health and well-being.
- We propose alternative measures which bring the village green process closely in line with the planning process, remove vexatious applications and speed up determination, without amending the law.

The Open Spaces Society (formerly the Commons, Open Spaces and Footpaths Preservation Society) was founded in 1865 and is Britain's oldest national conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and people's right to enjoy them, throughout England and Wales.

The society took a lead role when the Commons Bill (now Commons Act 2006) went through Westminster. It is this 2006 Act which the Planning (Wales) Bill proposes to amend. We are a statutory consultee under the Commons Act 2006. The society is represented on Wales Environmental Link and the Welsh Commons Advisory Group. We work with community councils, local authorities and the public. We are named as statutory consultees in regulations, under Playing Fields (Community Involvement in Disposal Decisions) (Welsh) Measure 2010.

This response deals solely with Part 7, 'changes in relation to town and village green legislation'. The society believes there is no need to introduce these provisions.



The Society strongly disagrees with the suggestion that the proposals strike a balance between the need to preserve land used as a town or village green (TVG) and providing greater certainty for developers. There is no evidence that the TVG process is undermining the planning process. The Independent Advisory Group (IAG) report concluded that the planning system is conceptually sound and not in need of root-and-branch reform. At point 5.58 the report stated that parallel procedures should be permitted unless there is a good reason for putting a planning permission in place first.

The report confirms that responses from town and community councils, other voluntary groups and the public showed it was difficult to engage in the LDP process or to influence policy decisions due to the combination of complexity, length of process and lack of transparency.

The IAG report notes the conclusion of the Penfold report; however the proposals go way beyond Penfold's conclusions. Penfold's recommendation H was that there be a review of the operation of the registration of TVGs in order to reduce the impact of the current arrangements on developments that have received planning permission. The report concluded that where the possibility of a TVG application has been considered as part of planning, the subsequent granting of planning permission should then provide protection from TVG application for the duration of the permission.

There is little evidence to justify such a proposed restriction on TVG applications. We are dismayed that the Welsh Government should advocate change when it has no up-to-date evidence to prove that change is necessary. We are also dismayed that it proposes to copy the Westminster Government in making these changes.

The Society proposes amendments to regulations and guidance, rather than new legislation, to improve the current system (see our appendix 1).

Potential barriers to the implementation of these provisions

One of the main difficulties is to align the greens system more closely to the planning process and to enable local people to apply to register rights to use land as they have for many years, while ensuring there are no delays.

To clarify, the Penfold review 2010 was concerned with consents required for a development other than for planning permission. It identified changes to ensure greater certainty, speedier decisions and reduced duplication. Non-planning consents (of which the village green process is but one) play an important role in delivering a wide range of government objectives. We trust that all of these are being looked at, rather than singling out the village green process, which has little or no impact on the planning system.

Across Wales over 90 per cent of planning applications are granted consent, 80 per cent of which are determined by some authorities within eight weeks (Independent Advisory Group report). We urge you to consider carefully the Penfold recommendations, which were that there be a review of the operation of registration of town and village greens in order to reduce the impact of the current arrangement on developments that have received planning permission. The report concluded that, where the possibility of a town or village green application has been considered as part of planning, the subsequent granting of planning permission should then provide protection from town or village green applications for the duration of the permission.



Unintended consequences

Our fear is that people will not know that the land they have used and loved is under threat from planning until it is too late to save it. Most people do not engage with the planning system, nor do they know that in order to protect their customary use of the land they must register it as a green. It is only when land is under threat that they realise that their use and enjoyment of it is at risk. It is grossly unfair to local people to introduce a system whereby they lose their rights with no opportunity to record them.

Green spaces in urban and suburban areas are vital for the health and well-being of the population, it is essential to have places where people can walk and children can play, which are close to home. These spaces may not be anything special, just a bit of scruffy land perhaps, but they give people a sense of place, and are of crucial importance. The proposals undermine the ability of local people to protect the places they love.

We feel that speculative planning applications will be made deliberately to engage one of the proposed new 'trigger events' and this will prevent genuine applications to record the historic rights of local people who have used the land for recreation for many years. The introduction of the landowner statements further restricts the rights of local people to apply to register land as a village green.

Financial implications of the Bill

The Department for Environment, Food and Rural Affairs (Defra) carried out a recent survey of village green applications (published June 2014). The figures show there are still few applications and that the new system, (following amendments to the Commons Act 2006 in England) with the cost of introducing it, has not reduced the total number of applications. Officer hours have more than doubled from 67 in 2011 to 148 in 2013. The number of applications is still low and in 2013 was only one fewer than in 2011 (2011: 123 applications; 2012: 132; 2013:122). However no such surveys have been carried out in Wales.

In addition new guidance and training will need to be provided.

The changes proposed in the Bill will require additional work for all planning authorities who will have to carry out research and respond to questions from the officers processing town and village green applications as to whether any 'trigger events' from Schedule 6 have taken place.

Conclusion

The Society proposes a more balanced approach.

1. Before allocating land for development, the local authority must be satisfied that the land is not capable of being registered as a town or village green, ie that local people have not enjoyed 20 years use of the land for informal recreation without being stopped or given permission.
2. If the authority is not satisfied with this, it must give early notification to local people so that they may gather evidence and submit an application for registration as a green if they wish to do so. The authority may allow sufficient time for local people to do this and must not process a planning application until the green status is resolved.

3. In addition, the process for registering town and village greens could be improved and should empower registration authorities to reject vexatious applications, as proposed in our appendix 1.

The Welsh Government has, in implementing other parts of the Commons Act, taken a different and better route than England. For instance, there has been no implementation of Part 1 of the Act, concerned with amendments to the common-land register, before the register has been digitised. We welcome the provision of funding by the Welsh Government for research in this area.

There are no exemption orders for works on common land in Wales, all works require ministerial consent. The severance provisions, allowing leasing of grazing rights, have been introduced in line with *Glastir* for the protection of common land.

In England, however, the government has attempted to mitigate against the draconian measures which restricted the rights of local people to apply to register land as a town or village green, (as contained in this Welsh Bill). This is the Local Green Space (LGS) designation, introduced under the National Planning Policy Framework (2012). This provision allows local people to apply to register the land as an LGS if it satisfies the criteria. The land then receives enhanced protection. While we are sceptical of the effectiveness of LGS and have yet to see how it will work, we are concerned that there appear to be no mitigation measures accompanying the Planning Bill.

We urge that the society's alternative proposals are considered and adopted. Representatives from the society have met the Minister, Carl Sargeant, and we should welcome the opportunity to continue discussions to find a workable solution.

Nicola Hodgson
Case Officer
6 November 2014





Appendix 1

Village greens in Wales The Open Spaces Society's proposals to improve practice and guidance without changing the law

The Open Spaces Society is calling for the following changes in law and procedure to safeguard land which in Wales which is registrable as a town or village green.

New provisions in planning law

Before allocating land for development, the local authority must be satisfied that the land is not capable of being registered as a town or village green, ie that local people have not enjoyed 20 years use of the land for informal recreation without being stopped or given permission.

If the authority is not satisfied of this, it must give early notification to local people so that they may gather evidence and submit an application for registration as a green if they wish to do so. The authority must allow sufficient time for local people to do this and must not process a planning application until the green status is resolved.

New guidance for greens registration authorities (no change in law needed)

Reduce the time and cost of determining greens applications

1. Tighten up the process whereby registration authorities determine that an application is 'duly made', by requiring applications to pass a basic evidential test. For instance, this could be a minimum number of evidence forms (perhaps related to the population of the locality or neighbourhood). If an application does not pass the test, it can be resubmitted with better evidence, but within a limited period.

Introduce time limits through the process

2. At present, the only statutory time-limit in the process is that the registration authority must allow a period of not less than six weeks, after an application has been published, during which objections can be lodged. We suggest the introduction of time limits as follows.
 - (a) The authority to determine when an application is duly made within x weeks of receipt.
 - (b) The authority to inform the applicant whether the application is duly made within x days of determination.

- (c) The authority to publicise the application within x weeks of determining that it is duly made.
 - (d) The authority to determine the application within x weeks of the closing date of notice period.
3. The authority to have the power to dismiss irrelevant objections.
 4. Applications normally to be determined by written representations or occasionally a hearing, not an inquiry. Use the Planning Inspectorate not barristers as inspectors.
 5. Decisions to be delegated to a subcommittee of the registration authority, which meets as often as is necessary to determine them.
 6. Introduce a simple appeal process (eg some form of tribunal) for both side, to avoid judicial review.

Deterring vexatious applications

7. Introduce an application fee, which is recoverable if the application is deemed to be valid.
8. Introduce a power to award costs against applicant where application is clearly fraudulent.

Attempting to reach agreement

9. Once an application is judged to be duly made, the registration authority consults the landowner to see if an agreement can be reached, between those with an interest in the land and the applicant, perhaps leading to a voluntary registration of the area, or part of the area, applied for, or for another area in exchange.

Ensure greater awareness between local authority departments

10. Duly-made greens applications to be logged with planning departments, and planning departments to inform registration departments of any planning applications affecting a potential green (CCRI research report 2009*, para 7.7.1 and 2*). Successful greens applications logged with planning department (7.7.3).
11. Local planning authority to consult commons registration officer in preparing Local Development Plans and LDPs to be sent to commons registration officer on adoption (7.7.5).

*'Study of determined town and village green applications', by the Countryside and Community Research Institute (CCRI) and Asken Ltd, commissioned by Defra and published October 2009.



Planning (Wales) Bill

November 2014

1. Key Messages

1.1. Wales Environment Link (WEL) is broadly supportive of the Planning (Wales) Bill as it stands, but we have a few key concerns about the Bill as it is currently drafted, which we summarise here:

- We are disappointed note the **absence of any provision in the Bill for the introduction of a statutory sustainable development purpose** for the Welsh planning system.
- We see the National Development Framework as **an opportunity to plan**, not just for built infrastructure, but **for green infrastructure, wildlife, designated landscapes and natural resource management**.
- We would like the National Development Framework and other plans to be **integrated with the Welsh National Marine Planning process, and the principles of Integrated Coastal Zone Management (ICZM), to be fully embedded** into the planning process.
- We are **very concerned that Local Planning Authorities will not have the resources to undertake post-determination work for DNS applications** which have been approved by Welsh Ministers.
- We are disappointed at the **missed opportunity to introduce Third Party Rights of Appeal** to be used under specific circumstances.
- We strongly **oppose the changes to the registration of Town and Village Greens**, as we believe this will result in local people losing access to open spaces which are important for their health and well-being and which constitute vital green infrastructure in our towns and villages.

1.2. We set out our comments under those aspects of Committee's terms of reference where we have particular points to raise, but we do not have comments on all the aspects of the terms of reference.

2. Introduction

- 2.1. In general, the Planning (Wales) Bill is very technical and process driven, and WEL believes that the improvements to the planning process outlined in this Bill are broadly sensible. However, we do feel that this Bill represents certain missed opportunities and it is not well integrated with the provisions of the Well-being of Future Generations (Wales) Bill and proposed Environment Bill. We also have a particular concern with the changes to registration of Town and Village Greens.
- 2.2. WEL is surprised and disappointed to note the absence of any provision in the introduced Bill for the introduction of a statutory sustainable development purpose for the Welsh planning system. We thus consider the introduced Bill's treatment of sustainable development to be deficient, and not in conformity with the way in which the IAG Report addresses this matter. The IAG Report recommended a statutory purpose for planning as follows:

“the purpose of the town and country planning system is the regulation and management of the development and use of land in a way that contributes to the achievement of sustainable development” (Recommendation 1) and that “The Welsh Ministers may issue guidance to planning authorities of the application of the purpose in exercising or performing those powers or duties and the planning authority shall have regard to any such guidance so issued” (Recommendation 3).

We support these recommendations, and see no reason to exclude them from the introduced Bill.

3. The requirement to produce a national land use plan, to be known as the National Development Framework

- 3.1. Wales Environment Link (WEL) welcomes the decision to retain the plan-led system in Wales, and supports the provision for a National Development Framework (NDF). We see the setting of national priorities as an opportunity to ensure that the planning system enables sustainable development in a manner which ensures that economic, environmental and social aspects of the planning system are given equal weight.
- 3.2. WEL notes that paragraph 3.23 of the Explanatory Memorandum states that the NDF will ‘set out area or location specific policies currently in ‘Planning Policy Wales’ (PPW) and Technical Advice Notes (TANs).’ We support the need for a spatially expressed NDF, and feel strongly that this must influence regional and local planning more effectively than the previous Wales Spatial Plan. We support the intention for Strategic and Local Development Plans to conform to the policies set out in the NDF.
- 3.3. WEL is pleased to see that in Section 60B (1) (b), Welsh Ministers must carry out a sustainability appraisal of the policies set out in the draft NDF before it is published. We would hope that if any policies were identified by this appraisal to be unsustainable, or to negatively affect the long-term economic, social or environmental well-being of Wales, then this would lead to the NDF being amended.
- 3.4. We believe that there is a missed opportunity in this Bill for a direct link to the Well-being of Future Generations (Wales) Bill, in that the statutory purpose of the planning

system, and indeed the NDF, could be explicitly drafted in this Bill to foster the economic, social and environmental well-being of Wales, within defined environmental limits, thereby achieving **sustainable** development. Integration with the proposed Natural Resource Management Plans in the Environment Bill is also crucial.

- 3.5. We welcome the statement in the Explanatory Memorandum that the sustainability appraisal stated in the Bill will include a Strategic Environmental Assessment and Habitats Regulations Assessment, but would feel more comfortable if these specific assessments were name-checked in the Bill itself.
- 3.6. We note with concern that the Explanatory Memorandum puts emphasis on the intention to provide business interests with opportunities to identify areas for development so that they can bring forward ideas for projects that they will finance. It does not recognise the opportunity for the NDF to also identify areas for environmental protection and enhancement, which we believe must also be a major component of the planning system. If we are to stop losing our precious habitats and special landscapes then this must be actively planned for and managed with the same fervour with which we plan for infrastructure development and economic growth.
- 3.7. WEL would like to know if Welsh Government plans to include green infrastructure, continued protection and enhancement of designated landscapes and areas of importance for wildlife and natural resource management in its NDF. The Scottish [National Planning Framework](#) is perhaps a useful frame of reference in this respect, as it overtly includes planning for biodiversity, designated landscapes and green infrastructure as part of the Framework, along with hard infrastructure.
- 3.8. Welsh Government has stated its intention to develop a Welsh National Marine Planning Process by 2015. We seek further detail on how marine planning will be taken into consideration as part of the NDF and, where appropriate, SDPs and LDPs and vice versa. Further clarification is needed on how projects will be addressed that span the intertidal area in estuaries and on the coast, and require multiple consents, including both a marine license and planning permission from the local planning authority. The principles of Integrated Coastal Zone Management (ICZM), one of which is to facilitate the integration between planning regimes, should be fully embedded into the planning process to ensure coherence between the marine and terrestrial planning regimes. The principles enshrined in the English coastal concordat, which sets out recommendations for coordinating the consenting process for coastal development, may be a useful starting point for joint working arrangements at the Welsh coast.

4. The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues

- 4.1. WEL agrees with the principle of producing Strategic Development Plans (SDPs) for larger than local cross-boundary issues, however, we have concerns about how SDPs will integrate and overlap with LDP areas, and also with the local well-being plans which the new Public Services Boards will be required to produce under the Well-being of Future Generations (Wales) Bill. It is essential that issues are not overlooked between the different levels of plan, particularly in LDP areas that are partially covered by an SDP. We support RTPI's suggestion in their evidence on the WFG Bill that Local

Planning Authority interests must be represented on the Public Services Boards so that links are made between the different plans. Where there is a Strategic Planning Panel in place, it must also have links with the local Public Services Board.

4.2. The Explanatory Memorandum notes on page 16, paragraph 3.30 that Cardiff, Swansea and the A55 corridor have been identified as benefiting from an SDP approach. We are pleased that SDP areas are not set in the Bill itself as we feel that there may be other areas that benefit equally from a more strategic approach. The natural resources which provide ecological connectivity and ecosystem services such as clean water, flood mitigation and carbon sequestration do not respect local authority boundaries and there may be significant benefits to using a strategic planning approach which would integrate with the natural resource management plans proposed in the Environment Bill.

5. Front-loading the development management process by making provision for pre-application services

5.1. WEL fully supports the increased use of pre-application discussions and the provisions within the Bill to make this mandatory for Developments of National Significance (DNS) and major developments. We are pleased that provisions also require a "pre-application consultation report" to be submitted along with planning applications where pre-application consultation has taken place, as we believe this will increase transparency.

6. Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers

6.1. WEL supports the introduction of the new category of Developments of National Significance (DNS) and is pleased that they will be subject to mandatory pre-application notification and consultation. As we stated in our consultation response to Welsh Government, we believe that the term 'Projects of National Significance' might be more inclusive of planning for environmental projects of national significance alongside hard infrastructure of national importance.

6.2. WEL is extremely concerned that if LPAs are left to deal with the post-determination work (such as discharge of planning conditions) following an application for a DNS, which they would not be responsible for approving, that this could cause resource issues for the LPA, especially as they would not be in receipt of the planning fee for that application. LPAs are already lacking in resources and this may have significant implications for the practical implementation of post-determination work.

7. Streamlining the development management system

7.1. WEL is concerned about the new provisions for Ministers to be able to designate an LPA as 'poorly performing' and for planning applications to bypass these LPAs and be submitted directly to Ministers. The Explanatory Memorandum seems to suggest that this is intended to address the issue of LPAs whose track record is slow in determining applications. Whilst decisions must be made in an efficient and timely manner, speed of decision making should not outweigh the quality of the outcome of any planning-

related decision making process. Welsh Government must ensure that the criteria used to designate poorly performing LPAs does not focus purely on speed of decision-making, but must take quality of output into account as well.

7.2. WEL is also concerned that large developers may use these new provisions to bypass the local democratic process and evade local objections to developments by submitting their application directly to Ministers. We would be interested to know how the Minister intends to ensure the new provisions are not abused in this way.

8. Changes to enforcement and appeal procedures

8.1. WEL believes the Bill is a missed opportunity for the introduction of Third Party Rights of Appeal. WEL has previously advocated that a limited Third Party Right of Appeal should be introduced under the following circumstances:

- When a development is approved contrary to the provisions of an adopted Development Plan
- When the application is one in which the local authority has an interest.
- If an application is a Major Development or one requiring an Environmental Impact Assessment
- When the original officer recommendation was to refuse the application

8.2. We do not accept that the current provisions will provide the necessary safeguards to ensure these circumstances will not arise. As long as the circumstances by which and when a Third Party Right of Appeal can be utilised are clear, then this would provide the certainty to ensure that it is used effectively.¹

9. Changes in relation to applications to register town and village greens

9.1. WEL is concerned that the provisions relating to Town and Village Greens will result in local people losing access to land that they rely on for exercise, leisure activities and general health and wellbeing. There is strong evidence that green spaces within towns and villages (green infrastructure) are important for local people for a wealth of physical and mental health reasons.² They can also be important for local wildlife, yet these areas are under incremental threat from development.

9.2. Whilst we appreciate the emphasis on greater engagement and pre-application discussions within this consultation, it is a fact that the majority of ordinary members of the public are not sufficiently engaged with the planning system to be involved with producing a Local Development Plan. Therefore, they may not realise that land they have used as a green for 20 years or more could be taken from them until it is actually threatened with development.

9.3. If a green is subject to a planning application, the statutory timescale for deciding on an application is far shorter than the timescale required to put in a robust case for the land to be designated as a green. If planning decisions are not delayed until the case for a green has been considered, or if the public loses the right to register land as a

¹ WEL's full argument for the introduction of Third Party Rights can be accessed at http://www.waleslink.org/sites/default/files/111117_WEL_response_to_Planning_Appeals_consultation.pdf

² Health and Natural Environments, Natural England, March 2012
http://www.naturalengland.org.uk/Images/health-information-pack_tcm6-31487.pdf

green after planning permission has been given, then local people will lose access to the land in question.

- 9.4. We are very concerned that the period of time for registering a green has been reduced from two years to one (where use has ceased or is being challenged). The introduction of the ability for a landlord to make a declaration regarding land, so as to make it incompatible with the “as of right” use by local people, also raises particular concerns. If a landlord makes a declaration, members of the public have one year to register the land as a green, after which they lose this right. This same provision has made it far more difficult to register a green in England, because providing a robust enough case for registration often takes at least a year. We are concerned that landowners could potentially make declarations on large areas of green space in towns and villages across the country, with a view to keeping their options open if a suitable development proposal comes along.
- 9.5. This incremental loss of green space would be detrimental to local people’s health and wellbeing, and possibly detrimental to wildlife in some areas. Furthermore, in England, when these same provisions were brought in, it simply resulted in the need to introduce a new designation of “local green space” under the National Planning Policy Framework (2012) for open space that is special, of value to the local community and meets certain criteria.
- 9.6. Instead of tipping the advantage firmly in favour of developers, WEL supports the following recommendations, which would provide a fairer, more balanced approach to the issue of Town and Village Greens:
- Before allocating land for development, the local authority must be satisfied that the land is not capable of being registered as a town or village green, i.e. that local people have not enjoyed 20 years use of the land for informal recreation without being stopped or given permission.
 - If the authority is not satisfied of this, it must give early notification to local people so that they may gather evidence and submit an application for registration as a green if they wish to do so. The authority must allow sufficient time for local people to do this and must not process a planning application until the green status is resolved.
 - In addition, the process for registering town and village greens could be improved and accelerated by amending the guidance to introduce timescales and greater dialogue and to empower registration authorities to reject vexatious applications, as proposed by the Open Spaces Society.³

³ <http://www.oss.org.uk/saving-welsh-village-greens-from-changes-in-planning-law/>

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the government and the environmental NGO sector in Wales. Its vision is to increase the effectiveness of the environmental sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

The following WEL members support this document:

Bat Conservation Trust

Butterfly Conservation Wales

Campaign for National Parks

Marine Conservation Society

Open Spaces Society

RSPB Cymru

Ymddiriedolaeth Genedlaethol / National Trust

Wales Environment Link unites voluntary bodies whose primary aims include the conservation, protection or quiet enjoyment of landscape, wildlife or amenity in Wales
Mae Cyswllt Amgylchedd Cymru yn uno cyrff gwirfoddol sydd â'u hamcanion pennaf yn cynnwys cadwraeth, gwarchodaeth neu fwynhad tawel o dirlun, bywyd gwylt ac amwynder yng Nghymru
Reg. Charity No: 1022675 Rhif Elusen Gofrestredig: 1022675

**National Assembly for Wales
Environment and Sustainability Committee
PB 17
Planning (Wales) Bill
Response from Ceredigion County Council**

Positive Planning - A consultation on proposals to reform the planning system in Wales

Consultation reference: WG20088

CALL FOR EVIDENCE RESPONSE – CEREDIGION COUNTY COUNCIL

Please accept this as Ceredigion County Council's formal submission to the call for evidence for the 7th November 2014. Although the majority of comments on this form are as per submitted at the time of the consultation on the draft in early 2013 the LA have taken the opportunity to amend and add to those comments in some of the questions below. As most of the LA's comments have not led to a change between the draft and the now published Bill the LA's comments stand and should be considered as part of the evidence in taking the Bill forward.

Consultation Response Form

Positive Planning - A consultation on proposals to reform the planning system in Wales

We would like your views on our proposals to change the planning system in Wales. This requires changes to primary legislation, secondary legislation, and policy and guidance.

Please submit your comments by 26/02/2014.

If you have any queries on this consultation, please email: planconsultations-d@wales.gsi.gov.uk or telephone Switchboard on 0300 0603300 or 08450103300.

Data Protection
<p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response or tick the box at the end of this form. We will then blank them out.</p> <p>Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to</p>

Consultation reference: WG20088

decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Consultation reference: WG20088

Positive Planning - A consultation on proposals to reform the planning system in Wales		
Date of consultation period: 04/12/2013 – 26/02/2014		
Name	Llinos Quelch	
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Address	Cyngor Sir Ceredigion County Council Penmorfa Aberaeron Ceredigion SA46 0PA	
E-mail address	ldp@ceredigion.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

General Observations:

Ceredigion County Council along with its detailed responses to the 43 questions would like to make the following general observations (some of which are reiterated in relation to individual questions):

- **The Council is disappointed that such a valuable opportunity to strengthen the role of planning in sustaining the Welsh language has not been taken up. The Planning Bill makes no provision in relation to the Welsh language. WG may well say that this is a policy matter and has been addressed in draft Technical Advice Note on the Welsh Language which was published last year. However the council disagree that the national policy, known as TAN 20, does enough to sustain the Welsh language especially as it does not allow new Local Development Plans to use Language Impact assessments in the determination of individual planning applications. A number of opportunities have therefore been missed in the new Bill, including that of looking at the potential for requiring a planning permission for change of use between second homes, not holiday lets, but second homes, in areas where such homes are numerous, a measure which would help ensure that new homes remain available for locals which in turn will assist the language and the vitality of local communities.**
- **A number of planning service functions are proposed to be taken on by Welsh Government (WG). This is of concern as the role of WG is currently much clearer – that of policy direction rather than service provider. The**

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provision of services and the overall determination of planning applications are generally better undertaken at the local level, by Local Planning Authorities. There is however some merit regarding schemes of national significance and for these to be determined at a national level but only with significant input and steer from Local Authorities (LAs) (see response to questions below).

- **Removing some of the LPA's planning function to WG will have a direct impact on fees and resources available to LPAs. If certain planning applications are to be determined at WG level then a proportion of the fee should still be allocated to the LPA as a large amount of the work involved in determining the application, according to the consultation paper, remains with the LPA. The fee proportion given to the LPA therefore needs to be proportionate to the amount of work to be undertaken.**
- **In relation to the choices provided regarding when a pre-application fee should be paid – this should be paid up front at the time of the pre-application. The fee should reflect the time needed for the pre-application advice. A separate fee should then be applied at the planning application stage. This ensures that the planning system is appropriately covered in terms of the level of input needed at these various stages. Deferring a fee resulting from a pre-application process until a planning application stage should not be acceptable as a planning application may never materialise yet significant work/discussion may have already been incurred.**

Consultation reference: WG20088

Supporting Culture Change

Q1	Do you agree that the proposed remit for a Planning Advisory and Improvement Service will help local planning authorities and stakeholders to improve performance?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

The proposal for a PAIS type body/approach is welcomed in principle, however there is some concern with regard to the decision for WG to host this service. The Planning Advisory Service (PAS) in England is funded by DCLG but hosted by the Local Government Association. Colleagues in LPAs in England have commented that this 'independence' has resulted in a service that is trusted and well received as PAS is part of the local government family and working for local authorities not central government. The proposals within Positive Planning are significantly different from this set up and therefore it is likely that the service will be viewed differently to PAS in England.

The service offered to LPAs in England by PAIS is free of charge. In times of declining budgets, it is imperative that the PAIS service is offered on a similar basis as LPAs would not have the budget to pay for the PAIS services.

The word “improvement” is unnecessary in the title of such a body because of the inference of poor performance. Such a body will also require people with recent planning experience.

There is also a question regarding how the work currently undertaken by WLGA, POSW, RTPI will be incorporated to avoid any duplication of assistance/service provision.

It is noted that PAIS is to be operational, at least on an interim basis, from the 1st of April 2014 – the Authority awaits information on how these arrangements will work.

It is noted that town and community councils will need sufficient support if they are to be able to fully embrace the potential new roles ahead for them.

Q2	Do you agree that existing Welsh Government support arrangements for the built environment sector in Wales should be reviewed?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Does this proposal refer to the Design Commission?

The Council considers that the existing arrangements with organisations such as the Design Commission for Wales is working as this provides flexibility to LPAs as to whether to refer schemes to seek advice or not. However, input and responses into planning proposals need to be received quicker than they are at present – the same goes for responses when required from Cadw.

There is however a deficit in relation to advice concerning green and energy infrastructure proposals.

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Q3	Do you agree that competency frameworks should be prepared for planning practitioners and elected representatives to describe the skills, knowledge and behaviours necessary to deliver planning reform?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>

Comments:

It is difficult to give a definitive statement of a yes or no with regard to this question.

There is some merit in developing a competency framework for planning practitioners and for elected representatives. However there is a danger here of duplication and that this is already being achieved – therefore further clarification is required as to what is being proposed in addition here and is it required?

Planning professionals are already covered by the RTPI which require certain standards and CPD, and they can discipline if standards are very poor. If further competency requirements need to be introduced then this should be as part of the MRTPI qualification which could be further developed to address any current gaps/concerns. All aspects of competency are professional matters best left for development by the professional body RTPI rather than WG to assess. LPA staff should therefore already be achieving a high standard of competency. If additional competency levels are introduced for planning professions then this needs to be across the board (LPA, consultants, WG Officials etc).

It is not clear from the document if the reference to planning practitioners applies only to LPAs or whether this applies across the profession in accordance with the paragraph 1.2 of Positive Planning which highlights the need for culture change and states " ...it will involve all participants in the planning system, including government, local planning authorities (LPAs), applicants, statutory consultees and citizens". If this is an across the profession proposal (as implied at various Planning Bill conferences) it is welcomed, however if it is to apply to LPAs only, this is not supported as this will not achieve the culture change required. All players, the private sector as well as in other public sector bodies need to be signed up to any competency framework that is to be developed. Various workshops and discussions during the consultation period however confirm it is to apply to all. Further work needs to be undertaken to consider whether the RTPI could take this role on in full.

There is a lack of information as to what would be required in relation to Members over and above any training already undertaken by LAs themselves. It must be recognised that local Members are local people, elected for their role in the locality, and are not and do not need to be trained planning professionals. The level of training therefore needs to be pitched appropriately if additional training is to be required for local Members.

Also how far does this extend? Is it intended to cover Town and Community Councils as well (this is not currently clear)? With an extended role proposed for Town and Community Councils it is important that they are provided with a level of support but that it is also recognised that they are local people, elected for their role in the locality and are not and do not need to be trained planning professionals. The level of training therefore needs to be pitched appropriately.

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What status will the competency framework have? What will be the repercussions if a LA/private practitioner does not fully meet the competency framework? How will the framework be monitored and by who?

There needs to be care if such a framework is to introduce significant additional costs on a LA e.g. if RTPI membership were to become compulsory this could have cost implications regarding any current staff which may need to undertake academic courses in order to achieve that status.

Consultation reference: WG20088

Active Stewardship

Q4	Do you agree that the National Development Framework will provide a robust framework for setting national priorities and aid delivery?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

The replacement of the WSP with a National Development Framework is supported. However there are a number of national plans in existence already (WIIP, WEFO Economic Prioritisation Framework) or in the pipeline and the NDF should complement these.

The Positive Planning document does not indicate the estimated timescales involved with producing an NDF and the subsequent timing of the production of SDPs. Further clarification on timescales would be welcomed.

A clear evidence base, engagement and consultation and examination should be applied to the NDF. LAs need to be able to genuinely input when the NDF is being drafted, being a main Stakeholder not just a consultee. LAs should have an opportunity at such examinations to raise points that continue to concern them about the content or direction of the NDF and why. This will avoid challenge and questioning at SDP and LDP level as consistency and transparency will apply. These plans can then be taken to have been thoroughly scrutinised before adoption, this reduces challenge and questioning regarding matters already set by the NDF but which get set out in more detail at the SDP and LDP stages. The absence of an examination process in relation to the NDF therefore needs to be addressed.

It is welcomed that all assessments (sustainable, environmental e.g. SEA & HRA) will have been applied to the NDF given that it will have 'development plan status'. Again this avoids challenge at SDP and LDP stages which has sometimes been the case in relation to matters such as wind energy. For example, SSAs which currently sit in TAN are not assessed to the level required of such designations in LDPs - this causes difficulty at LDP stage.

The consultation document implies that the NDF will be for a time period of 20 years minimum but there is no indication of a monitoring process similar to those WG require LPAs to comply with for SDPs and LDPs. WG commit to a 5 yearly review of the NDF but no annual monitoring arrangements. Annual monitoring arrangements are a must if consistency is to be applied in relation to how different levels of plans are monitored and reviewed.

Reference is made that some parts of Wales will not have any or very little reference in the NDF. Will this disadvantage those areas when applying for various funding streams? That is, if a scheme/project isn't mentioned in either NDF or SDP – less likely to draw down National/European funding?

Q5	Do you agree that Planning Policy Wales and Minerals Planning Policy Wales should be integrated to form a single document?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Yes this is a sensible proposal which should result in more up to date minerals

Consultation reference: WG20088

planning policy.

In relation to TANs, though a question is not specifically asked, the LA agree that the number of TANs need to be reduced and that those which remain should be kept up to date. Currently a large number are outdated.

Guidance needs to be focused on new strategic policy and the main development trends (housing, retail etc) with the aim to support decision making and facilitate development rather than set down a load of hurdles.

Q6	Do you agree that a core set of development management policies should be prepared for consistent application by all local planning authorities?	Yes	No
		X	<input type="checkbox"/>

Comments:

It is clear that some duplication continues to occur in relation to Development Management (DM) policies and that these could be set out in the NDF. Many LDPs already make cross reference to PPW rather than include a large number of DM policies. However PPW is still seen as lacking the necessary detail in many areas and therefore DM policies have been included in LDPs. Without a doubt the number of DM policies in LDPs could be further reduced if there were an improved set of clear DM policies in the NDF releasing LPAs to work more on producing SPGs and development briefs – the level where the detail is contained that will assist receipt of good planning applications.

However as recognised in the consultation document there will always be some DM policies that will be specific to certain areas and should be included in LDPs along with circumstances, where justified and evidenced by the LA, where national DM policies would not be suitable.

Guidance would be needed regarding currently adopted LDPs and how DM policies in those LDPs should be viewed/addressed once the NDF were in place.

A scoping exercise of all the DM policies applied in individual LDPs would provide WG with evidence of which national policies would work and which would not. Over time some generic policies have been lost from national guidance e.g. that of advice regarding backland development, therefore such a scoping exercise should seek views from LPAs what additional (currently absent) policies could usefully be included.

Q7	Do you agree that the proposed development hierarchy will help to ensure that planning applications are dealt with in a proportionate way dependent on their likely benefits and impacts?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>

Comments:

It is difficult to give a definitive statement of a yes or no with regard to this question.

As the proposal for a tier of developments of national significance is a new and unproven feature of the planning system in Wales it is difficult to comment on whether this proposed development hierarchy will result in the desired outcomes. If all stakeholders in the planning system play their part as set out in Positive Planning then we would agree that this approach may have benefits for

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local authorities in freeing up resources from larger more complex applications. It is important however that the LPA retains a role in the decision making process – which does not appear to fit with the current proposal.

It should be noted that small (local) developments can be equally as controversial and have significant impacts. Such applications should however remain within the remit of the LA and do not need elevating purely because of the level of impact they may have.

There is a danger that the planning system, at the local level (local as perceived by the public), will be split. This could lead to inconsistent decision making and tensions between the various tiers of decision makers. When something goes wrong it is the LA that the public will approach, regardless of where the application has been submitted and determined.

Q8	Do you agree with the proposed categories and thresholds for Developments of National Significance set out in Annex B?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Noted that this will include large energy developments. No specific comments.			

Q9	Do you agree with the proposed categories and thresholds for Major Developments set out in Annex B?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: It is difficult to give a definitive statement of a yes or no with regard to this question. Support that decision process remains with LPAs. However, there is concern regarding the low threshold attributed to housing development of 10 units. This is a low threshold even for a rural area and cannot be seen to be a major development. Suggest this should be revised upwards to 50 units. Although no question is included within the consultation form the LA note that changes proposed to some of the GPDO could have ecological impacts which the LA would not be able to influence despite its statutory duties (NERC Act) e.g. that relating to agricultural buildings and potential effects on bats.			

Q10	Do you agree Developments of National Significance applications should be subject to mandatory pre-application notification, and consultation?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes there should be mandatory pre-application notification and consultation. LAs should be provided with opportunity to decide what gets classified as DNS.			

Consultation reference: WG20088

Setting out the requirements regarding pre application notification and consultation should improve the quality of any application.

The LA would be interested in how such a process will be managed. The LA should have involvement as a key consultee. Given the role intended for the LA throughout the determination process then LA representation should be on board any 'development team' approach set up by WG from the start. The WG therefore need to be working in partnership with the LPA. Given this it is important that the fee is fairly distributed between WG and LPA to reflect where the main body of work will be undertaken (see also response to Question 11 below). It does not necessarily appear that there will be significantly less work for the LPA than if they were determining the application themselves, the main difference however should be (provided the set up works) is that there is greater expertise in specialist areas on hand which at LA level may not have existed.

It would appear that what WG will mainly do, apart from issuing the final recommendation is to project manage the determination process – much of the ground work needed in order to reach a determination would still be required of the LA. Is there a political role here for the LA or is it just a technical one for LA Officers?

Although there is no specific question on other levels of development e.g. major, it is considered that all applications not just those for national should be subject to mandatory pre-planning application advice.

Additionally although there isn't a specific question asking for views in relation to validation following pre application advice, this is a matter which needs addressing. Significant time is spent at pre-application to further discuss and progress elements of the proposed planning application in order to ensure compliance with national and local policies. Where pre-app advice has not been followed there should be a mechanism for the LPA to either invalidate such applications or to be able to deal with them much quicker as a refusal if at the application stage the applicant continues to disregard advice.

It is important that Town and Community Councils are involved in this process.

Q11	Do you agree that a fee should be charged for pre-application advice for prospective Developments of National Significance applications?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Yes a fee should be charged for pre-application advice and a proportion of this fee should be passed to LPAs to cover all resources required for pre-application advice, compilation of a Local Impact Report (which covers an identification of the issues, draft conditions and legal requirements) and other activities associated with the determination of DNS.

The IAG report recommended that "Provision is made in relation to nationally significant infrastructure projects determined by the Welsh Ministers for the fee structure to recognize the resource implications for local planning authorities in their role as principal consultees in relation to such applications and in relation to the discharge of conditions and in the enforcement of development consents once granted".

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Payment should also be included for discharge of conditions.

As above (Q10) this fee should apply to all levels of development (national, major etc.) – though proportional to the scale.

Q12	Do you agree that the Planning Inspectorate Wales is the most appropriate body to undertake the processing of a Development of National Significance application?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

This approach could cause confusion generally.

The PINS has to remain completely independent of the application process, otherwise it becomes judge and jury, and open to challenges.

Currently the role of PINS is clear, they deal with appeals and LDP Inquiries not the processing or determination of planning applications. Even though this new approach is only proposed in relation to National Significant applications it confuses the boundaries of their role.

Additionally this proposal raises concern regarding a conflict of interest. The Planning Inspectorate will be the body undertaking the processing and we assume making a recommendation to Welsh Ministers and could also find themselves undertaking an appeal on one of the applications determined by themselves. If this proposal does go ahead as it is the boundaries between the various roles for PINs needs to be absolutely clear.

Q13	Do you agree that only one round of amendments to an application for Developments of National Significance should be permitted after it has been formally registered?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Should there be different categories of Developments of national Significance, and in particular schemes which are sponsored by the public sector in receipt of WG capital funding, and there is concern this compromises any decision making requiring WG input.

There needs to be a balance between quality of service and timely delivery.

This approach assumes that all key stakeholders have fully engaged at the pre-application stage and that all necessary changes have been discussed and agreed at that stage. It is appreciated that all stakeholders should and will be encouraged to participate at that stage, however, inevitably other matters will arise as the discussion regarding the submitted application occurs. It is difficult to foresee what further changes may arise and therefore it is too onerous to specify as a blanket approach that only one set of amendments, minor at that, can be made. If there is room to further improve the scheme, or the scheme is not in accordance with additional requests sought at pre application stage then there should be room to further improve that scheme at the planning application stage – even if that takes more than one set of amendments. Otherwise there is a risk that people go with a substandard scheme rather than pursue a better one

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Q14	Do you agree with the proposals for handling connected consents?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: This approach seems sensible. However what is less clear is the ‘level/quantity’ of such applications and a precise definition of what is deemed to be connected.			

Q15	Do you agree that examination should follow a similar procedure to the proposed call-ins and appeals?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: There most definitely needs to be a clear transparent examination process of the DNS application. The decision not to allow some form of appeal process in relation to Nationally Significant applications is however questionable given the likely magnitude, complexity and impact (negative or positive) of these large schemes. This would appear to take away a tier of the process when perhaps it may matter the most. However, in “normal” cases an appeal process is needed because an application has only been considered “on paper” and has been mediated through a political process. On appeal it is fully heard (if appropriate) by an independent person at arms length. Therefore is the DNS is to be scrutinised in detail (forensically) then arguably the work of an appeal process has been achieved through the application process. Clarification is needed regarding this point. The LA assumes there would still be a right of appeal to the High Court under section 288?			

Q16	Do you agree with the proposed division of responsibilities between the Welsh Ministers and the local planning authority at the post-determination stage?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Agree to the principle provided all aspects are fully and sufficiently funded. It is important to note that LPAs will still retain responsibility for post determination decisions including variation or removal of condition, discharge of conditions, breaches etc. the only post determination matters the LPA will not deal with is any renewal applications. Therefore consideration of proportional element of fees is necessary as well as making sure that the fee is at an appropriate level that reflects the staff time and resources put in by the LPA. The LPA responsibilities post-determination should be fully funded. If something is deemed as having national implications etc would it be more appropriate that these matters are also monitored centrally?			

Q17	Do you agree that the statement of case and draft statement of common ground should be produced when submitting an appeal?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Consultation reference: WG20088

It's agreed that submitting a statement of case and a statement of common ground at the start of the appeal would speed up the process. This should also significantly reduce the issues to be covered within the statements of case.

The question of common ground could change during the process in that more common ground may appear as the process goes on and the object of a statement is to help the inspector by telling him/her what issues are not in dispute at the beginning of the hearing. If the desire is to make the process more useful it might make sense that 'post statement submission' for the Inspector to circulate a draft Statement (as part of their pre-hearing prep) to be taken as agreed subject to submissions.

Q18	Do you agree that the Planning Inspectorate should decide how to handle the examination of an appeal?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

The ability of the Planning Inspector to determine how to handle the examination of an appeal, would enable the appeal process to be proportionate.

Consideration should be given as to whether LPAs should also have a say or at least be consulted. There is a case for 'scoping' appeals to decide whether to accept them or not. For example, if the case is so bad that it shouldn't proceed, or not be given a large amount of time, as this is not the best use of time and resources.

Q19	Do you agree no changes should be made to the content of an application post appeal submission?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We agree that no changes should be made to a scheme/development after an appeal is lodged. This causes confusion during the appeal process and disadvantages statutory consultees and third parties who have an interest in the development as they would not be able to make informed comments on any changes being made. This is particularly so if it's on refusal when the applicant has had their chance to make amendments and have not taken it during the application process.

If however it's on the basis of non-determination then they have not necessarily had that chance and as such it may be fairer to allow changes so that their "best case" for why permission should be granted can be put by them (the applicant). If they bring in the proposals re allowing determination of an application after submission of the appeal then the right to make changes should extend until the determination (if any) of the application by the LPA. This would encourage ongoing discussion between the LPA and the applicant as to whether an acceptable scheme can be found so avoiding the need for an appeal.

Q20	Do you agree with the proposal for the Welsh Ministers to be able to initiate awards of costs?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Consultation reference: WG20088

Comments:
Disagree with the process being suggested.

It should be down to the appellant and the LPA to decide whether to apply for costs and it should then continue to be the decision of the inspector to award costs or not.

A fee structure should be set up in terms of submitting an appeal to cover the resources/time taken to deal with appeals.

It is appropriate for the appellant to contribute to the cost of an appeal – given that some benefit would be derived from the granting of the planning application.

Q21	Should fees be introduced to cover the costs of the Welsh Ministers resulting from an appeal?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
The fee route and also the costs route should both be applied, not one or the other. The recovery of costs however should not be out of the existing pot agreed but in addition to.

This does however need to be seen alongside the proposals for dealing with small householder appeals and the plan to extend that approach to small commercial appeals. Should those aspects be left out of the process being discussed here? Should there be a difference?

Q22	Do you agree that a Commercial Appeals Service (CAS) should be introduced?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
The Householder Appeals Service speeded up the appeal process and has been successful. Therefore, any further changes that can speed up the process for other smaller scale developments such as changes of use in commercial properties should be introduced.

Consultation reference: WG20088

Improving Collaboration

Q23	Do you agree that local planning authorities should be merged to create larger units?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The merger of planning authorities should be based on a sound business case rather than a blanket policy of merger to create larger units. It does not necessarily follow that larger organisations deliver the improvements in service expected.</p> <p>There is a distinction between the merger of LPAs and the merger of planning activity, the latter is an area to be investigated to achieve efficiency in processing.</p> <p>There remains however ample opportunity to standardise various processes, for example planning application administration and LDP databases/mapping etc. A common approach would save LPAs money in the long run, make data and information easier to compare/share etc., allow for monitoring systems to be applied much easier across Wales regarding new aspects on a regular basis. A consistent approach to website design could be applied, with standard documentation for inclusion.</p> <p>It is difficult to divorce the proposals in Positive Planning from the recommendations from the Williams Commission, which if implemented will result in larger LPAs. However merging LPAs will not tackle one of the key deficiencies in the planning system, that of a lack of sufficient number of specialist staff in specific subjects – particularly in terms of dealing with some of the major applications where consultants are often bought in e.g. in relation to retail needs.</p> <p>If LDPs are to truly deal with matters at a local level then in order for localness to count for anything then there has to be a meaningfully defined grouping of communities who have the right (subject to soundness tests etc) to decide their future and plan for it. Amalgamation of Planning Authorities tends to militate against that. This is particularly so when seeing this in the context of the Williams proposals which appear more finance rather than democracy led. The protection of the right to bespoke local plans for local areas is important.</p> <p>The emergence of city regions and ensuing regional priority statements will have considerable bearing upon LDPs. The proposed activity and investment in the Swansea Bay City Region will have implications for the wider region, it's imperative therefore that all LPAs within the spatial influence should have a direct role in collaboration in the Board set up to drive the City Region.</p>			

Q24	Do you think that a national park authority should continue to have responsibility for planning in their area?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>No comment.</p>			

Consultation reference: WG20088

Q25	Do you agree that strategic development plans should only be prepared in the identified areas?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

This suggestion has to be seen in the context of the Williams Report. However, the role of the SDP as set out in the Positive Planning consultation document is not about each large administrative area having an SDP for the sake of it. Therefore, SDPs are unlikely necessarily to follow administrative boundaries.

The suggested areas of Swansea and Cardiff complement initiatives such as City Regions and are therefore supported. However, whether the SDP would be co-terminus with the City Region boundaries is subject to the evidence base. The A55 Corridor is heavily influenced by activity in England and therefore any SDP for this area would have to be mindful of the Planning Policy in the wider Deeside area.

There appears to be a gap in terms of rural focussed SDPs, especially the mid Wales area where relatively modest developments are considered to be strategic development.

The preparation of an evidence base is likely to require the commissioning of regional evidence. There will inevitably be funding requirements along with staffing requirements, though arguably less time spent on development management policies could mean more time available to work on SDPs, as well as SPGs, development briefs etc.

The consultation document recognises that there will be parts of Wales that do not fall into an area covered by an SDP, remaining fully independent from that process. This should be recognised and embraced. However if the ability to draw down funding for various regeneration and housing initiatives, amongst others, becomes integral to schemes being promoted either being in the NDF or the SDPs then some LAs stand to lose out as a result of that independence.

The criteria provided in the consultation document which can be used to help indicate where SDPs may work appear to make sense. They include sharing housing markets, sharing key employment and retail activity, travel to work areas etc. In reality what is likely to occur is that though some current LA areas will fall in their entirety within a SDP area, others will fall only in part with other parts of the LA not having anything in common with the SDP area.

There will be examples across Wales where an SDP in the guise as set out in the consultation paper won't be appropriate but a joint approach between 2 or more LPAs may be necessary on specific matters at a much smaller geographical area. This needn't mean a joint plan as it could affect say a shared valley only. The consultation paper fails to recognise the importance of this smaller scale collaboration.

Q26	Do you agree that the scope of Strategic Development Plans should be limited to the key issues identified in paragraph 5.29?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

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The SDPs will vary to take account of local conditions, therefore a limitation of key issues is not supported. A minimum list is acceptable with LPAs able to include additional issues as local circumstances dictate.

Q27	Do you agree that a partnership between local planning authorities and social, economic and environmental stakeholders should oversee preparation of Strategic Development Plans?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The preparation of SDPs should be the responsibility of the constituent local authorities. Stakeholders can be part of the preparation process, however these stakeholders do not have a democratic mandate and therefore should be part of the 'Panel' in an advisory capacity not in a voting capacity.</p> <p>The selection of representative social, economic and environmental stakeholders is likely to be extremely difficult and perceived unfair advantage and undue influence could be given to a few organisations.</p>			

Q28	Do you agree that a light touch Local Development Plan should be prepared in areas where there is a Strategic Development Plan?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>It is not clear whether up to date LDPs are required to be reviewed when a SDPs is adopted or whether the review of a LDP to become a 'light touch' plan kicks in once the LDP expires. If the preparation of an SDP automatically triggers a review of the LDPs in the areas covered by the SDP this could be a difficult message to give to staff and stakeholders to commence the process again and commit significant resources very soon potentially after the adoption of the LDP.</p> <p>In due course inevitably the LDP would become lighter where it is located in an area which is in its entirety covered by and SDP. However there will also be examples where LDP geographic areas are partly covered by an SDP and partly not. Therefore the LDP will include significant detail for those geographical areas excluded and much less for those areas which are covered by and SDP. This will have to be clearly articulated in the LDP as on the ground stakeholders (especially the public) will not necessarily recognise SDP boundaries as these will be less well known and understood than LA boundaries.</p> <p>Inevitably however there will still need to be SPGs and Development briefs further explaining the SDPs and also LDPs if the planning application process is to run effectively and developers have greater certainty regarding detailed requirements and greater confidence in the planning system.</p>			

Consultation reference: WG20088

Improving Local Delivery

Q29	Do you agree with the essential elements of a good planning service identified in Annex A?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>There remain issues with some of these indicators and LAs are working together, through POSW, to identify the elements that work and those that do not, suggesting alternatives where necessary. It is suggested that this approach is continued.</p> <p>What is absent from this proforma is the acknowledgement that a good planning service is dependent on a number of key components. The LPA is usually the main one but a good planning service is also dependant on WG (regarding call ins and appeals) and statutory consultees (regarding timely and clear advice). Therefore all components of the planning system need to be reflected and monitored here. The system is only as good as the weakest link and not necessarily dependent upon the LPA.</p>			

Q30	Do you agree that each local planning authority should produce and publish an annual performance report to agreed standards?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>There are clear advantages in terms of transparency and accountability for an annual performance report (APR) and such reports could help to drive improvement. However, there is concern that this APR should not become a tool for penalising performance. Experience has shown that such a focus can result in channelling resources into those specific areas where performance is measured at the detriment of other aspects of the services. It could also result in a poorer performing areas getting worse as lack of funding is often the cause of underperformance.</p> <p>In line with the response to Q3, it would be appropriate that performance reporting should apply to all players in the planning service - Welsh Government, statutory consultees and the private sector not just the LPA.</p> <p>However, performance reports should also, alongside the LPA ones, be produced by others who have a significant contribution to the successful delivery of the planning function. This should include:</p> <ul style="list-style-type: none"> • a report regarding applications determined by WG (where under the proposed framework certain applications would now fall to be determined by WG); • a report regarding WG involvement in planning applications that have been called in etc; • the appeals process; • a report on the input of statutory consultees such as Cadw, NRW etc which should include success rate of meeting target date for submission of consultation responses in relation to planning applications (specific time periods need to be adhered to if the planning system is to improve overall). 			

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Q31	Do you agree that where a local planning authority is designated as poorly performing there should be an option to submit planning applications for major development only to Welsh Ministers?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>It may be appropriate to provide some form of assistance or for some form of intervention to occur where performance is consistently poor - this should be proportionate and specific to the area which is resulting in poor performance (i.e. it may not be the whole service but one aspect of it e.g. appeals). However it seems perverse to penalise a poor performing authority by taking away the major development applications from its LPA. This significant drop of fee income can only result in additional difficulties for the LPA in terms of resourcing the development management function as a whole. It is likely that this proposal will result in job losses and therefore it is hard to see how the LPA can then find itself 'improved' and in a position to be receiving major applications again in the future.</p> <p>Should there not be a good link here to the PAIS type group (note the LPA do not support PAIS being part of WG)? Therefore, instead of taking powers away, LPAs could work with PAIS or its equivalent to identify where and what the issues are and how these could be rectified e.g. skills gaps. Setting targets for delivering improvement.</p> <p>Additional concern, if major applications were to be taken up by WG, would the Officers employed by WG have sufficient local knowledge regarding design, visual impact, local character etc to be able to negotiate a good scheme for that specific geographical area? Would the level of liaison and negotiation be as high if those administrating the application are located away from the County?</p>			

Q32	Do you agree that Welsh Ministers should be able to direct preparation of a joint Local Development Plan?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Although the Williams report may result in some LAs merging, this will not necessarily mean that 1 LDP will be appropriate for any or all new LA areas.</p> <p>This is a matter for individual LPAs to determine in discussion with WG and should not be specified by the Williams report or set out in the Planning Bill. The final decision for taking forward a joint plan should remain with the relevant/affected LPAs.</p> <p>As noted under the LA's response to question 23, LDPs are about tackling local issues. Producing them at a non-local level, by larger authorities, further removes the process from matters of localness and could raise questions regarding democracy and accountability.</p> <p>Where there are cross border issues affecting parts of 2 or 3 LA areas – this is where collaboration on that specific area and issue will be important – it does not necessarily however point to the need for a joint plan. For example, similar policy approaches will potentially be needed to cover valley areas where the river denotes the border of 2 LAs. Likewise where one LA provides the housing stock for a large employment area included in an adjoining LA. National</p>			

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guidance on approaching these matters could be expanded upon and improved. Better support could be on hand (e.g. through a PAIS type organisation) as to how to achieve effective collaboration.

If the issues however are that 2 LAs have policies that are complete discord with each other when they need to be complementary – in those situations WG should be able to suggest (not require) joint plans and hold in-depth discussions with the relevant LAs.

There should be evidence to support the benefits of a joint Local Development Plan whether it is at the suggestion of the WG or the LPAs.

If the decision is to go ahead with this proposal then detailed discussions about such a proposal should then occur between with the relevant LPAs and WG, giving the LPAs the opportunity to challenge or question the evidence and proposed suggestion of a joint plan. The evidence must show that there are clear similarities in local characteristics, planning pressures, needs etc for such a joint plan to work. First and foremost there needs to be a clear workable justification for joint plans – especially as it could mean newly adopted LDPs being replaced. Joint plans would need to be started from square one as parts of 2 plans welded together won't result in effective decision making.

Q33	Do you agree that Local Development Plans should plan for at least 15 years ahead and have a set end date beyond which they cease to be the development plan?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>For consistency and ease of understanding, if the NDF is a minimum of 20 years, it should follow that the SDP and LDP should be 20 years rather than 15 years. Additionally NDFs should have clear vision for beyond 20 years where practicable.</p> <p>Additionally, with the LDP review process now a requirement a plan should never fully reach its end date without having been updated – at least towards the end of the plan period. However, there could be unforeseen situations where a review, change and examination takes the plan over the 20 year period there should be discretion to agree with WG whether parts of the plan remain relevant and parts not. It makes practical sense that as much as possible of the plan is applied – rather than having lack of plan coverage. For example, it may be that there has been challenge on one matter e.g. minerals and that this lengthens the Examination process, leads to Judicial Review etc. and means a new LDP isn't fully adopted in time before the expiry date (these processes have often added years onto the LDP process – out of the control of the LPA). It would be unwise during that period to have no plan, hence the absence of a plan led system, when in reality the majority of the plan may have been rolled forward (Strategy etc.) unchallenged and only minor elements were being changed and that the plan overall remains sound.</p>			

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Q34	Do you agree that local planning authorities should work with town and community councils to produce place plans which can be adopted as supplementary planning guidance?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>

Comments:

[It is difficult to give a definitive statement of a yes or no with regard to this question.](#)

The capacity and skills of existing Town & Community Councils (T & CC) varies considerably. They give their time for free, they are volunteers. Although they will know their communities most will not have the skills to drive forward SPGs or Place Plans.

It is noted that WG propose to run a number of pilot projects and the LPA would support this approach and would recommend that any proposal to introduce the production of SPG (Place Plans) should be considered following these pilots.

There is a strong role for T & CC in assisting with place plans/SPG, but this is more about positive engagement and involvement rather than handing over responsibility. Much of the work and project management would still need to be the responsibility of the LPA. Lessons can be drawn from exercises such as Planning for Real and also Neighbourhood Plans (England).

This proposal has the potential to be massively resource intensive at a time of a reduction in staff numbers at LPAs. It could also be argued that T & CC could become more involved in the development plan preparation as a means of ensuring that their views are better reflected. For this to work the role of T & CC needs to be better set out nationally. There needs to be clarity so as not to raise expectations as to what matters truly are open for discussion and what has already been set (not open to further question) at national or strategic level.

There needs therefore to be clear guidance regarding what Place Plans can and can't address. The consultation document implies that such plans would have to operate within the adopted development plan – this needs to be clearer. This does limit the matters that can be addressed in such SPGs to matter of detail e.g. appropriate mix in types of housing (not housing number), design (not site location) etc. for these to be useful tools their remit needs to be clear so that communities are not misled and that the matters that can be influenced are the matters addressed through this exercise. Para 6.48 of the consultation document hints at this but it could be clearer – there are already different interpretations of these plans starting to circulate.

A pilot should assist with identifying a clear route and role for this process. Until a pilot occurs it is difficult to conclude whether these plans are worthwhile for all involved. Before embarking on a pilot has a clear scoping exercise been undertaken of the lessons learnt in relation to Planning for Real exercises, Neighbourhood Plans (England) and other similar approaches? If not then this should be the first course of action.

Where the role of town and community councils is to be increased then sufficient support and training in relation to planning needs to be provided.

Consultation reference: WG20088

Q35	Do you agree that where a development proposal accords with an allocation in an adopted development plan a new planning application process should be introduced, to ensure that only matters of detail such as design and layout are considered?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

The LPA agrees that there needs to be a different approach. The LPA is less sure which is the best solution. It would have the potential to speed up the determination process as well as enabling developments to be brought forward rather than being bogged down in dealing with objections to the principle of the development at the planning application stage.

In theory the process suggested above will encourage stakeholders to become involved (and signed up) in the development plan process including (both external and internal stakeholders). However this will only happen if LPAs can invalidate applications that have not met all the requirements set out in the plan in relation to that particular site (unless of course they have submitted as part of the application a justification as to why specific elements cannot be met or partly met) (see final para).

In the majority of cases, the approach suggested above would be fine. However, some sites may require detailed additional work. For example further environmental assessments may be required before a clear decision can be reached. That assessment may be over and above what was needed to allocate a site in principle in an LDP. It would be extremely expensive and overly unfair and onerous to require such detailed assessment at the candidate site stage of the LDP. Therefore, automatically taking them as having outline permission would mean that these additional issues (e.g. environmental) cannot be dealt with and placing a LA potentially at odds with its NERC duties.

The latter option of the DM officer having the delegated powers may be a simpler route to go.

Additionally, although details of requirements are set out in LDPs, planning applications continue to be received which do not accord or mention some of the requirements. Such applications can take a large amount of time to resolve to incorporate as far as practicable all the required LDP elements. Therefore streamlining the system requires cooperation from the development sector. Should LPAs therefore be given greater power to invalidate applications that do not address (or at least justify) all aspects set out in the LDP in relation to an allocated site? This would give a clear message to applicants.

Q36	Do you support the proposal to allow a right of appeal against a local planning authority not registering a planning application?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

No.

The National Validation List exists to inform applicants and their agents of what information is required to validate or register a planning application. The LPA should only fail to register an application if the information listed on the National List is not submitted.

Consultation reference: WG20088

Q37	Should the requirement for mandatory design and access statements be removed?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Yes.

Unfortunately DAS have not been used the way they were intended, the idea was that they should be a ‘living’ document showing how design etc has been considered and evolved during the course of putting the proposal together. Instead they are generally used by applicants for setting out the arguments as to generally why a development should be permitted.

The issue of design is a very emotive subject, what one person likes another doesn’t, and therefore a DAS is always going to be used as a way to argue for a certain type of design over any other.

PPW and TAN 12 promote the need for better design. Often developments that are ‘different’ in their design cause objection, it is useful to have some form of documentation to show how and why the design has been decided as it has.

Due to the nature of major developments, there is a need to have some sort of statement which explains how the design etc. of a development has been reached. This gives the LPA a better understanding of the scheme and a way to discuss and if needed request a revised scheme.

As they currently stand however DAS have not worked as they should and the quality of DAS submitted varies considerably and so therefore does their usefulness.

What would be useful however as part of a submission is a statement which sets out what areas of policy are complied with and how, along with any areas not possible to comply with and a justification as to why this is not possible.

Q38	Should the requirement to advertise planning applications for certain developments in a local newspaper be removed?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Yes this requirement should be removed as newspaper advertisements are a costly requirement and savings from the removal of this requirement would be welcome in the current climate. Some LPAs already publish planning application lists on their websites with many uploading applications, supporting documentation and decisions. An on-line advert would therefore cover this matter sufficiently.

Q39	Should there be any local variation within a national scheme of delegation for decision making on applications?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
There is always merit in consistency across Wales. However without seeing a list of what would be delegated and what not it would be difficult to gauge whether the LPA fully agrees.

Consultation reference: WG20088

Q40	Do you agree that a minor material change should be restricted to "one whose scale and nature results in a development which is not substantially different from that which has been approved"?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes agree. If the change is so material and alters the development there should be consultation with statutory consultees and the public through a new planning application.			

Q41	Do you agree that the proposals strike a balance between the need to preserve land used as Town and Village Greens and providing greater certainty for developers?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: It is difficult to give a definitive statement of a yes or no with regard to this question.			
Background Comments			
The Welsh Government (WG) rationale cites the Penfold Review which collected a considerable body of evidence in England in support of the case for altering the registration process. It is not entirely clear as to extent that applications for Town and Village Green (VG) status are having a significant effect on development in Wales: whilst the WG consultation document refers to ' <i>similar evidence in Wales</i> ' this is not quantified (and this may be anecdotal only).			
Of more concern to the Council is the process of determination. Whereas for example claims to register public rights of way follow a set process (including appeals which are determined by the Planning Inspectorate), this is not the case with Village Greens. The Council follows 'best practice' and appoints an independent inspector to make recommendations on the merits of applications. However, this is a costly process (approximately £8,000 per case).			
The process of determination requires WG consideration with a view to introducing a fair, timely and cost-effective process.			
Specific comments on the proposals to amend Section 15 of the Commons Act are as follows:			
WG proposal: Prohibit applications being made to register land as a town and village green where that land has entered the planning system i.e. been identified for development in a development plan, has received planning permission or is the subject of an application for planning permission before the LPA.			
Council response:			
<ul style="list-style-type: none"> ▪ The suggestion with regard to LDPs is not considered unreasonable given the consultation arrangements built into the plan preparation process. ▪ Consideration may be required as to the categories of allocation within the LDP that would fall within such a measure. ▪ Prohibition of applications for VG status arising from the grant of planning permission or making application for planning permission is more problematical (especially the latter). ▪ Town & Village Green applications are made within a clearly defined statutory 			

Consultation reference: WG20088

framework as laid down primarily in the Commons Registration Act 1965 and the Commons Act 2006. It is unclear from a reading of section 6.139 of the consultation document how the Town and Country Planning system would provide a clear framework for communities to provide *"arguments about the use of the land for town and village green purposes"*. For example, the submission of an application for planning permission does not involve public consultation so cannot provide a basis for bringing forward issues of possible village green status.

- The submission of an application for village green prior to the approval of a planning permission presumably would still require the VG process to be completed. This being the case development would still be delayed. The period from submission to determination of a planning application may not provide a sufficient period for a well-considered application for VG status to be made.
- Other than the measures covering the LDP, the second strand of the proposals (as below) could be considered to provide a more equitable way forward.

WG proposal: Enable landowners to submit declarations to the commons registration authority. Declarations would include a form and map and have the effect of rendering all use of the land indicated inconsistent with the 'as of right' criterion required of town and village green registration.

Council response:

- A similar provision is in place covering claims of Public Rights of Way (Section 31, Highways Act 1980).
- The consultation does not make clear whether the lodging of a landowner declaration will trigger a 'period of grace' to allow for applications for Village Green status to be submitted in line with subsection 15 (3) of the Commons Act 2006 (as allowed for in the Planning and Infrastructure Act 2013 in England). The inclusion of a period of grace would be an equitable provision.
- Consideration may need to be given to the processes and arrangements whereby a local authority submits declarations in respect of land in its ownership.
- Subject to provisos, this would be likely to provide a more acceptable option when compared to the prohibition of applications for Village Green status where planning permission has been applied for or obtained.

Q42	Do you agree that the proposals will reduce delay in the planning enforcement system?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
The proposals will help to speed up the process and avoid lengthy enforcement investigations/actions.

Q43	Do you agree with the introduction of temporary stop notices to the planning enforcement system in Wales?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Yes we welcome the introduction of temporary stop notices to assist LPAs with their enforcement activities.

Consultation reference: WG20088

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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Consultation reference: WG20088

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation response form and send it to: planconsultations-d@wales.gsi.gov.uk (Please include 'Positive Planning – WG20088' in the subject line).
Post
Please complete the consultation form and send it to: Planning Bill Team Planning Division Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please email: planconsultations-d@wales.gsi.gov.uk or telephone: 0300 0603300 or 08450103300



ACS Submission to the General Principles of the Planning (Wales) Bill

1. ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the general principles of the Planning (Wales) Bill consultation. ACS represents 33,500 local shops across the country, including the Co-operative Group, Spar UK, Nisa, Costcutter and thousands of independent retailers.
2. There are a total of 3,219 convenience stores in Wales, and there are more shops per head of the population than in any other part of the UK with one shop per 955 people¹. An inclusive planning policy is vital to ensure the creation of viable high streets and town centres and support residents and businesses alike.
3. ACS supports the Bill's provisions to reaffirm the Welsh Government's commitment to the plan led system. The creation of Local Development Plans (LDPs) has been important in ensuring that communities and local businesses have the power to decide how their local area should change in the future. However, the slow adoption of LDPs poses a risk when plans for unsustainable developments, such as out-of-town centres, are brought forward. Without an LDP, there is no consistent mechanism by which to decide on planning applications and appeals.
4. The risks of not having an LDP in place can be seen in the slow implementation of Local Plans in England. As of March 2014, just 13% of local English authorities had a Local Plan in place that was up-to-date and compliant with the National Planning Policy Framework (NPPF)². Keeping LDPs up to date and relevant is therefore necessary to enforce planning policy at a local level.
5. Local Development Plans should comply with the National Development Plan, similar to the requirement in England for Local Plans to comply with the NPPF if LDPs are to be enforced similarly across Wales. The majority of delays have occurred when LDPs have been withdrawn after submission for examination, and ACS welcomes the provision to notify Welsh Ministers of any resolutions to withdraw LDPs that are otherwise capable of being adopted. However, LDPs and the implementation of an NDP must include measures to support town centres. ACS welcomes the Welsh Government's continued investment in regenerating high streets and town centres, which must be backed up by a strong town centre first policy and a sequential test that is enforced.

¹ ACS Local Shop Report 2014

² [Nathaniel Lichfield & Partners: Positive Preparations: A review of housing targets and Local Plans](#)

6. ACS has completed research that shows under the NPPF in England, 76% of retail developments allocated have been built out-of-town³. This is largely because town centre impact tests are too heavily driven by developers, and the sequential test is not being used as a gateway (pass/fail) test as intended. This is allowing developers to build out-of-town when new developments should be located in town centres wherever possible. Not enforcing these policies is damaging to creating sustainable high streets and maintaining essential local services.
7. If a town centre first policy is not consistently, clearly and fairly applied, the result is that larger retailers and developers lose faith in town centre strategies. This in turn leads to a higher proportion of planning applications being located out of town, creating a vicious circle against sustainable town centre development.
8. Engaging large and small businesses with the planning system is vital to encourage development that benefits local communities. We welcome the provisions set out in the Bill to provide a statutory requirement for pre-application engagement; however this should also name local businesses in addition to the public to ensure that improvements to development proposals can be identified at an early stage where they may not otherwise be by other stakeholders.
9. ACS has produced guidance⁴ to help local businesses and communities in getting involved with shaping and influencing planning policy in England, including how to influence the creation of a Local Plan. The Welsh Government should consider what guidance they can provide communities and businesses with following the Bill's assent in order to engage business stakeholders.
10. It is important that a mechanism exists to challenge proposed developments that are proposed if planning laws are to benefit communities. The provisions included in the Bill to prevent developers from repeatedly submitting applications or appeals where they have already failed to obtain planning permission is welcome to prevent unsustainable development, especially where planning authorities are less well-resourced.
11. Whilst consultation and pre-consultation with local communities and businesses is important to allow stakeholders to influence development proposals, extending this to allow challenges to developments would allow communities to take charge of what developments they wish to see in their local area. This would ensure sustainable development and the provision of essential local services for communities across Wales.

For more information on this submission please contact Sophie Mew at sophie.mew@acs.org.uk or on 01252 515001.

³ [Retail Planning Decisions Under the NPPF](#)

⁴ [Planning for Diverse Local Centres Guide](#)

Evidence for the Environment and Sustainability Committee's Inquiry on the Planning (Wales) Bill

Introduction

1. The Campaign for National Parks (CNP) has been in existence for over 75 years and is the charity that campaigns to protect and promote National Parks in Wales and England as beautiful and inspirational places enjoyed and valued by all.
2. National Parks contribute significantly to the well-being of the nation, by providing safe, attractive, healthy places for recreation. They also play a vital role in sustainable development through protection of the landscape, wildlife and key environmental resources and services, like water provision and carbon storage in peat soils and forests, which can mitigate the effects of climate change. As well as being inspiring places for people to enjoy and improve their health and well-being, National Parks make a significant contribution to the economy through tourism, farming, and other related businesses. CNP believes that National Parks should be maintained as distinctive and unique tracts of countryside, which are also adaptable and resilient to future pressures such as climate change.
3. We support the evidence submitted by Wales Environment Link and do not have anything further to add on most of the specific issues included in the Committee's terms of reference. However, we have set out our views on the National Development Framework as this is particularly important for designated landscapes. We have also included some additional information on two areas of particular importance for planning in National Parks, namely:
 - National Park Authority (NPA) planning powers
 - Inclusion of the major development test.

National Park Authority (NPA) planning powers

4. We welcome the fact that there are no provisions in the Bill specifically aimed at removing NPAs' planning powers. However, we are aware that final decisions on this issue are yet to be made and we would therefore like to draw the committee's attention to the evidence we submitted as part of [our response to the Positive Planning consultation in February 2014](#) on the importance of National Park Authorities (NPAs) retaining their planning powers.
5. In summary, our view is that it is essential that NPAs retain their responsibilities for both plan making and planning decisions in their areas for the following reasons:
 - By using their planning responsibilities to ensure successful delivery of the statutory purposes of National Parks, NPAs have delivered significant benefits to Wales.

- Previous reviews have found that having a separate authority is the most effective way of managing planning in National Parks.
- There are demonstrable advantages of planning to the boundaries of protected landscapes.
- NPAs are best placed to consider both the national and local aspects of planning in National Parks.

The full consultation response provides further information on each of the points above.

6. Many of the benefits which National Parks provide, including tourism and rural economic growth, would be lost if anything were to detract from the special qualities for which these areas are valued. The challenge is to ensure that the range of benefits that protected landscapes provide is not compromised by insensitive change, unsympathetic land use or irresponsible development. We believe that this can only be achieved if NPAs continue to have responsibility for planning in their area.

Inclusion of the major development test

7. We believe that this Bill provides an important opportunity to enshrine the major development test in legislation. The major development test is a well-established part of the planning process which makes it clear that planning permission should be refused for major developments in National Parks and Areas of Outstanding Natural Beauty (AONBs) except in exceptional circumstances and where it can be demonstrated they are in the public interest. We want a stronger version of this test to be included in legislative.
8. Currently the major development test is set out in paragraph 5.5.6 of Planning Policy Wales and is only one of a number of policies that those deciding on planning applications have to take into account so there is always a risk that it is not given sufficient emphasis. It is essential that the major development test is retained. However, it is only one of a number of policies that those deciding on planning applications have to take into account and there is always a risk that it is not given sufficient emphasis.
9. There would be much stronger protection for National Parks if the major development test was enshrined in legislation using the wording originally proposed by Lord Norrie for inclusion in the Environment Act 1995. In particular, it should be made clear that proposals for major developments in National Parks will be permitted only if, following rigorous public examination, it is demonstrated that they satisfy the following conditions:
 - (i) that the proposal is absolutely necessary in the national interest, which includes the furtherance of National Park purposes; and
 - (ii) that the proposal cannot practically be accommodated in an alternative location outside the National Park.

The requirement to produce a land use plan, to be known as the National Development Framework

10. We support the provision for a National Development Framework (NDF) but we would like reassurances that the national priorities will include the continued protection and enhancement of designated landscapes.

11. There need to be clear links to the Well-being of Future Generations (Wales) Bill and the concept of environmental limits. The NDF also needs to be integrated with the proposals for managing natural resources including the area-based approach, which should build on the existing arrangements for National Park Management Plans.

7 November 2014

For further information about any aspect of this response, please contact Ruth Bradshaw, Policy and Research Manager (email:ruthb@cnp.org.uk, tel: 020 7981 0896)



The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
Wales CF99 1NA

By post & email (ES.Comm@wales.gov.uk)

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5th November 2014

Dear Sir/Madam,

Submission to: The Environment and Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill

Taylor Wimpey UK Limited (TWUK) is a major homebuilder delivering 11,696 homes in the year to December 2013 across the UK. From our Cardiff regional office we delivered 360 homes in 2013 and currently operate 16 sales outlets, employing 145 people. We have ambitious plans for growth and the region is projecting home completions will significantly increase this year and next rising to over 550 by December 2015.

We are pleased to have the opportunity to comment on the Bill.

As a major homebuilder, we are an active and engaged participant in the planning process across a significant number of planning authorities and the impact and outcomes of the proposed Planning (Wales) Bill are of considerable import to our business.

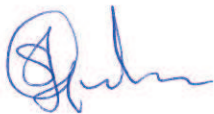
We welcome the objectives of the Bill to “introduce a national, regional and local planning system for Wales which improves the existing system and creates culture change to enable the positive delivery of appropriate development.” Furthermore, the Bill, when viewed alongside the proposed TAN1 and ‘Positive Planning’ initiative is a welcome agenda for planning reform in Wales.

We are broadly supportive of the objectives of the Bill and the majority of the content is welcomed. Our comments in detail are attached, however, we would note that at least in its transitional stages the introduction of the Bill’s provision including the extended powers of call-in powers have the potential to weigh heavily on existing public resources. In addition, the time it will take to reach Royal Assent and beyond creates concern as to the speed at which incoming provisions could take effect noting the need for significant secondary legislation. Having regard to these concerns the provision of additional interim resources and a swift and efficient implementation are strongly encouraged.

Taylor Wimpey UK Limited
Registered Number:
1392762 England and Wales.
Registered Office:
Gate House, Turnpike Road
High Wycombe, Buckinghamshire
HP12 3NR

We hope the attached comments are of assistance. TWUK would be pleased to attend Oral Evidence Sessions if beneficial.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Jennie Daly', written in a cursive style.

 Jennie Daly
UK Director of Planning
Email: jennie.daly@taylorwimpey.com

Consultation Response - Planning (Wales) Bill

National Development Framework;

Taylor Wimpey UK Limited (TWUK) welcomes the recognition of the limitations of the Wales Spatial Plan for planning purposes and the introduction of a National Development Framework. The focus and approach to planning as proposed by the National Development Framework (NDF) and the fact that it will benefit from development plan status will provide a robust basis upon which other plans can be prepared and as a consequence will be a positive addition to the planning process in Wales.

As it is intended to address issues that are 'nationally important' we expect housing issues to play a significant role in its drafting, and we would particularly encourage the inclusion of clear guidance and direction on the need to significantly uplift the supply of new homes built in Wales. However, we would emphasise that the document must remain strategic in its outlook, promoting key areas of infrastructure and broad areas of growth. Whilst land use based it must avoid becoming overly prescriptive otherwise it will delay rather than speed the preparation of strategic and local development plans.

As a development plan document, the NDF should be the subject to transparent and robust public consultation and engagement with key stakeholders and similarly during its reviews. TWUK agree with the views expressed by the HBF that a review period of five years is too long and more flexibility is required. A review no more than three years following initial adoption and no more than every three years thereafter is recommended, however, legislation should facilitate review on an as needs basis at any time.

Importantly, the NDF should address the consequences in planning policy terms of the failure of a local planning authority to maintain an up to date plan and a failure to maintain an adequate supply of housing land supply, a five year housing land supply. The document should clearly establish that there is a presumption in favour of sustainable development in circumstances where a plan is not up to date and the local planning authority has failed to maintain an adequate supply of housing land.

Strategic Development Plans;

TWUK are supportive of Statutory Strategic Development Plans (SDP) for the three regional areas identified, which will seek to address matters of strategic importance and of "larger than local" cross boundary issues. We agree that the three regional areas identified require a focussed sub-regional solution given the strategic requirements of housing, economic development and associated infrastructure to address the challenge of significant future growth beyond administrative areas. In particular, both Cardiff and Swansea require a greater than local statutory plan making function the absence of which is considered at present to be holding back economic performance and the delivery of the appropriate level of housing in the right areas.

However, the establishment of the Spatial Planning Area will also signal whether, having regard to later provisions of the Planning (Wales) Bill (the Bill), a Local Development Plan or a "light touch" Local Development Plan will be needed at the lower level. For this reason it is imperative that any further additions to the SDPs is made in the short term in order to minimise delay caused by uncertainty or the undertaking of abortive work.

The operation of a Strategic Development Plan will also be reliant upon the designation of a detailed Strategic Planning Area. The establishment of such areas will be of significant importance and must be subject to robust and transparent public and key stakeholder engagement.

This approach however is reliant upon the establishment of the SDP Panel, and it is important to the success and local support for such document that this is a co-operative document produced speedily. It is considered that this may prove difficult in circumstances where one authority is seen as geographically and politically dominant.

Given the likely legislative timescales involved in the Bill and required in order to introduce the SDP, including engendering an acceptable balance of power which will need to be observed in their establishment, TWUK consider that great care is needed to ensure that a policy vacuum is not inadvertently created. We recommend that the NDF establishes clear interim policies for co-operation and provide the policy framework within which the SDP should be developed.

TWUK are supportive and endorse the response of the HBF that as these panels will be of significant importance, and address issues of national importance including housing they should include representatives drawn from private sector interests, including but not exclusively, a member should be drawn from the house building industry to sit on each panel.

We agree that the SDP should be in 'general conformity' with the NDF. However, with the proposed introduction of the NDF and SDP a clear development plan hierarchy is established within which we recommend the Local Development Plan (LDP) should sit in general conformity. As currently drafted the Bill proposes an SDP panel have regard to the LDP. This unnecessarily introduces restraint on the strategic plan process. However it is acknowledged that matters such as, for example, the quantum and distribution of housing will need to be addressed by both documents in instances where the whole of a local planning authority area is not included within the Strategic Planning Area.

In any event, it is recommended that there should be a requirement to review LDPs, in the context of a SDP operating in its geographical area, in the absence of which, policies of the NDF and SDP would take clear precedence.

TWUK agree that LDPs should be 'light touch' in the geographical areas where there are SDPs addressing issues of strategic importance.

Changes to Local Development Plan procedures;

Notification of LDP withdrawal

TWUK welcomes the inclusion of the provision to refer 'withdrawn' plans to Ministers noting the acute problem caused by delays to plan making / plan coverage in many instances where a plan has been withdrawn for observable "political" reasons, effectively leaving the system devoid of a up to date plan.

Joint Local Development Plans;

Whilst we support the proposed direction to call for joint plan making with statutory effect, we have concerns regarding the potential delays in their developing and the potential for a policy vacuum in their absence. As a consequence the NDF should address the consequences in planning policy terms of the failure of a local planning authority or joint planning board to develop or to maintain an up to date plan and a failure to maintain an adequate supply of housing land supply, a five year housing land supply. The document should clearly establish that there is a presumption in favour of sustainable development in circumstances where a plan is not up to date and the local planning authority or joint planning board has failed to maintain an adequate supply of housing land.

Period for which Development Plan has effect;

The minimum duration period for plans is a welcome innovation given the scale of resources both public and private invested in developing such plans. However, we do not agree that in the case of a time expired plans the evidence base could be considered without qualification. Any such consideration must in our view expressly state that the evidence base remains relevant and up to date, be conformity with other development plan documents such as NDF and SDP if relevant, current guidance and best practice generally.

Development Management;

Requirement to carry out pre-application consultation;

TWUK as a company are fully supportive of effective, and meaningful community and stakeholder engagement and has a defined company policy requiring such engagement. Such pre-application consultation activities are already practiced across every geographical reach of the Company's business, including our regions operating in Wales. We are therefore fully supportive of the measure of Pre-application consultation and procedure.

We note the threshold is likely to apply to all major applications with the threshold set at 10 units or 0.5ha. Whilst the threshold is acceptable we would note that the scale of appropriate consultation may differ and recommend that the development order recognise that pre-application consultation is proportionate to the scale of the development.

Requirement to provide pre-application services

TWUK welcome the proposal to establish a common best practice in local planning authorities to encourage and support applicants in fulfilling pre-application discussions.

Developments of National Significance to be determined by Welsh Ministers;

TWUK are supportive of the introduction of the process by which applications of national significance can be considered and determined by the Welsh Ministers, however further clarification is required regarding the thresholds which will apply before further meaningful comment can be made as to its effectiveness. Such provisions should be supplemented by regulation regarding procedures and governing timescales from submission to determination to ensure that the process continues to support the aims of the Bill and does not result in unnecessary delay.

Applications to Welsh Ministers where LPA's are identified as 'poorly performing',

TWUK support the proposal to enable provisions which would enable a "call-in" in the case of special measure authorities, however, the challenge will be to ensure that there are sufficient resources available to those bodies who will administer the process so as not to create undue delay.

It will be necessary in order to support this initiative for there to be regular reviews of local planning authority and effective mechanisms in-place to provide for direct referral to Ministers where authorities in 'special measures' have been identified.

Streamlining the development management system;

We support the introduction of limits on local planning authorities' power to require information to accompany planning applications and that information requests must be reasonable and relevant.

Decision Notices

We support the standardisation of decision notices across Wales.

Section 32 of the Bill, inserting section 71ZA subsection (4) and (5) in the TCPA 1990, is seeking to introduce a 'live' decision notice whereby the local planning authority will re-issue the Decision Notice as and when conditions are discharged and amendments made to previously consented proposals (provided they are relatively minor in nature). Whilst TWUK consider that the aspiration is laudable in attempting to create greater transparency for all end-users of the planning system we are greatly concerned that this will introduce significant administrative difficulties, not least because conditions may be discharged more than once should relevant details alter and schemes of scale can have many reserved matters consents and variations which may or may not over-ride the original consent.

Having regard to the above, TWUK do not support this provision but suggest that the transparency sought may be better achieved by requiring matters, such as the actual development being implemented to be clarified by modifications to Section 32 of the Bill.

Statutory Consultees

TWUK welcome a requirement for statutory consultees to respond within a specified timescale and that this is also proposed for pre-application enquiries. However to be effective there must be some correlating impact or penalty for underperformance in addition to the reporting structure proposed.

In the proposed review of statutory consultees we endorse the recommendation made by the HBF that the list be expanded to include infrastructure organisations that can have a significant impact on housing, such as utility companies including Welsh Water whose lack of responsiveness has significant delaying effects on major development.

Design and Access Statements

Whilst supportive of the central role planning plays in delivering good design and placemaking outcomes, TWUK do not consider that the prescriptive requirement for Design and Access

Statements has positively assisted in achieving this outcome. We are therefore supportive of the removal of the requirement to submit Design and Access Statements.

Planning appeals

Section 42 of the Bill intends to remove the ability to vary proposals or submission once the subject of an appeal. Whilst TWUK has sympathy with concerns that amendments could in some instances circumvent public scrutiny and engagement it should be acknowledged that amendments are often introduced to address concerns raised by third parties as well as the local planning authority, and reduce matters of dispute and as such is an integral part of the appeal process. The provision in the Bill if implemented would remove from the decision maker any discretion and is likely to result in repetitive applications and appeals leading to wasted resources, delay and frustration.

TWUK therefore disagree with Section 42 and for similar reasons Section 43 of the Bill. As an alternative TWUK recommend an update and strengthening of the guidance to the Planning Inspectorate, of when amendments and new information could be considered appropriate subject to matters of natural justice and reasonableness.

Applications to register town and village greens;

TWUK support this proposal the restrict applications for Village Green status once the land has entered the planning system.

Validation Appeals

TWUK welcome the proposed provision to appeal to Ministers on validation disputes, such disputes are regrettably common place and the current process is slow with only limited provision to challenge the local planning authority's position. However, such procedures must be swift in order for the provision to be an effective and attractive remedy.

Specific responses requested;

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;

The current lack of resources within local planning authorities is a concern in respect of transitional arrangements and burdens. We would ask that consideration is given to the provision transitional support for local planning authorities to ensure that the proposed changes are implemented quickly and efficiently.

The Committee's pre-legislative scrutiny of the Draft Planning (Wales) Bill and the extent to which the revised Bill takes account of the Committee's recommendations.

No comment.

Whether there are any unintended consequences arising from the Bill.

Again, availability of resources is a concern. Although it is expected that at maturity the provisions of the Bill have the potential to generate meaningful savings in time and resources within the planning process, there is likely to be some delay in deliver in the short term.

The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill).

No comment.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

No comment.

The measurability of outcomes from the Bill, i.e. what arrangements are in place to measure and demonstrate the fulfilment of the Welsh Government's intended outcomes from making this law.

The Bill includes monitoring and provisions for failing authorities, however no indication of what defines a "failing authority". As recommended by the HBF, TWUK agree that a national standard of targets against which local planning authorities should be required to report should be established. A league table should then be produced regularly and consideration given to rewarding the LPA's who perform well.

Jennie Daly

UK Director of Planning

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6th November 2014

National Assembly for Wales
 Environment and Sustainability Committee
 PB 21
 Planning (Wales) Bill
 Response from **Redrow Homes**

**COMMENTS FROM REDROW HOMES to ES.Comm@wales.gov.uk –
 General principles of Planning (Wales) Bill Consultation**

Topic	Page in Ex. Mem	Redrow's Comments
1.National Development Framework (NDF)	13	<p>Redrow supports the introduction of the NDF. Sitting at the top of the development plan hierarchy it should provide clarity and appropriate support to deliver major infrastructure projects. This is something that the Wales Spatial Plan did not achieve.</p> <p>Redrow recommends that the NDF undergoes a process of genuine public engagement and scrutiny in its preparation and then it is reviewed every three years to ensure it remains robust and is achieving the objectives it sets out.</p> <p>While the NDF is unlikely to include housing schemes (as most are not large enough to justify inclusion), it is considered that strategic housing issues will play a significant role in Plan. As such, it is considered appropriate that the Plan should include a National Housing Target to instill a pro-growth agenda in all Welsh LPAs to achieve these aims.</p>
2.Strategic Planning (Strategic Development Plans)	15	<p>The implementation of Strategic Development Plans is considered to be long overdue and is supported by Redrow. It is considered important to develop and agree the strategic boundaries, based on Market Areas (e.g. housing, employment etc) that often cross local authority boundaries, and not follow existing administrative boundaries.</p> <p>With regard to housing provision, is it proposed that an overall housing demand figure is set across the SDP "area" and a full breakdown as to how it is to be divided between the constituent LPAs will be provided and open to scrutiny. The housing figures imposed upon then LPA must then be used as agreed.</p> <p>Redrow believes that the Panel must have an economic partner of standing; Perhaps even both a commercial development specialist and a housing specialist.</p> <p>Consideration must be given to the housing demand within the JHLAS study, for any LPA covered by an SDP, and where a land supply is below the 5 year minimum the policies on housing land supply within the development plan should be given an out of date status until the land supply is improved meet to the required identified need.</p> <p>Clarification is required over the status of existing LDPs upon adoption of a SDP. Will LPAs be forced to review their LDPs and then forced to review upon any review/revision of the SDP?</p>
3.Local Development Plans	19	Redrow will comment, by January 2015, under the LDP review consultation.
4.Notification of LDP withdrawal	19	Redrow supports this as it should speed up development plan production. It will ensure that LPAs look beyond the fixed end date of a Plan period and to gain understanding of the steer and focus for the successor Plan and not effectively start from the beginning once a certain date in time is reached. It will seek to encourage continued development plan production and review.
5.Joint Local Development Plans	20	Redrow sees the merits of directing LPAs to prepare joint LDPs where LPAs do not elect to do so themselves. However, WG must be prepared to use such power and step in when LDP progress is slow, especially if poor progress is seen with neighbouring authorities.

6.Period for which development plan has effect	20	Redrow supports this change – too often plans can be adopted without giving clear indication of the expiration date of the Plan. As with point 4 above this should focus the minds of LPAs in looking beyond the end date of a Development Plan and working to adopt a new Plan before expiry of the current Plan. It is often the case that LPAs are using out of date development plans to guide development.
7.Pre-application Consultation	23	Redrow agrees that pre-application consultation should be set for major development only and that the thresholds should be altered. Redrow would suggest 50 dwellings or 2.5ha as a threshold for a mandatory pre-application consultation but note that a lower threshold(s) would be appropriate in rural locations. It is also considered that a pre-consultation event is not a requirement for an allocated site whereby the Development Plan is less than 4 years old or within 4 years of a review (unless the developer wishes to hold such an event) given the level of consultation and scrutiny the development Plan process would have already been through.
8.Pre-application services	24	Redrow supports this in general. There is concern that there would be a requirement to publicise pre-application advice as it is often undertaken on a confidential basis. Some enquiries with LPAs do not result in proposals being taken further forward. As such, local residents could be made aware of speculative proposals that do not materialise and cause potential unnecessary concern within the local community. Confidentiality of development proposals must be respected. Consistency across all LPAs is important. Redrow welcomes that statutory consultees will be required to provide pre-application advice. A question is raised as to how this would work when many of the statutory consultees individually already charge for pre-application advice. Redrow suggests that the pre-application charge should be deductible from the cost of the application fee on the submission of a formal application. The pre-application charges should therefore be reflective of this. While Redrow appreciates that the pre-application advice cannot be binding on an LPA it is considered that a nationally published pre-application guidance document should outline that the advice provided at a pre-application should remain the opinion of the Council following the submission of a formal application unless new matters become apparent following the pre-application enquiry or from consultation with other bodies. If a statutory consultee does not respond within a specific timescale (four weeks for example) then that should be treated as them having no objection.
9.Developments of National Significance	26	No comment.
10.Applications to the Welsh Ministers	27	While there appears some logic to this alternative route Redrow would need to be confident that the Welsh Ministers would be able to deal with the application in a more efficient and timely manner. There is often frustration when applications or appeals are dealt with by Welsh Ministers as they are seen as 'non-contactable' and applicants gain less contact than with the LPA. Also, no timescales are given for determination by the Welsh Ministers currently. Paragraph 3.67 of the explanatory memorandum states that 4 applications were called in in 2013. It would be interesting to look at the nature of these applications and the timescales for determination. Redrow also have concern over whether the WG have the resources to deal with applications submitted directly to them. Will the Welsh Ministers be monitored and the performance reviewed in the same way as LPAs? Redrow would also like clarification as to whether applying to Ministers under this route would result in any applicant losing the right of appeal as the Planning Inspectorate Wales are a function of the Welsh Government and appellant would be appealing to the Welsh Government against their own decision?
11.Planning Committees and Delegation	29	Redrow would welcome the increased consistency of approach across all LPAs. Redrow will provide comment on the current consultation on this topic by January 2015.
12.Decision Notices	31	Redrow support this concept in principle. There is considered clear merit in having a single decision notice that one can look at to see the current stage of that application (i.e. which reserved matters have been agreed, conditions agreed etc). It

		is considered that a generic template for this should be produced that all LPAs will have to follow.
13.Notification of Development	32	With large sites and strategic sites notices are often updated on a weekly basis and the concept of a live notice will result in a large document. Redrow would recommend that a single site display should consist of an overview of information such as the developer, the application description, the application reference and information on where the plans/documents can be viewed (i.e. the web or at Council offices). Redrow would also encourage that any standalone related permissions (e.g. a replan of plots) would be incorporated by a single site display.
14.Statutory Consultees	33	Redrow welcomes a requirement for statutory consultees to respond within a specified timescale and welcome that this is proposed for pre-application enquiries also. Redrow suggests that this could be applied to development plan production work also. Redrow suggest that Welsh Water Dwr Cymru becomes a statutory consultee as they are a key 'player' in the development process and need to engage more deliberately in the decision making process and contribute in a timely manner. There is no mention over what happens when the statutory consultee does not respond within the specified timescale or the extent of response. For example, can the statutory consultee respond by saying that they require a further two weeks to comment or is it that once the timescale for response is reached and no response is made then it is taken that the statutory consultee has no objection? Redrow recommends that non-response of a statutory consultee within a set time-period, i.e. four weeks, will result in deemed no objection.
15.Removal of Design and Access Statements	35	Redrow welcome this removal. Redrow also appreciates that there is a place for providing a design document within larger planning application. Redrow will provide comment on the current Design in the Planning Process consultation by January 2015.
16.Town and Village Greens	36	Redrow fully support this approach. This change should be robustly defended against by any third party objections to the changes.
17.Enforcement	38	No comment.
18.Planning Appeals	41	Redrow strongly oppose the proposal not to accept further changes to appeal proposals. In the spirit of positive planning and enabling development, these proposals are considered counterproductive. In Redrow's experience, and it is expected that the Planning Inspectorate would feel the same, post appeal negotiations with LPAs often result in matters being agreed and thus less matters for the Inspector to resolve on and ultimately a better more sustainable scheme to which all parties can benefit.
Pre-consultation costs to developers	127	Paragraph 7.196 states that the total minimum cost to a developer to undertake a pre-application consultation event would be between £360 and £1,320 per site. It then goes on to suggest that the cost to the development industry would be an additional £367,000 per year. Crucially it also states that the proposed pre-consultation event would have no savings to anyone else. The Council will still have to undertake the same level of consultation that they currently do and Redrow believe that the same residents would raise concern/objection in the same way following receipt of the planning application, regardless of the pre-consultation event. The cost of the consultation event is considered to be grossly underestimated. Paragraph 7.195 solely looks at the cost of writing up on the responses from the consultation event and concludes that they would be between £360 and £1,320. From recent experience in England Redrow's costs have been substantially higher for such consultation events. Costs associated with setting up a consultancy team, that team having meetings to discuss the pre-consultation event, the team preparing the material for the event, advertising the event, a consultancy team presence (e.g. planning consultants, highway consultant, drainage consultant etc) at the event, venue hire and then the cost of producing the pre-consultation event documents has cost from £6000 for a 43 unit scheme to over £10,000 for a 360 unit scheme, excluding Redrow's internal costs.

DRAFT

RNIB Cymru response to Consultation into the General Principles of the Planning (Wales) Bill 6 November 2014

1. About RNIB Cymru

1.1. RNIB Cymru is Wales' largest sight loss charity. We provide support, advice and information to people living with sight loss across Wales, as well as campaigning for improvements to services and raising awareness of the issues facing blind and partially sighted people. RNIB Cymru welcomes the opportunity to respond to this inquiry. We also support Guide Dogs Cymru's response to the inquiry.

2. Unintended consequences of the Bill

2.1. The proposed removal of the mandatory requirement for Design and Access Statements risks serious unintended consequences. We would like to draw the Committee's attention to RNIB Cymru and Guide Dogs Cymru's responses to the Positive Planning consultation in which we opposed removing the mandatory requirement for Design and Access Statements.

2.2. The built environment has a massive impact on the independence of the 100,000 blind and partially sighted people living in Wales. The accessibility of buildings and their surroundings can be a crucial factor in determining whether blind and partially sighted people are able to live independent and active lives within their local area.

2.3. Design and Access Statements encourage designers and architects to show how they have taken a broadly inclusive approach. We are concerned that if the requirement is removed, compliance will diminish to meet the basic minimum required to allow for physical access – for example, ramps, wider doors and lifts- and neglect consideration of factors such as colour contrast,

tactile surfaces, appropriate warning for steps and flights of stairs, good lighting and helpful location of reception areas.

2.4. The review of Design and Access Statements in Wales identified that despite the emphasis on inclusive design in policy and guidance in Wales, access and equality considerations do not always feature strongly in the design of developments. RNIB Cymru is concerned that unless there are mandatory requirements to consider access issues, questions of accessibility will be neglected in many developments, with consequent adverse impact on blind and partially sighted people.

2.5. RNIB Cymru are also concerned that blind and partially sighted people are often disenfranchised from consultation around changes to the built environment. Typically, consultation relies on printed information, including technical plans and maps, which are not made available in formats that are accessible to someone with sight loss. We are aware of a number of developments that have failed to take into account the needs of blind and partially sighted people – the result of which in some cases is costly retrofitting, such as at Aberystwyth bus station. We are concerned that the removal of the mandatory requirement for Design and Access Statements could compound this situation.

2.6. We are aware that the Welsh Government's current consultation 'Design in the Planning Process' seeks views on how to facilitate the delivery of good and inclusive design through the planning system through alternative measures. We welcome the opportunity to contribute to further discussion of this issue.

2.7. We accept that Design and Access Statements are not the only means of achieving inclusive design, and that in their current form are not always effective in achieving this. However we remain very concerned that removing a mandatory requirement for Design and Access Statements sends a message to developers that inclusive design is no longer important.

2.8. We would suggest that the Welsh Government should focus on finding effective ways to ensure that Design and Access Statements achieve what they were intended to do, rather than

removing the mandatory requirement. It is vital that inclusive design is considered at the design/planning stage before construction is underway. Making alterations at a later stage is both costly, and may limit the options available to ensure accessibility.

3. Further information

3.1. For further information, please contact Tess Saunders, Policy and Campaigns Officer: tess.saunders@rnib.org.uk; 029 2082 8564.

RenewableUK Cymru Response to the Environment and Sustainability Committee Inquiry on the general principles of the Planning (Wales) Bill

1. RenewableUK is the representative body for the wind, wave and tidal energy industries operating in the UK. RenewableUK Cymru also represents members with interests in solar, biomass, and other forms of renewable energy technologies in Wales. We represent around 600 corporate members in the UK and our active membership in Wales covers the vast majority of Wales' commercial renewable generation interests.
2. Our members have interests in renewable energy at all stages of the planning and development process. Our membership portfolio includes those companies with an interest in carrying out Environmental Impact Assessments and related development work, through to companies who are primarily involved in the operation, construction and maintenance of projects.
3. RenewableUK Cymru's vision is of a Wales that makes full use of its renewable energy resource by 2050 and we aim to ensure that the maximum benefits of this accrue to Wales.
4. Wales has faced a number of obstacles to the achievement of its targets for renewable energy generation and development in Wales has lagged behind the rest of the UK, especially in onshore wind, an area in which Wales has a high resource. This committee has previously examined many of these issues (our evidence to the committee previously is available [here](#)) and we, in conjunction with our partners in industry and Government have sought to overcome many of these barriers. We have since worked with Government to produce a register of community benefit for onshore wind, and continue to work with partners in order to alleviate concern over transport issues in mid Wales.
5. However, there remain significant barriers within the planning system itself and it is on this basis that we submit this evidence paper.
6. RenewableUK Cymru will be happy to provide oral evidence to the committee on any matters that may be of interest arising from this paper.

Wider context

7. The Industry in Wales will work within the strictures of the planning system, and many of our members are used to working across widely varying planning systems across country borders. However, in consultation with our members we have been unable to reach a consensus on whether devolution of consenting powers for projects >50MW would be favourable. Whilst it would appear to be the intention of Welsh Government that the proposed system for projects >25MW in the Planning Bill would also apply to larger projects in the event of devolution of consenting, we are only able to reflect on the proposal as it stands in the context of the current planning system.
8. It was an unintended and perhaps unforeseen consequence of Technical Advice Note 8 that wind energy projects in Wales were focussed in a small number of Local Planning Authorities. This in our view highlighted and strengthened the case for reducing the number of LPAs in Wales or taking steps to plan for infrastructure on a larger than local basis. Wales has 25 Local Planning Authorities covering areas of various size and varying levels of development and this seems obviously too many, especially when compared to the rest of the UK and evidence provided to Welsh Government in the preparation of the Planning Bill by the Independent Advisory Group, Hyder and this committee has confirmed this.
9. The proposals for the Planning Bill sit within a wider context of reforms that may significantly change the context for Planning in Wales. The potential reduction in the number of Local Authorities, following the Williams Commission recommendations, as well as the potential move to further devolution and a reserved powers model of devolution will have wide-reaching ramifications for the planning and development management system that are not addressed by the Bill. In this context, we hope to see the progression of a Bill that is robust enough to weather any further changes to the planning system in Wales and not require significant reworking in the short to medium term future.

Developments of National Significance and the National Development Framework

10. We welcome the proposals by the Welsh Government to introduce a new category in the development management hierarchy for “Developments of National Significance” and believe that having a National Development Framework, approved by the National Assembly for Wales is the most appropriate method for ensuring democratic accountability in this proposal.
11. As the NDF will be a “policy document” we are not at this stage able to comment on whether the NDF will improve delivery. However, we believe in general a robust national

document would likely aid the delivery of large infrastructure projects, as the National Planning Frameworks have done in Scotland. A single approach across Wales for larger projects would ease the burden on LPAs and developers when considering projects and allow for more timely assessment of a project.

12. Following the example of the Planning Act 2008, we would expect the system for examining a DNS application to follow a fairly strict timetable. Our members often express the view that predictable and reliable timescales for determination are more important than the outcome of the process itself. That is, we believe the introduction of a new system for DNS can introduce *predictability and reliability* into the planning system which is essential for developers to maintain business confidence in Wales. We cannot predict whether a new system would result in more approvals for renewable energy projects as that is a policy matter, but this bill takes steps in the right direction to restore business confidence in the Welsh Planning System.
13. We note that as with the Planning Act 2008, there is no route of appeal against applications made to Welsh Ministers.
14. From a Policy perspective, we see no reason why wind developments should be singled out as “Nationally Significant”. Energy infrastructure of any technology greater than 25MW of installed capacity is likely to have impacts greater than those of the immediate locality or region.
15. Finally, as a matter of principle we believe the Welsh Government should have a duty to meet targets that could be laid out in the National Development Framework for the performance of the planning system.

Strategic Development Plans

13. Strategic Development Plans are to be welcomed in the identified areas though we do not see any reason why energy infrastructure should not be identified in Strategic Development Plans, especially infrastructure relating to the Grid or for projects that are of too great a scale to be left to LDPs. Projects of 5-25MW are arguably still significant beyond that planned for in an LDP.
14. In principle we argue that energy should be identified and planned for at each level of the planning system (national, regional/strategic and local) in order to drive the investment required to meet climate change and energy targets, and to offer a sense of ownership at each level of the planning system. We believe that this would reinforce the sense that energy should be something owned by all to meet all of our needs.

Front-loading the development management process

15. Renewable energy developers have long engaged in pre-application consultation with stakeholders and this is recognised as best practice by RenewableUK members. We believe formalising these practices, as well as enabling statutory consultees to render pre-application services, should ease the burden on the planning system by ensuring fewer issues arise without notice during examination.
16. We do however have some concerns regarding the details of the proposals (which are currently under consultation by Welsh Government). Whilst it may be beneficial for statutory consultees to be able to charge for pre-application advice, we do not wish to see situations arise whereby a consultee may contradict itself later in the examination process. This may add risk into the system by introducing new avenues for appeal and judicial review.
17. There are also potential issues that will arise as to where statutory duties lie, and the 'chargeable' advice provision begin and end. This must be clearly laid out so as not to prejudice the planning system and produce unwelcome and unnecessary avenues for appeal and judicial review.
18. As indicated above, much of the detail of these proposals is currently under consultation by Welsh Government and we are unable to provide a detailed analysis at this time. We believe it would have been useful for Welsh Government to consult on the details of regulation and policy proposals prior to the Bill reaching the scrutiny stage, or at least timed in such a way that scrutiny of the Bill and regulations/policy arising from it could have occurred in tandem.

Single Consents

19. We welcome moves towards single consenting and we support provisions that will allow developers to seek permission for associated consents from the Welsh Ministers alongside the main application, rather than having to pursue a separate consent through the LPA.
20. We welcome the principle that developers should have the "option" to submit connected consents – developers should be able to choose the route which they feel will provide the timeliest response to their applications. It is also the case that in some instances it may be more appropriate for an LPA to determine "associated consents" that might be constructed earlier in the development process or be temporary structures/arrangements.
21. However the proposals for connected consents outlined in the White Paper were not sufficiently clear for us to provide detailed feedback and follow up documentation has not yet been published. We will keep the committee informed of our views on the final proposals.

Performance and Reporting

22. We welcome the proposals for annual reporting and feel this would be very valuable for oversight and scrutiny purposes. We have also argued that Welsh Ministers should be able to investigate the performance of a planning authority with respect to certain sectors in order to intervene early where problems may be occurring. Such measures may have helped to prevent the large back log of projects in Mid Wales.
23. The proposal to allow developers to submit an application to Welsh Ministers should an LPA be designated poorly performing is welcome. However we do not feel the provisions relating to this proposal in the Bill are sufficiently strong and do not outline the process by which this might be done strongly enough. The principle of allowing developers and Welsh Ministers to bypass LPAs when they are failing to perform their statutory function is strong in principle, however it will not be useful if Welsh Ministers are not then required to exercise their functions in a timely manner.
24. Joint Local Development Plans may be useful in some circumstances; however the power outlined in the Bill does not sufficiently constrain Welsh Ministers ability to issue such a direction and offers no avenue for public scrutiny. It is our view that a reduction in the number of LPAs should obviate the need for Welsh Ministers to exercise such a function in the foreseeable future.
25. Local Development Plans should cease to be the development plan beyond a certain date after their completion, after this date the relevant advice should be the Strategic Development Plan or National Policy.

Conclusions

26. RenewableUK Cymru and its members welcome the general provisions of the planning bill. The Welsh Government have sought to address many of the concerns raised by industry in recent years and we are hopeful that this is a move towards a more stable and predictable planning regime.
27. Whilst the wind industry has been the primary renewable energy development sector in Wales, the Bill should be technology neutral in order that is robust and able to deal with any future changes in the energy market.
28. We are concerned that a great deal of detail is left to policy and regulation, in particular the shape of the National Development Framework and whilst we expect this to be subject to full and robust consultation it is difficult to assess the impact of the proposed Bill in absence

of fully formed policy proposals that necessarily arise if the Bill is approved.

29. The timing of Welsh Government consultation on the detail of regulation and policy arising from the Bill is of some concern, six consultation deadlines fall on the same day in January (the 15th) and the consultation period runs parallel to this committee's consultation on the general principles of bill. This makes considering the full impact of the Bill's proposals more difficult than it otherwise might be.

For more information or clarification please contact Matthew Williams:

matthew.williams@renewableuk.com

National Assembly for Wales
Environment and Sustainability Committee
PB 24
Planning (Wales) Bill
Response from Royal Town Planning Institute



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email walespolicy@rtpi.org.uk
Website: www.rtpi.org.uk/rtpi_cymru

7 November 2014

e-mail response sent to: ES.Comm@wales.gov.uk

Dear Sir/Madam,

Response to: The Environment and Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

The following response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

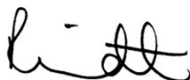
We welcome the opportunity to provide evidence to the Environment and Sustainability Committee on the Planning (Wales) Bill. We support the evidence based approach taken by the Welsh Government and the general thrust and spirit of the proposals set out in the earlier Positive Planning consultation. We were pleased that many of those provisions were carried through into the Bill. We strongly believe there is a need to embed a new proactive and confident culture within planning in Wales, to boost well-being and sustainable economic prosperity and to create better places for our communities to live and work. Planners, politicians, consultees, developers, and the general public, all have a role to play in achieving this.

Our evidence follows the Committee's terms of reference and is set out below. In addition we would draw the Committee's attention to [our response to the draft Planning \(Wales\) Bill and Positive Planning consultation](#).

We are also conscious of the series of parallel consultations that the Welsh Government have published relating to supporting secondary legislation and approaches and we will be responding to these.

If you require further assistance, have any queries or require clarification of any points made, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott MRTPI
Director
RTPI Cymru

A. RTPI Cymru's views on the general principles of the Planning (Wales) Bill including the need for legislation in the following areas:

1. The requirement to produce a national land use plan, to be known as the National Development Framework;

- 1.1 We support the principle of a National Development Framework (NDF). We believe it is currently a missing part of the system in Wales and is required as a matter of expediency.
- 1.2 RTPI Cymru believes that the NDF should set out an express vision reflecting general national goals with stated outcomes. The NDF would need to be evidence based, deliverable, and validated. It should be a coherent national development strategy whose policies and proposals are integrated with the Wales Infrastructure Investment Plan (WIIP) and Natural Resources Policy (NRP) and with the National Transport Plan (NTP). We believe that the WIIP, NRP and NTP should be incorporated within the NDF to ensure a cohesive and integrated approach, and with a consistent set of consultation arrangements. Together these can provide an effective strategic framework which can gain widespread acceptance and be linked to investment and funding priorities.
- 1.3 We note para 3.18 (pg 14) of the Explanatory Memorandum (EM), sets out the principle roles of the NDF, and we support these roles.
- 1.4 It is unclear how the NDF will fit with other plans and policies, including those mentioned above or and how it will take account of sustainable development goals and outcomes and link to the Well-being of Future Generations Bill and other Bills. This is a fundamental weakness of the Bill, and could expose the NDF to risks of ineffectiveness in the future.
- 1.5 The NDF should be based on evidence and therefore should be the starting block to spatially influencing national policy, as well as seeking to interpret and apply national policy spatially.
- 1.6 Para 3.21 of the EM sets out the process for agreeing the NDF, including the consultation process, however it is not clear on how matters will progress if the National Assembly for Wales scrutiny disagrees with the proposals made by the Welsh Government. Who will arbitrate at this stage?
- 1.7 In developing the role of the Assembly in the approval of the NDF, there will be a need to ensure that Assembly Members are given access to the training that will ensure that they have the full set of skills required to fulfil a decision-making role on planning matters. They will need to be supported in these processes by individuals with the competences that will ensure the soundness of the proposals in the NDF, much in the

same way that officers of the Planning Inspectorate work with Local Planning Authorities (LPAs) in the preparation and adoption of their Local Development Plans (LDPs).

1.8 It is important that the NDF new system enables sufficient flexibility for regional and local circumstances to be considered at the Strategic Development Plan (SDP) and LDP level.

2. *The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues;*

2.1 RTPI Cymru believes that there is a need for strategic planning on a scale between national and local. We support more joined-up thinking both across, and between, tiers of Government.

2.2 Paras 3.29 and 3.35 of the EM explain that SDPs would “allow larger than local issues such as housing demand, search areas for strategic employment sites and supporting transport infrastructure, which cut across a number of local planning authorities, to be considered and planned for in an integrated and comprehensive way”. (para 3.29) Para 3.35 states, “where an SDP covers an LDP area, the LDP should be rationalised so that it only focuses on local matters, particularly site specific allocations, in accordance with the scale and location of growth set out in the SDP. Issues such as the overall level of housing, employment and retail provision will have already been addressed and do not need to be repeated.”

2.3 While this para sets out the proposals to rationalise the LDP where an SDP covers an LDP area, it does not explain how local considerations will then be taken into account such as local retail (not strategic) and small housing sites etc. It also does not explain how the LDP will be handled if only part of an area is included with an SDP area.

2.4 Transitional arrangements for the adoption of the new set of plans, needs consideration. For example, should it be possible to produce an SDP before the NDF has been adopted? Also, what happens to the current LDPs once an SDP is adopted? Do they have to be rationalised at the same time, to avoid contradictory policies?

2.5 Para 3.3.1 (pg15) of the EM explains that “for each area a Panel will be established to prepare and keep under review the SDP. It will have sole responsibility for approval and adoption of the plan and some minor incidental duties. The Panel will comprise locally elected members from the LPAs within the area and one third representation from social, economic and environment organisations.” We believe that how Panel members are appointed is important and for those other than LPA nominees, a process mirroring that followed for public appointments in Wales would seem appropriate, open and transparent and consistent with the Nolan principles - with vacancies advertised, an interview process, and appointments ultimately made by the Minister. We believe transparency in selecting Panel Members will be important to maintain trust and buy-in from local communities, local authorities and businesses. This type of model would encourage a focus on competencies rather than a focus solely on the inclusion of specific bodies. We believe that Members recruited in this way would invariably be high and would help to maintain a focus on delivery and on statutory purposes.

2.6 A requirement is also required to ensure that a balance of interests from the economic, environmental and social sectors are recruited to the Panels, to avoid dominance by one particular interest.

2.7 You may also be interested our briefing paper, [Strategic Planning in Wales \(November 2013\)](#).

3. *Changes to Local Development Plan procedures...*

3.1 *Notification of LDP withdrawal*

In relation to the notification of LDP withdrawal, paras 3.42/3 sets out that LPAs can withdraw at any time before submission, however it is unclear what would happen if the LDP was in the early stages or still required work to be done, and Ministers disagreed with the withdrawal, who would then carry out the work to get the LDP to a standard for approval/examination?

3.2 Welsh Ministers' power to direct preparation of Joint Local Development Plans

We believe that joint plans should be prepared only where there is organisational and political will. Otherwise there is a risk that plans will be viewed as 'imposed'. The Williams report and the subsequent Devolution, Democracy and Delivery White Paper – Reforming Local Government is moving this debate forward. [Our response to the reforming local government consultation](#) is available on-line.

3.3 Joint Planning Boards

3.3.1 Ultimately, the new planning system should reflect the principle of subsidiarity with decisions always being taken at the lowest appropriate level in organisational hierarchies. Powers of direction should focus on key priorities and used only exceptionally.

4. Front-loading the development management process by making provision for pre-application services;

4.1 Requirement to carry out pre-application consultation

4.1.1 We support a national approach to a pre-application consultation service, there is a need for greater consistency between LPAs across Wales in terms of the pre-application service they offer.

4.1.2 We support the principle of a statutory requirement for pre-application engagement with specified persons, likely to include the public and statutory consultees in the planning application process, where a development is of a description specified in a development order under subordinate legislation, including Developments of National Significance (DNS) and major developments.

4.1.3 However, we raise concerns regarding the resourcing of this service and would welcome confirmation of how this would be managed, particularly in relation to statutory consultees.

4.1.4 Paras 3.56 – 3.61 discuss the role of communities and statutory consultees in this process however, the role of the LPA in this process is unclear and further clarification is required.

4.2 Requirement to provide pre-application services

4.2.1 Charging for pre-application services has already been introduced by a number of LPAs, leading to significant improvements in service resources and quality. It is essential that proposed legislative changes build on this experience to achieve similar improvements across the whole of Wales.

4.2.2 In our response to [Realising the potential of pre-application discussions \(2011\)](#) we commented that clarity is needed over the status of pre-application advice, in particular the disclaimer which is often attached by Local Authorities, i.e. that the advice is offered without prejudice to the formal consideration of an application. We recognise that the ability of the LPA to make firm commitments will always be limited by the statutory process to follow once an application is submitted. However, all parties need to be open and realistic about the process and their expectations and required outcomes of the process.

5 Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;

- 5.1 RTPI Cymru supports the introduction of a new category of Developments of National Significance (DNS). The NDF will be the principal Development Plan guiding decisions on these applications which places a significant onus on the NDF being evidence based and robust.
- 5.2 Performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 5.3 The RTPI Cymru briefing paper on [Infrastructure Decisions \(November 2013\)](#) can be viewed online.

6. Option to make applications direct to Welsh Ministers

- 6.1 Where an authority is deemed to be poorly performing, the areas of poor performance and the root causes of the poor performance need to be established and then an appropriate response should be developed and implemented. There needs to be a range of options available. The option to make applications direct to Welsh Ministers should be an option of last resort and discouraged. Any decision made by a Welsh Minister should be done in accordance with the LDP and local consultations carried out. As with decisions for DNS, performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 6.2 The Planning Advisory and Improvement Service (PAIS) could act as peer support.
- 6.3 Our briefing paper on [Culture Change \(November 2013\)](#) can be viewed online.

7. Streamlining the development management system;

7.1 Planning Committees and Delegation

- 7.1.2 RTPI Cymru supports the recommendations set out in the report on Planning Committees, commissioned by ourselves, which would lead to a more consistent and efficient approach.

7.2 Decision Notices

- 7.2.1 We support the reason for this proposal. However detailed regulations and guidance will be required on how to handle this efficiently and effectively so that it does not become a burden and a process targeted for stopping or slowing development.
- 7.2.2 In April 2014 we responded to the Welsh Government consultation on the "[Review of Planning Conditions Circular and Model Conditions](#)" In response to Q6 we supported a more structured decision notice but highlighted some of the conflicts and problems that arise round decision notices. Q7 may also be of interest as it deals with some of the issues raised at 3.92 of the EM - identifying approved plans in a condition.

7.3 Statutory Consultees

- 7.3.1 We support these proposals in principle, however, we believe that statutory consultees must be properly resourced to respond to requests for pre-application advice and in relation to planning applications. It is essential that they are able to deliver on the pre-application services and respond to LPAs and Welsh Government consultations.

7.4 Design and Access Statements

- 7.4.1 RTPI Cymru supports the use of Design and Access Statements (DAS), however we do support their removal in relation to more basic applications in order to focus their use on more significant planning applications where they can add value. We did not support their complete removal from the system in our response to the draft Bill, and would continue to recommend they remain for at least Major Development applications and ideally for all applications except for minor ones, such as householder applications.

8. Changes to enforcement and appeal procedures

8.1 We support in principle the proposed changes.

B. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.

9.1 There are two principal and interlinked areas which are potential barriers to the implementation of these provisions:

9.1.1 The first relates to resource allocation. Public services are facing hard choices in how to deploy their resources. Unfortunately resources for planning services are often given a low priority compared to other competing areas. We believe this is a false economy. Planning services need to be appropriately resourced in order to deliver for communities. Planning plays an important role in ensuring the right development goes to the right locations. Those wishing to invest in an area, which can range from a householder improving their home through to employment investment or a large housing scheme, need to have a service which can direct them appropriately to fulfill the Wales' ambition of well-being.

9.1.2 The second relates to the culture of those operating with the planning system; this is not just the LPA officers and councillors, but all involved. Whilst legislation can set the tone, it cannot guarantee players will engage in a positive manner. Creating an improved understanding of what the planning system at a national and local level is trying to achieve and trust of all involved, would help with this.

C. Whether there are any unintended consequences arising from the Bill.

We have not identified any unintended consequences at this stage.

D. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill).

Please see our comments in paragraph 9.1.1 above.

E. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

We consider these powers to be appropriate.

F. The measurability of outcomes from the Bill, i.e. what arrangements are in place to measure and demonstrate the fulfilment of the Welsh Government's intended outcomes from making this law.

We consider these to be proportionate.

We welcome the inclusion of a statement relating to Ministerial targets for the administration of the DNS process and would like to see more detail of this intention contained in secondary legislation.

WHIASU response to Welsh Government Planning Bill Consultation

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7th November 2014

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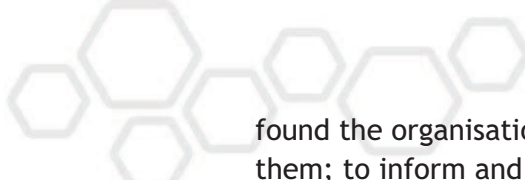




Introduction

1. We welcome the opportunity to respond as part of the consultation on the Planning Bill for Wales and we have a number of comments.
2. Planning policies, Planning Departments and planning decisions can have a significant impact on health and well-being - both directly and through their influence on the wider determinants of health and wellbeing. They shape the environment we live in, make decisions about the siting and development of facilities (e.g. housing, green space, retail, leisure, employment, transport, energy and waste) and how we access and use these. Decisions can facilitate opportunities for healthy behaviour through, for example, the allocation and quality of green space for promoting physical activity, the availability of cycle paths and safe walking routes to encourage modal change and access to fresh, quality food to improve dietary choices or limit choices to do so (i.e. supermarkets in out of town retail parks that we drive to versus easy to walk or cycle to local shops). As obesity and associated ill health increases in Wales there is a need to make these connections more explicit.
3. Studies have shown that open spaces and well planned integrated people friendly urban centres can contribute to promoting physical activity and well being and can help to reduce being overweight and obesity by encouraging walking and cycling and can improve mental wellbeing for all age ranges. Well planned and integrated transport links can aid physical activity. It is essential in childhood for social development and in older people for increasing social interaction and mental wellbeing. At a community level, it has also been shown that green space and a well planned urban environment in a neighbourhood can similarly promote and increase social interaction and reduce social isolation. Green spaces in an urban area offer the opportunity for the community to find calmness, be sociable, take exercise and escape to the pressure of urban life. (Netherland Institute for Health Services Research Utrecht, 2006; Institute of Occupational Medicine, 2008; Institute of Rural Health and Countryside Council for Wales, 2008; Faculty of Public Health and Natural England, 2010). The importance of the link between the built and natural environment and being physically active is also recognised within the NICE public health guidance 8 - 'Promoting and creating built or natural environments that encourage and support physical activity' (NICE, 2008).
4. Despite this and until recently, not all local authorities have reflected the importance of health in planning decisions re green spaces, recreational areas or person centred built environments but this is now changing as obesity and associated ill health increases.
5. We recognise that as part of development planning processes, statutory Sustainability Appraisals (SAs) and Environmental Impact Assessments (EIAs) are conducted for certain types/thresholds of development and these are required to consider human and population health within them. However, these only routinely consider environmental health risks and not broader social and community health impacts nor any positive impacts or identify gaps for improvement.

6. The main vehicle for consideration of broad health and wellbeing is health impact assessment (HIA) (Wales Health Impact Assessment Support Unit, 2012). HIA is acknowledged as a systematic, yet flexible process. It provides a practical method of assessing both the potential positive and negative impacts of a proposal or plan on health and well-being and can provide ways in which opportunities for health gain can be maximized and risks to health minimised. HIA considers health in its broadest sense, using the wider determinants of health as a framework through which to identify these impacts via changes to lifestyles, community relationships, labour markets, public services and amenities and other aspects of the social and economic environment. It also highlights any inequalities in the distribution of these in the general population - and on vulnerable groups (such as ethnic minority groups, people with disabilities and older or young people) in particular. It has a number of benefits and can be used to support decision making and provide opportunities for health improvement.
7. Although there is no statutory requirement for HIA in Wales (or the UK) HIA is included as a requirement or advocated as best practice in more and more planning documents. Planning Policy Wales (Edition 7, July 2014) '*Chapter 2: Development Plans*' outlines a requirement for local authorities to undertake a sustainability appraisal as part of their LDP preparation and states that 'the several impacts of plans upon health and its determinants should be considered' as part of this. This process should take account of the impacts of plans on health and well-being and its determinants as well as other social considerations relevant to land use planning. It does not specify HIA by name but this has proved a good lever for it.
8. In addition Planning Policy Wales produced a Technical Advice Note 16 in January 2009, *Sport, Recreation and Open Space* (Welsh Government, 2009) which advises on the role of the planning system in making provision for sport and recreational facilities and informal open places in both the urban and rural environment.
9. There are currently a number of HIAs being, or which have been undertaken, in Wales with regard to land use planning and Local Development Plans in collaboration with WHIASU and PHW. The first HIA was conducted in 2008 and since then another six local authorities have embraced the process using differing levels of HIA. These have proved to be highly beneficial so far and are being completed alongside other assessments and integrated throughout the specific stages. LDP HIA work is currently being undertaken in the following local authorities - Cardiff, Flintshire, Wrexham, Swansea and Denbighshire. The Planning Departments within Denbighshire and Anglesey County Councils have particularly embraced HIA and have used the process to inform planning applications - the former for the 1,700 homes Bodelwyddan Key Strategic Site and the latter for a proposed Biomass plant, a proposed off shore wind farm development and Wylfa Newydd Nuclear Power Station Supplementary Planning Guidance.
10. These recent examples of integrating HIA into LDPs and associated local and regional planning processes have been mainly driven by PHW and the Wales Health Impact Assessment Support Unit (WHIASU) rather than local government Planning Departments and officers. However, once a HIA has been undertaken, these Departments have



found the organisations and HIA Steering Group members to be a valuable resource for them; to inform and influence; to provide evidence and access to it; and strengthen their Plans and proposals. In addition they have recognised the value of the HIA process in meeting the requirements on them to engage and consult with the community on both the development of plans and implementation. Increasingly Welsh government places requirements on public bodies to involve and consult communities during the development of policies, plan and projects. The HIA process is, in part, a participatory engagement tool and can be an effective vehicle through which to consult with communities and key stakeholders including Local Authorities, Local Health Boards and Public Health professionals.

11. Conducting an HIA within planning processes and related sectors can confer considerable benefits and contribute to healthy public policy and urban and rural planning. Not only will HIA assess the potential positive and negative impacts but it will highlight any potential improvements which could be made to maximize health and wellbeing and identify and mitigate for any detrimental impacts or unintended consequences. HIA can make more explicit the links between land use and associated planning decisions, the way that we live and the key health and wellbeing issues today - including obesity, lack of physical activity and the associated risk factors and illnesses.
12. It directly involves the local key organizational and community stakeholders and those who have local knowledge and understanding of how the project, plan or proposal will have a direct and indirect impact on local populations. A HIA can give context to a decision or plan. This includes how a community interacts with its physical and built environment and can facilitate physical health promotion and health improvement by encouraging cycle paths, pedestrian friendly towns, more active travel, open and green space allocation for recreation and sport in LDPs and housing developments and access to the growth and purchase of fresh and affordable food.
13. We believe that the connection to health and wellbeing and HIA should be strengthened and made explicit as part of the proposed Planning Bill. This could significantly influence local authority Planning Departments and associated organisations. It would advocate for health and wellbeing from within Welsh Government Planning itself.
14. At a strategic level, this would strengthen and ensure consistent, joined up and sustainable connections are made with other policy areas i.e. the proposed '*Wellbeing for the Future Generations of Wales Bill*' (2014) (which proposed the introduction of a number of impact assessments); the '*Public Health White Paper*' (2014) (which makes specific reference to 'health impact' within it - paragraph 3.15 - in relation to the planning system); and '*Vibrant and Viable Places (VVP): A New Regeneration Framework*' (2013) (which recommends the use of HIA). It would reinforce the current movement in Welsh Government towards the integration of a '*Health in All Policies*' (HiAP) approach to policy making within the delivery of plans at all levels of national and municipal government. The publication of '*Making the Connections*' (Welsh Assembly Government, 2004) aimed to support the integration of health across all

sectors and promote a consideration of 'Health in all Policies' (HiAP) (World Health Organisation, 1999; Welsh Government, 2014) which has again recently been reinforced by the *Future Generations Bill*. A focus on integrating 'Health in All Policies' has led to HIA being seen as a key element in raising awareness of health and wellbeing in Wales throughout other sectors and supporting the health promotion and ill health prevention agendas. This approach ensures that the wider determinants of health, wellbeing and inequalities are considered and connections made with traditionally 'non-health' domains such as planning sectors and its stakeholders.


15. Having laid out the important relationship between planning decisions and impacts on health and well being and the role HIA can play within the development and implementation of those plans we would recommend the following:
16. That Health Impact Assessment, which considers the wider determinants of health (including, but not restricted to, access to public toilets, exercise, active travel, green space for wellbeing), becomes a statutory requirement within Developments of National Significance, Strategic Development Plans and Local Development Plans (LDPs).
17. That a HIA be completed as part of the drafting and preparation of the new National Planning Framework with WHIASU and PHW as named consultees.
18. Furthermore we would recommend that more explicit connections are made to broad health and wellbeing and inequalities and that it is reinforced that Public Health Wales act as consultees within the preparation processes that are associated with the development of a new National Planning Framework for Wales, Developments of National Significance, cross boundary Strategic Development Plans (SDPs) and Local Development Plans (LDPs) and their adoption.
19. More information on HIA in Wales, the Wales Health Impact Assessment Support Unit (WHIASU) and its recently updated HIA Guidance - 'HIA: A Practical Guide' (WHIASU, 2012) can be found on the WHIASU website www.whiasu.wales.nhs.uk. LDP HIA reports for Anglesey, Cardiff, Swansea, Blaenau Gwent and Wrexham are also published here.

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National Assembly for Wales
Environment and Sustainability Committee
PB 26
Planning (Wales) Bill
Response from Disability Wales

Written Response to the Consultation:- General Principles of the Planning (Wales) Bill.

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1. Disability Wales (DW) is an independent, not for profit organisation established in 1972. We are a membership organisation of disability groups and allies from across Wales.
2. As the national association of disabled people's organisations, Disability Wales strives to achieve equality, rights and independence for all disabled people, regardless of physical, sensory or neurological impairment, learning difficulty or mental health condition. We recognise that many disabled people have different identities and can face multiple-discrimination.
3. The Social Model of Disability is at the core of our value base, recognising that people are disabled more by poor design, inaccessible services and other people's attitudes than by their impairment. We are recognised as the lead organisation in Wales in promoting the understanding, adoption and implementation of the Social Model.
4. Disability Wales cannot comment in great depth on planning specific issues however we will endeavour to highlight key access issues affecting disabled people that need to be addressed
5. **Need for legislation:** Yes, there is a need for legislation in all areas linked to access. Fully inclusive access should be discussed at the earliest stage of the planning process during the front loading development management stage. Liaison with disabled individuals, groups and organisations is paramount to ensure access issues are fully taken into account and solutions found before any construction begins.
6. Any changes to procedures, and not only appeal procedures, have to be fully communicated to the general public in accessible formats. Any type of service and at every stage of the planning process should be made accessible for disabled people who wish to appeal, for example: that

includes physical access to the building as well as online information and dissemination of information in alternative formats.

7. Streamlining management could assist disabled people by ensuring fewer levels of 'red tape', thus enabling issues with accessibility of plans to be raised directly with the very top, the decision makers, without going through numerous levels of staff before an access query is answered. It is hoped that 'getting lost in the system' could become a less frequent occurrence.

Specific Parts of the Bill:

8. **Part 3 of the Bill – provision that a consultation to be carried out by a prospective applicant for planning permission.**
9. Active engagement with disabled people is of paramount importance at the very start of any planning process. Early engagement is usually more meaningful than a consultation exercise.
10. **Part 5 of the Bill – development management – requirements relating to planning applications, including provision of appeals where a local planning authority give notice that an application does not comply with certain requirements.** Accessible information is paramount to ensure information is shared in a way that facilitates disabled people's understanding of all aspects of the planning process.
11. **Also Part 5 - Consultation in respect of applications for approval of reserved matters and certain other applications.**
12. Active engagement could possibly be achieved by holding events for stakeholders and other interested parties to encourage discussions using face to face methods rather than relying on consultation procedures. Events / Activities' could encourage hard-to-reach sectors of society to contribute their views in way that paper-based consultations may not. For example, an event could aid explanation of complicated planning procedures for attendees such as older and disabled people, some of whom may find planning applications and the related processes difficult to understand.
13. **Part 6 of the Bill – Enforcement, Appeals and certain other planning proceedings.**
14. Greater transparency and clarity in the planning process is a positive development. The appeals process should be made accessible to all disabled people across the disability spectrum. Appeals information has to be made available in accessible formats like EasyRead, Braille, Large Print, British Sign Language and pictorial information etc. Accessible information should be available online and in print / film / 3D model format. Accessible formats and provision of alternative formats is essential, thus enhancing inclusivity of the planning process. Accessible formats should

be produced and distributed accordingly. Producing information in accessible formats is a 'reasonable adjustment' as made obligatory by the Equality Act 2010.

15. **Part 2 statement of public participation:** Disability Wales are pleased to note that information relating to the consultation process will be documented by the Welsh Government. This element may enable the Welsh Government to ensure that a proper engagement process will be carried out.
16. Throughout the Bill as a whole disabled peoples' access to the planning process and the built environment is key.
17. **Barriers / issues in the implementation of these provisions:**
Design and Access Statements should remain a mandatory requirement at least until there is something better to replace them with. The Welsh Government commissioned a report by Cardiff University and other consultants entitled 'Review of DAS in Wales,' published in the latter part of 2013. See:
<http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/review-of-design-and-access-statements-in-wales/?lang=en>
18. Feedback contained in the report was positive; many professionals such as architects and planners supported DAS. "It is valued as a communication device and it is evident that planners feel that their focus on design issues is important." However, the report did state that there is some confusion around DAS. Perhaps this shows that additional training for planners / designers / architects and planning departments is required.
19. Disability Wales is pleased to note that DAS remains for secondary legislation. Previously we stated that any alternative proposals would have to take into account Equality legislation such as the Equality Act 2010 to ensure disabled people's access requirements are met. Alternatives must be analysed and compared by suitably qualified, professionals / consultants (including access consultants) and other stakeholders in the building, design and planning field. We do not support potential removal of mandatory DAS completely, i.e. from Secondary legislation. The Welsh Government must ensure that it is the use or purpose of the public building rather than the size should be the main consideration as to whether the building requires a DAS or not, including buildings of employment.
20. Lack of mandatory, ongoing training linked to access and disability equality could be a barrier. Further follow up training could be required to compliment Disability Wales' Way to Go Project; a four year project designed to bring together local disabled people and planning departments. Six training sessions were held across Wales, two mediation sessions took place and a paper Toolkit (Planning for Inclusive Access in Wales - Good Practice Guidance Toolkit) was produced to assist Local

Authority planners gain an understanding of disability issues and allowed disabled people to gain an understanding of Local Authority planning professionals. Funding for staff training at a time of Council cuts could also be a barrier.

21. The aim of the Way to Go Project was to bring disabled people and planners together in order for both parties to gain an insight into what the other does. Managing realistic expectations and limitations on both sides was crucial throughout the project. An online Toolkit was then produced to enable a wider audience to access the Good Practice Guidance for reference.
22. During the course of the training another barrier identified was lack of staff time and cover in the planning departments. It is worth noting that many Local Authorities did not have the capacity with increasing workload and fewer staff to release planners / planning department staff for training purposes, even when available at no cost to them.
23. New builds which are not accessible would hinder project completion because of added extra costs required to ensure accessibility at a later date. More money would have to be spent correcting access issues. Some developers may not have extra funds available and this could mean further delayed access for disabled people resulting in frustration for disabled people, groups and organisations.
24. Other organisations such as Mencap, Learning Disability Wales and other members of the Disability Equality Forum in December 2013's meeting agreed that DAS should not be scrapped without having something adequate in its place.
25. The Welsh Government's Framework for Action on Independent Living was published in September 2013. One of the key priorities of Independent Living is 'Accessible and Inclusive places' - During engagement events it was reported that poor design of buildings and places limits people's ability to participate in everyday life (Page 58). The Framework for Action on Independent Living is a 'living' flexible document and is something that the Welsh Government have committed to taking forward.
26. Fully inclusive access to the built environment is of paramount importance. Accessible buildings increase disabled peoples' opportunities and enhance their lives and their independence in the community; this has been (and still is) a key campaigning issue for Disability Wales . The launch of the Independent Living Manifesto in 2011 was a positive step in the right direction, which lead to the Framework for Action on Independent Living, and towards disabled peoples' furthering opportunities, increasing choice and increasing control of their lives. In short: Empowerment.

27. Design and Access Statements are absolutely crucial to the implementation of independent living; a full inclusive society for all, and is at the core of the Social Model of Disability, which the Welsh Government has supported for over 10 years. Any move to completely abolish Design and Access Statements could hinder the progress made on disabled people's access requirements and there would be a very real danger that accessibility will regress. Furthermore, the Equality Act 2010, and the UN Convention on the Rights of Disabled People place a legal duty to provide accessible venues - something which would mean extra cost incurred if builders are trying to rectify an inaccessible building due to noncompliance with the law.
28. The Welsh Government Bill should advocate good practice rather than the minimum standards documented in Part M Building Regulations. Sizes of mobility aides, scooters, wheelchairs and other equipment are increasing; this may mean that the bare minimum standards are no longer adequate to meet the access requirements of disabled people who use larger mobility scooters, manual wheelchairs and powered wheelchairs.
29. **C)** We cannot comment fully however the revised Bill should **take into account the committee's recommendations** relating to disabled peoples' access requirements to planning procedures, the appeal process and that information is provided in accessible formats etc.
30. **D) Unintended consequences:** Any consequence intended or otherwise, must maintain access requirements suitable for disabled people across the disability spectrum. This should be at the core of the decision making process and any decisions made must not detriment this.
31. **E)** Disability Wales cannot specifically comment on the **financial implications:** However, costs should not be a barrier to building fully inclusive accessible constructions nor to information provision in accessible formats such as Braille EasyRead, Large Print, Audio, pictorial information etc, which are common access requirements.
32. **F) Subordinate Legislation:** Again we cannot fully comment, however any legislation must ensure disabled peoples' access is improved on from all stages of planning in general, i.e. its process, from the start to the finish, to the engagement events, commenting on issues, and to the 'walk through' viewings upon completion. All types of legislation must be robust to ensure it is complied with and that any legislation, primary or secondary, should assist clarity if ambiguity exists.
33. **G) Measurability of the outcomes.** Qualitative information, such as disabled peoples' experiences could be used in case-studies: this method is often just as effective as quantitative statistical facts, and perhaps are more impactful. By using disabled peoples' experience of using the planning departments, the planning process and accessibility for disabled

people of proposed designs the Welsh Government could holistically assess whether the Bill to improve the whole planning process has been successful: Insofar as to becoming fully inclusive and accessible for disabled people.

National Assembly for Wales
Environment and Sustainability Committee
PB 27
Planning (Wales) Bill
Response from Planning Aid Wales

Environment and Sustainability Committee

Planning (Wales) Bill: Consultation on general principles

Submission by Planning Aid Wales

1. About Planning Aid Wales

1.1 Planning Aid Wales is the independent charity providing planning aid services in Wales. With funding support from Welsh Government we work to help individuals and communities engage more effectively with the planning system. We provide impartial information and guidance via a website, guidance publications, an advice Helpline and training programmes. We also work with planning authorities and Welsh Government to encourage meaningful community involvement in the planning process.

1.2 Our services are delivered by a small staff team supported by a Wales-wide network of around 70 planning and community volunteers. An independent Management Board of Trustees oversees the running of Planning Aid Wales and sets the direction and strategy for the organisation. For more information, please visit:
<http://www.planningaidwales.org.uk/about-us>

1.3 When seeking to influence national policy development, Planning Aid Wales aims to make the planning system more accessible and equitable by removing barriers to community involvement.

2. Key issues

2.1 Our observations on the general principles of the Planning (Wales) Bill fall under four main headings: Integrated explanation of planning hierarchies; Development plan hierarchy; Development management hierarchy, and; Pre-application consultations.

Integrated explanation of planning hierarchies

2.2 The Planning (Wales) Bill as introduced will significantly change the 'shape' of the Welsh planning system. The changes will have significant impacts on the opportunities available for local communities to understand and engage meaningfully with the main components of planning process - development plan preparation and development management.

2.3 Our experience of helping local communities to engage with the planning system demonstrates that understanding the general ‘shape’ of planning is an essential prerequisite before effective engagement can happen. Without some understanding of broader context, communities seeking to influence outcomes in the planning process are placed at a disadvantage. This applies to community involvement in both plan-making and deciding planning applications.

2.4 **An integrated and carefully structured explanation of the new planning hierarchy is needed to help address this.** The explanation, or ‘route map’, should express clearly all the opportunities for public participation in planning, from the national strategic level down to implementation on the ground. The route map will help local planning authorities, developers and others to engage more fruitfully with communities when they seek useful comments on planning applications or set out to involve the public in plan-making.

2.5 To generate maximum benefit, the route map will need to make explicit the links between principal elements of the proposed development plan and development management hierarchies. Examples of the need to explain such links are between the National Development Framework and Developments of National Significance, or between the Local Development Plan and Major Developments, or between the Local Development Plan and Place Plans.

2.6 While these links may be evident to the seasoned planning professional, our experience suggests that lay people will struggle to understand and engage with the reformed planning process without a carefully crafted route map to illustrate the connections.

Development plan hierarchy

2.7 The new hierarchy will introduce two completely new elements - the National Development Framework and Strategic Development Plans (SDPs). Local Development Plans will continue to be prepared for each planning authority area, but in conformity with the National Development Framework (and SDP if applicable).

National Development Framework

2.8 There is no clear strand of public engagement proposed for preparation of the National Development Framework (NDF), which will be the most important part of the Development Plan for all parts of Wales. **There needs to be systematic and early engagement of the general public, local communities in areas of likely development pressure, and other stakeholders in devising a shared vision for Wales.**

2.9 The proposals for preparing the NDF will be less rigorous than for a Local Development Plan, and there will be less opportunity to ensure it is robust. The

Framework will be produced in-house by Welsh Government with public engagement limited to a statutory twelve week period.

2.10 Since the NDF will provide a framework for decisions taken on Developments of National Significance, and all Strategic Development Plans and Local Development Plans will need to be in conformity with it, it is vital that there are clear opportunities for the general public to be involved in its preparation.

Strategic Development Plans

2.11 In those areas where a Strategic Development Plan is proposed, there need to be meaningful opportunities for local communities to participate directly in its preparation process.

2.12 Planning Aid Wales recommends introduction of a statutory mechanism to allow proportionate and effective community engagement during the early stages of Strategic Development Plan preparation. Such a mechanism will help to manage expectations whilst maintaining public confidence in the planning system.

2.13 Local community interests should also be represented on the SDP Panels. This is important given that one third of the members will not be democratically elected, eroding the necessary links between communities and decisions on strategic plans.

Local Development Plans

2.14 Planning Aid Wales identifies the early, strategy-setting stages of Local Development Plan preparation as a particularly effective and meaningful route for community engagement in planning. It is vitally important that early-stage community engagement is conducted by local planning authorities as a concrete demonstration of their, and the Welsh Government's, commitment to maintaining a transparent and accountable planning system.

Clarification of the role of Community and Town Councils and Place Plans

2.15 Planning Aid Wales strongly supports the principle of Place Plans and we are committed to helping Welsh Government achieve its objectives for community engagement through Place Plan preparation.

2.16 However, local communities in those areas without a community or town council (comprising around 30% of the Welsh population) will not have an opportunity to work with local planning authorities to develop Place Plans. Urban areas in particular, where development pressures tend to be concentrated, have relatively poor local council coverage.

2.17 We urge consideration of a mechanism allowing preparation of Place Plans (or equivalent) in areas not covered by community or town councils.

We also suggest that planning authorities should be encouraged to work with groupings of community or town councils to develop Place Plans.

2.18 We also consider that secondary legislation is needed to usefully define the role of Community and Town Councils in planning, preparation of Place Plans and requirements on local planning authorities to support their preparation.

Development management hierarchy

2.19 The development management hierarchy will introduce new elements including Developments of National Significance, Direct Applications to Ministers, and pre-application consultation on Major Applications. There will be new ways of processing some planning applications and changes to the opportunities offered to third parties to be involved in decision-making, which have the potential to create confusion.

2.20 As above (paras. 2.2 to 2.5), we see the need for a clear route map showing the opportunities that will be available for the public to participate in decision-making on the different types of planning application at different levels in the new development management hierarchy.

Pre-application consultations

2.21 Planning Aid Wales supports the principle of pre-application consultation on major developments. However, it will only be of value if it is done well. A current Welsh Government consultation (*Frontloading the Development Management System* – see: <http://wales.gov.uk/docs/desh/consultation/141006frontloading-consultation-document-en.pdf>) outlining proposed procedures to be followed by scheme promoters suggests that the full potential is unlikely to be realised. In essence, the consultation envisages promoters of major schemes as consulting local people before the application is submitted in much the same way as the planning authority will consult local people once the application is submitted. Care will be needed to ensure that this new process adds value and does not contribute to consultation fatigue.

2.22 Our work with local communities demonstrates that robust consultation processes serve to improve people's trust in the planning system, while poor consultation experiences often serve to undermine confidence.

Planning (Wales) Bill

Response from The Llandaff Society

**LLANDAFF SOCIETY NOTE IN RESPONSE TO ENVIRONMENT AND SUSTAINABILITY
COMMITTEE CALL FOR SUBMISSIONS ON THE PLANNING (WALES) BILL: 7 NOVEMBER 2014**

1. Llandaff Society is a local civic society affiliated to the Civic Trust for Wales, representing over 250 members.
2. We have had recent experience of submitting an application for registration of Llandaff Meadow for village green status after an application for development of the land was submitted. We consider that we have a strong case for protection of community use of that land, but no decision has been made on our application to date. The attached article¹ gives a summary of events from our perspective.
3. The fact that we have experience of the process means that it was of great concern to see that the proposal in the Planning (Wales) Bill to limit the period for submission of an application, block applications if the land is subject to planning, and other measures which would impact adversely on the rights of individuals and communities in relation to land used for informal recreation for generations.
4. The number of applications for registration as a town or village green per year is estimated in the Explanatory Memorandum (EM) as 7.6 per Commons Registration Authority (ie local authority) [7.1159]² only 40per cent of which are likely to be cases where development may be held up by the application. The EM states that [7.1185] that the planning process can “help() to reconcile any conflict between development and potential registration as a village green” but our application for village green status for the iconic Llandaff Meadow - which also provides a setting for Grade 1 listed Llandaff Cathedral very similar to that for Salisbury Cathedral - was ruled out as material when a planning application on the land³ was considered by Cardiff’s Planning Committee.
5. We challenge the benefits and costs given in the Regulatory Impact Assessment. The ‘benefits’ of the actions proposed in the Bill are claimed as being “more recreation land being brought forward” [7.1204], “less abortive work by LPAs (on development management)” [7.1205], and “(declarations) should encourage landowners to allow continued recreational use of their land by the public”[7.1209]. None of these is provable. Furthermore, the ‘cost’ in terms of loss of amenity and negative impact on physical and mental health and well-being of the community is clearly not valued by Welsh Government, as it is not mentioned at all in the EM.

Geoffrey Barton-Greenwood FRICS

Chairman, Llandaff Society

Footnotes: 1. Civic Trust for Wales web-site: “The Story of Llandaff Meadow”, Geoffrey Barton- Greenwood and Kay S. Powell: September 2014

2. References to paragraphs in the Explanatory Memorandum are in square brackets

3. For background see Cardiff Council web-site re Planning Application 13/01871/DCO

ANNEX: ARTICLE ON TOWN AND VILLAGE GREENS: THE STORY OF LLANDAFF MEADOW

by Geoff Barton Greenwood FRICS (Chairman) and Kay S. Powell MRTPI (Planning and Conservation Advisor), Llandaff Society

Llandaff Meadow, lying between Llandaff Cathedral and the River Taff, has been used by many local people for informal recreation for decades. However, few people outside Llandaff know of its existence. Originally part of the Bute Estate, it was sold to the City of Cardiff for use as “pleasure grounds”. Later, with other land fronting Western Avenue, it formed part of the grounds of Llandaff Technical College, which has since become the University of Wales Institute Cardiff and, more recently, Cardiff Metropolitan University.

During all this time the meadow has been accessible for people on foot and bicycle. From ancient time the footpath along its eastern edge formed part of the pilgrimage route that crossed the river at the nearby ford (no longer in use since the construction of Llandaff weir) and continued Llandaff to St David’s. It is still a tranquil place much used by local people for dog-walking, blackberrying and bird watching.

The meadow forms an important part of the Llandaff Conservation Area - incidentally the first such area to be designated in Cardiff. The meadow was part of a wider area of parkland turned over for use as allotments from the 1930s until the mid 1950s.

In the autumn of 2013 Cardiff Metropolitan University submitted a planning application to “reinstate” and install drainage for a natural turf football pitch. Llandaff Society submitted an objection which, among other things, pointed out that the meadow has never been used as a formal sports pitch. We also pointed to the strong policy in the 2006 Conservation Area Appraisal. Many people from Llandaff and other parts of Cardiff signed a petition and joined an on-line campaign to “Save Llandaff Meadow”.

Despite our objections, a few months later - and following submission of further supporting environmental information and witness statements by the Society and the applicants - Officers recommended approval. Our local member, Cllr Kirsty Davies, secured a site visit so that the Members could see the wonderful pastoral setting of Llandaff Cathedral from the banks of the River Taff for themselves. About 40 local people turned up at the site visit.

The Members were clearly impressed because, at Planning Committee in June this year members expressed concern about the impact of the development and asked Officers to bring reasons for refusal to the next meeting, indicating that they were “minded to refuse” the application. However, at the July several Committee members did an “about-turn” and the result was that planning permission was granted for the football pitch.

A few months prior to that, it was suggested that the Society might apply for registration of Llandaff Meadow as a Village Green. Our application followed the pattern of many similar ones submitted under a clause in the Commons Registration Act 1965 which allows an area proved to have been used “as of right” ie “without force; without subterfuge and without permission” for 20 years or more since 1970 for sports and pastimes to acquire the status of a village green.

TOWN AND VILLAGE GREENS: THE STORY OF LLANDAFF MEADOW cont'd

Aerial photos, witness statements and photographic evidence from the society's archives - including tree planting along the footpath in 1989 undertaken in conjunction with the City Parks Department - confirmed in our minds the validity of our application which was submitted in late March and accepted as valid by the Council in April. In due course the applicants submitted a detailed objection to our application, and we replied with a firm rebuttal of their arguments.

As the meadow is not in the City Council's ownership, the Council can take the final decision on registration. We are assured by the Council's Deputy Solicitor that this will not be compromised by the agreement between the Council and the Cardiff Metropolitan University for the latter to take over the sports development activities and a number of staff from the Council, as the decision on our application will not be made by the Cabinet but by the Council's Public Protection Committee.

Last autumn the Welsh Government Minister responsible for Planning, Carl Sargeant AM, Minister for Housing and Regeneration, issued a consultation paper "Positive Planning" which, amongst other things, proposed that the procedural rules be changed within the forthcoming Planning Reform Bill for Wales so that an application for registration as a Town or Village Green cannot be made if a planning application has been lodged for the land in question. The Draft Planning Bill has not been published as yet but is expected imminently and thus we wait to see whether a clause to that effect has been included. If so, it will be distinctly undemocratic and very sad, because it is a truism that people don't appreciate what they've got until it is threatened.

September 2014



National Assembly for Wales
Environment and Sustainability Committee
PB 29
Planning (Wales) Bill
Response from RWE Group

The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Your ref
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Email: ES.Comm@wales.gov.uk

7 November 2014

Dear Sirs

General Principles of the Planning (Wales) Bill

We attach evidence for the above enquiry. This evidence is made by RWE Generation UK plc on behalf of all RWE Group companies operating in Wales. These companies consist of:

1. RWE Generation UK plc produces over 10% of the UK's electricity from our seven gas, coal and oil-fired power stations. We also manage a portfolio of gas and bio-mass fired combined heat and power plants across the UK. In Wales we own and operate Pembroke and Aberthaw power stations.
2. RWE Npower Group plc which supplies gas and energy services to over 6.5 million households.
3. RWE Innogy UK Limited (formerly RWE npower renewables), the UK subsidiary of RWE Innogy, is one of the UK's leading renewable energy developers with an operational portfolio in the UK of 750MW and a potential UK development portfolio of over 7,700 MW, including onshore/offshore wind farms and hydro plant. In Wales, this portfolio includes Gwynt y Mor offshore windfarm.

We have also had the benefit of seeing the evidence submitted to the Enquiry by Energy UK and are supportive of their tender.

RWE is looking forward to working with the Committee, the National Assembly for Wales and the Welsh government during the passage of the Bill and the preparation of any secondary legislation and guidance.

Yours faithfully

Simon Wells
Head of Planning and Environmental Law

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Inquiry into the Planning (Wales) Bill

Submission on behalf of the RWE Group

Note:

In this submission the term "local natural resources management plan" is used to refer to the combination of outputs from the area-based approach specified in the 4th and subsequent bullet points in paragraph 2.42 of the Environment White Paper, "Towards the Sustainable Management of Wales' Natural Resources".

References to "the Bill" and to numbered clauses are to the Planning (Wales) Bill as introduced to the National Assembly for Wales and the corresponding clauses of this Bill, unless otherwise stated.

1. Introduction

The comments below are based on those of our comments on the *Positive Planning* consultation document (December 2013) which we submitted to the Welsh Government in February this year. Recognising that the associated secondary legislation will be (and in some cases already is) the subject of separate consultations, we have focussed in this response on points which are relevant to the content of the Bill itself and the principles behind it.

2. General Comments

RWE wholeheartedly supports the need for change to the land use planning system in Wales and the changes provided for in the Bill posed in *Positive Planning* in principle. A culture has developed around the planning system and its operation that is overly regulatory, in which both planning authorities and especially statutory consultees view most development negatively, often ignoring the benefits, and in which meeting all statutory consultee concerns often seems the top priority. Local planning authorities tend to be too reactive and too risk-averse to plan positively. In large part, this is attributable to risk of decisions being challenged by way of judicial review.

RWE cautiously support the further devolution of planning powers sought by the Welsh Government, as it would not be entirely satisfactory to have separate parallel consent regimes for infrastructure development (the Planning Act 2008 regime for Nationally Significant Infrastructure Projects (NSIPs) and the proposed Welsh arrangements for Developments of National Significance (DNS) as well as the residual Electricity Act 1989 Section 37 consent regime for certain overhead electricity lines) operating in parallel in Wales. These regimes might potentially all apply simultaneously to different parts of the same project. We do however have some reservations, including about the scope and management of the Community Infrastructure Levy (CIL) going forward. Energy and other infrastructure projects should be exempt from CIL, in line with the position in England.

We welcome the introduction of the "Development of National Significance" (DNS) category of development provided for in the Bill to cover broadly the types of development which would be NSIPs if located in England, but for which responsibility is devolved. We consider it essential that the Welsh Ministers are legally bound to determine such applications within set timescales prescribed in legislation, to ensure that decisions are not unduly delayed for reasons of political expediency and that Welsh Ministers are not subject to undue party political pressure to delay potentially unpopular planning decisions.

While we understand and support the desire to promote collaboration between LPAs and town and community councils and the involvement of the latter in the preparation and revision of LDPs, increased involvement of town and community councils should be achieved without introducing additional formal stages into the LDP preparation and adoption process and must not be allowed to further increase the time required to prepare and adopt development plans.

3. Culture Change

We have pointed out above that planning authorities have become increasingly risk-averse, especially in their processing of major applications, because of the risk of judicial review. This will inhibit the desired culture change in local planning authorities.

We support the enabling role of the planning system, and the principle that it should take into account the views and needs of the communities affected by it, while steering appropriate developments to the right locations and making decisions on development proposals in the wider public interest. However, it is essential that the planning process is plan-led to provide certainty to developers, and based on published policy. Up to date Local Development Plans are fundamental to achieving this, and to efficient development management.

4. Interaction with the Proposed Environment (Wales) Bill and Integrated Natural Resources Management

- 4.1 RWE considers that it is essential to the successful future operation of both the reformed land use planning system provided for in the Bill and the natural resources management arrangements proposed in the Environment White Paper, that the two regimes are much more closely co-ordinated than currently appears to be proposed. In its response to *Towards the Sustainable Management of Wales' Natural Resources*, RWE made a similar point.

It is essential that the two regimes “march in step” and especially that;

- (1) At a Wales-wide level the setting of national natural resources policy and the associated outcomes and priority actions is co-ordinated both with the periodic review of *Planning Policy Wales* (to ensure consistency) and with the preparation and periodic review of the proposed *National Development Framework*; and
- (2) At local level the development and review of the proposed NRW area-based approach and local natural resources management plans is synchronised and integrated with the preparation and review of Local Development Plans by local planning authorities.

We believe that some additional legal provisions are required to ensure that the land use planning and natural resources management processes work satisfactorily together. While these would most aptly be included in a consolidated Town and Country Planning (Wales) Act in the longer term, but given the Planning Bill is preceding the Environment Bill, the necessary provisions will have to be made initially by the latter.

It is also essential that all parts of the Natural Resources Wales (NRW) organisation fully accept the proposed new natural resources management system and take a balanced approach with social, economic and wider environmental as well as ecological considerations driving NRW's participation in development plan preparation and its role as a statutory consultee in development management. NRW needs to provide internally consistent, co-ordinated inputs to the plan preparation process and, as a statutory consultee, similarly consistent co-ordinated responses to developers and local planning authorities on individual development proposals. NRW also needs to develop a balanced approach to the application of the Habitats Directive.

4.2 Natural Resource Management Planning and Local Development Plans (LDPs)

Local natural resources management plans (the preparation of which would be led by NRW under the Environment White Paper proposals) should have substantial weight in decisions on planning applications, but in case of conflict with a current Local Development Plan the latter should prevail. Conflict should not normally arise once the proposed arrangements have settled down, except where plans are out of date. Statutory provision to these effects should be made in due course. In the longer term the relevant parts of local natural resources management plans should in practice become embedded in Local Development Plans, and the practical need for such provisions may fall away over time.

4.3 Natural Resource Management Planning and Development Management

In its response to the Environment Bill White Paper, RWE drew attention to the importance to the success of integrated natural resources management of NRW participating constructively in, *inter alia*, the development management process. If local natural resources management plans and LDPs are properly aligned (see previous item) then conflicts between NRW's agenda and developments which conform to the Development Plan should not arise.

4.4 Natural Resource Management Planning and Statutory Assessments

The requirements for statutory assessments for major projects (whether NSIPs, (Welsh) Developments of National Significance or Major Developments for the purposes of land use planning) which link with the natural resources management planning regime proposed in the Environment White Paper, should be discussed with developers at an early stage via a planned consultative process, which ensures and facilitates active participation by all relevant stakeholders. This should include Habitats Regulations assessments. Statutory provision should be made for this process in planning legislation in due course.

5. National Development Framework

- 5.1 We strongly support the general principle of a *National Development Framework* for Wales, which would be a Development Plan for the purposes of the land use planning system, and serve to co-ordinate the location of development and (Welsh) national infrastructure provision priorities. The NDF should make appropriate provision for the location of major industrial developments including energy infrastructure, notwithstanding that the location of new nuclear power stations and other policies relating to energy infrastructure are currently the subject of National Policy Statements (NPS) issued by the Secretary of State for Energy and Climate Change. The presence of major generating stations at locations such as Aberthaw and Pembroke is of national significance in a Welsh context and therefore locations for future energy infrastructure of this nature should be identified in the NDF.

In order to support the delivery of Welsh national natural resources policy outcomes and priority actions, it is vital that there is consistency between the proposed national natural resources policy proposed in the Environment White Paper, *Planning Policy Wales* and the proposed NDF, and the revision cycles for these documents should be synchronised to facilitate this.

5.2 Area and Location Specific Policies

We support the proposal to include area and location-specific policies currently in *Planning Policy Wales* and Technical Advice Notes (TANs) in the NDF going forward, leaving PPW and TANs as generic policy documents only. In particular, Strategic Search Areas for onshore wind power currently included in TAN 8 relate to projects of national significance and should be “copied and pasted” across to the NDF. Any other national policy shifts relating to renewable energy (e.g. any shift to a criteria based approach for onshore wind power development) should be included in the NDF so they have the status of Development Plan policies.

5.3 Application of NDF

Application of NDF and any future revision of the NDF there needs to be clarity as to how much weight the draft NDF has at different stages of its preparation. LPAs should not delay development management decisions awaiting finalisation of a draft NDF.

Although not mentioned in the consultation document, the NDF would also provide an element of consistency and co-ordination across local authority boundaries, especially as far as transport infrastructure is concerned, which should simplify co-ordination of LDPs for adjacent local authority areas in this respect.

5.4 Responsibility of Energy Infrastructure

In our particular situation as a developer and operator of large scale electricity generating installations (including wind farms) we are concerned that the value of the co-ordinating function of the NDF could be lost because (unless responsibility for consents for energy infrastructure is devolved to Wales in the future) decisions on major electricity generating stations and certain other major energy infrastructure will still be taken by the Secretary of State for Energy and Climate Change on the advice of the relevant Examining Authority, on the basis of the NPS for energy developments. We strongly urge the Welsh Government to try to come to an arrangement with DECC such that the content of the NDF which has a bearing on the siting of major energy infrastructure would have equivalent status to NPS for the purpose of determining Development Consent Order applications in respect of major energy development in Wales. It would appear possible to achieve this via designation by the Secretary of State of the relevant content of the NDF as a National Policy Statement on the location of major energy infrastructure in Wales, as long as the provisions of that element of the NDF could be agreed with the Secretary of State.

6. DNS, Major Development and Environmental Impact Assessment (EIA)

We would suggest that:

- (1) All developments included in Annex I to the current EIA Directive (i.e. those for which EIA is mandatory in every case) should be treated as Developments of National Significance unless they are NSIPs, although it is probable that most such developments will be either NSIPs or DNS in any case as a result of being caught by other thresholds or by provisions in the NDF; and
- (2) Any development included in Annex II to the EIA Directive which is not a Nationally Significant Infrastructure Project (NSIP) within the meaning of the Planning Act 2008 or a DNS, but which requires EIA as a result of a voluntary decision by the applicant, a direction by the Welsh Ministers or the adoption of a screening opinion to that effect by the LPA, should be treated as Major Development. By definition EIA

developments have significant impacts and therefore the proposed “front-loading” consultation provisions for Major Development should apply.

To facilitate efficient operation of the proposed DNS and Major Development procedures in cases subject to EIA it should be made clear in secondary legislation that any consultation required for DNS or Major Development may be combined with consultations undertaken for other purposes connected with the proposed development (whether statutorily required or not) as long as all the other relevant requirements are met.

As far as legally possible the procedures and timescales prescribed in the Development Management Procedure Order for DNS and Major Development and the Planning EIA Regulations (especially as to publicity, consultation requirements and timescales) should be consistent.

7. Pre-application Notification and Consultation for DNS

We support these requirements in principle. The Welsh Government, LPAs and statutory consultees should be legally bound to provide substantive comments or to confirm that they have no comments within a specified period from receiving the consultation material. Holding responses asking for additional time should not be acceptable, as long as the applicant has complied with the statutory information requirements for pre-application notification and consultation.

We are concerned that the scope of pre-application consultation should itself be proportionate to the scale and potential impacts of the development. Lessons learned about the practical operation of pre-application consultation procedures from the early operation of the NSIP regime (including in England) should be taken into account in setting the consultation requirements for DNS applications.

In particular:

- (1) Having regard to the large geographical extent of some Welsh local authority areas (most notably Powys), there should **not** be an automatic requirement to consult all neighbouring planning authorities. This should only apply if the proposed development is within a certain distance of the neighbouring authority’s area. For most types of DNS 10 km would be a reasonable distance for this purpose, but this may need to be increased for some specific categories of development.
- (2) If at any stage of the consultation process a statutory consultee states in writing to the applicant or the Welsh Ministers that it has no comments and does not require to be consulted further about the development, then the applicant and the Welsh Ministers should not need to engage any further with that consultee.

Consultation requirements should extend to neighbouring areas of England where the development is close to the English border. This applies to local planning and highway authorities and other statutory bodies. Any statutory provisions as to consultation should provide for equivalent bodies in England to be consulted where appropriate.

From past experience it may not be feasible to determine at the notification stage whether a Habitats Regulations Assessment will be required, whereas it should be clear at the outset whether the project is a Schedule 1 or Schedule 2 project for EIA.

There should be a statutory duty on NRW as well as the relevant LPA(s) to provide pre-application advice on request in respect of proposed DNS, covering:-

- (1) matters within NRW's remit which should be addressed as part of the application;
and
- (2) the other environmental bodies (including NGOs where appropriate) which should be consulted by the applicant.

There are many detailed issues to be resolved at a later stage about how the pre-application procedure will operate, which will need to be addressed in secondary legislation. These include the scope or otherwise for prospective developers to have early stage discussions with Welsh Government/PINS Wales on a confidential basis before committing to the formal DNS application process beginning with formal notification of the intended application to the Welsh Ministers.

8. Interaction with the Planning Act 2008 regime for NSIPs

For the longer term we consider that the continued co-existence in Wales of the current consent regime for NSIPs, the residual Electricity Act 1989 consent regime (primarily for overhead lines under S.37) and the proposed (Welsh) planning application procedure for Developments of National Significance would not be entirely satisfactory. The disadvantages of having two parallel regimes could however be mitigated by a combination of:-

- (1) Extending the proposed provisions allowing application to the Welsh Ministers for connected consents in respect of DNS to cover similar consents in respect of NSIPs and development directly associated with NSIPs (which in England could be included in the scope of a Development Consent Order, as described below; and
- (2) Appropriate use of the Welsh Ministers' call-in powers; and
- (3) Co-ordinating the examination of related applications across the NSIP and Welsh planning regimes.

While certain energy and other projects in Wales remain subject to the (UK) NSIP procedure and the consent function for them is not devolved to Wales, the provision allowing connected applications to be submitted to the Welsh Ministers instead of to the LPA, NRW etc. should also extend to applications connected to an application for an NSIP wholly or partly in Wales, or which is itself in England but involves directly associated development in Wales. This would enable the Welsh Ministers to appoint the Examining Authority for that NSIP to examine also any connected applications relating to devolved matters in Wales. This in turn would allow a common examination process covering the complete project, and enable the Examining Authority to make a coherent set of recommendations to both the Secretary of State and the Welsh Ministers as to the determination of the applications relating to the NSIP which fall within their respective areas of responsibility. This arrangement would not be ideal but would mitigate the effects of the separation of the NSIP and Welsh planning procedures and should reduce the vulnerability of the fragmented overall consent process to legal challenge. However it should not be mandatory for a developer to make application for connected consents (in respect of a DNS or an NSIP) to the Welsh Ministers.

Additionally, consents under Water Resources Act 1991 S.109 in respect of main rivers and associated flood defences, the equivalent provisions of the Land Drainage Act 1991 in respect of other watercourses, and equivalent provisions in any local by-laws, which would normally fall to be determined by NRW, should also be included in the connected applications which could be submitted to the Welsh Ministers.

9 Planning in National Parks

The principle behind the present arrangements is that National Parks serve a national and, in the case of those in Wales, a UK-wide function, and the membership of National Park authorities and the planning arrangements for the National Parks reflect this.

On the other hand, National Park boundaries are inevitably inconsistent with river catchments, local authority boundaries and transport routes, and this can create co-ordination issues in some areas.

The responsibilities for planning in National Parks are not altered by the Bill as introduced but we are aware that the removal of planning powers from National Park authorities in Wales has been suggested. On balance we do not think that a case has been made for changing the current responsibilities fundamentally, especially where there are several local authorities parts of whose areas are within a single National Park, as in the Brecon Beacons.



Ymddiriedolaeth
Genedlaethol
National Trust

**National Trust Wales Submission to the Environment and
Sustainability Call for Evidence on the Planning (Wales) Bill
November 2014**

As a charity rooted in the belief that places matter to people National Trust Wales sees land-use planning as a key tool in the creation of great places for people to live, work, play and visit.

An effective planning system guides good, necessary development to the right places, making an important contribution to prosperity and growth. It ensures that poorly designed developments and those in the wrong place don't get built. It delivers the new homes, shops and services that community's want, where they want them. And it protects the things that matter to us all; from much-loved open spaces, green fields and productive agricultural land to our historic city centres, towns and villages. National Trust Wales is a frequent participant in the planning system, and we recognise the importance of a fair and balanced decision-making process. We support a plan-led system as a means of providing certainty and confidence, and a way to deliver good development which meets long term needs.

We are grateful for the opportunity to respond to this call for evidence. We appreciate that the Planning (Wales) Bill which it addresses is the result of a lengthy Welsh Planning Review and we strongly support the evidence-based and consultative approach which has been taken by the Minister and his department.

While we welcome this Bill we also acknowledge that the Bill is the beginning not the end of a journey. Guidance which determines much of how the planning system will run will be developed over the next two years and we hope to remain engaged in this process.

In addition, one of the underpinning drivers behind Positive Planning is culture change within the planning system. We hope to support in this through our future representations to planning boards.

We only wish to make a short submission to the Committee covering the following areas;

1. Loss of Design and Access Statements
2. Resourcing of Local Authorities where applications are determined by the Minister
3. Changes in regulations around applications to register town and village greens

1. Loss of Design and Access Statements

We understand that the requirement for design and access statements will be removed by the Planning (Wales) Bill. While we accept this we do feel that some developments do need to give special consideration to design and access, especially those being developed in designated landscapes. We would like to encourage the inclusion of an alternative means for developers, where appropriate, to further consider the design and access features of their development.

2. Resourcing of Local Authorities where applications are determined by the Minister

National Trust Wales has concerns around resourcing of Local Authorities in situations where applications are deferred to the Minister. In these cases Local Planning Authorities will be left to deal with the post-determination work (such as discharge of planning conditions) following an application for a DNS, which they would not be responsible for approving. This could cause resource issues for the authority, especially as they would not be in receipt of the planning fee for that application. We would suggest that a system through which the Minister's office recompenses the Local Authority needs to be put in place.

3. Changes in regulations around applications to register town and village greens

National Trust Wales is concerned that the provisions relating to Town and Village Greens will result in local people losing access to land that they rely on for exercise, leisure activities and general health and wellbeing. These areas are under incremental threat from development.

We are discussing how similar regulation has functioned in England and might subsequently support further changes to the Planning (Wales) Bill on this issue.

For more information please contact;

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07766820767

Sent via email: es.comm@wales.gov.uk

Sirs,

Consultation: General Principles of the Planning (Wales) Bill

Vattenfall is the Swedish state owned utility and one of Europe's largest generators of electricity and heat. Renewable energy, and wind power in particular, is at the core of our business – 33% of Vattenfall's total investments in generation assets in the period 2012-2016 will be in wind power.

Vattenfall is a major inward investor in the UK, investing over £2bn since 2008 operating four onshore and three offshore wind farms with a significant portfolio in development. Vattenfall has made final investment decisions worth a further £0.6bn in 2013, onshore at Pen y Cymoedd and Clashindarroch and offshore on the Kentish Flats Extension.

The 228MW Pen y Cymoedd Wind Project is on track to be operational in 2017. It is potentially worth £1bn to the Welsh economy over the lifetime of the project and Vattenfall has already awarded £45m in contracts to Welsh business supporting over 600 Welsh jobs in the first four months of construction. The community benefit fund is worth £1.8m annually over the lifetime of the project. Vattenfall has a further c. 130MW of onshore wind in development in Mid Wales and seeks to create similar economic and community benefit on these projects.

Vattenfall welcomes the principle of greater devolution of planning matters to Wales. Any reforms must focus on ensuring the planning process works more effectively for communities and business and delivers Welsh Government objectives. In Vattenfall's experience of developing, constructing and operating renewable energy projects, the most significant issue is the delays caused by the planning system. One example is Vattenfall's Llanbadarn Fynydd project in Mid Wales where the project was submitted to planning in November 2007, went to Committee in March 2012 and a consent decision is expected in Q1 2015 at the earliest – a process of over 7 years. Delays of this length create major challenges for developers and ultimately delay the delivery of economic benefit to Wales. Reforms must focus on addressing this issue which will strengthen Wales' competitive advantage in the global marketplace.

Yours sincerely,



Rob Baylis
Head of Onshore Development England and Wales
Vattenfall

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To make the following comments on the Planning (Wales) Bill:

National Development Framework

- There should be a clear statement on the purpose of the NDF.
- The NDF must contain a clear statement regarding planning for energy projects, particularly renewables, and their associated infrastructure. Given the NDF's importance in providing the context for Local Development Plans and decisions on Developments of National Significance, there must be no 'grey areas' in understanding or interpretation. Any lack of clarity will result in delay and possible legal proceedings. As the foundation of the Bill, it is essential that the NDF is clear and concise.
- The Bill allows for revision of the NDF at any time. The NDF must not be continually amended. It must be given time to 'bed in' and allow developers, communities and LPAs time to understand and work constructively with the document.

Pre-application procedure

- Vattenfall undertakes early, transparent and in-depth pre-application engagement on all projects, making particular effort to ensure the hard to reach are consulted.
- A clear structure for pre-application engagement will help facilitate better projects by understanding the needs of statutory consultees and local communities. Any statutory requirement to undertake pre-application consultation should not be over-prescriptive and provide the developer with flexibility to consult in a way that does not add further cost or delay to the project. Part 3 61Z (9) (a) risks being over-prescriptive.
- Pre-application consultation procedures must be proportionate to the scale of development proposed.
- Supporting Welsh developers with clear engagement and best practice guidelines, for example those provided by DECC for English projects, would assist in supporting the delivery of the Welsh Government's objectives of ensuring communities can influence proposals. The provision of guidance would help ensure any statutory requirements are not overly prescriptive for developers.
- Communities should also be supported by guidance and a form of 'advisory service' to ensure the new framework is understood.
- Any guidelines or best practice principles should be general rather than by technology for clarity and efficiency.
- Clear guidelines will help ensure that pre-application moves forward without unnecessary and costly delay.
- A public register or portal to capture best practice in pre-application engagement may also assist with improving transparency and increasing knowledge sharing. The

Government's objective will not be achieved by the 'Pre-application consultation report' alone.

- Care must be taken that the pre-application consultation report required to be submitted by developers is proportionate to the scale of development proposed.
- Consideration should be given to the introduction of a competency framework or training to achieve the required improvements in skills and knowledge in LPAs.
- The management, monitoring and evaluation of mandatory guidelines will require further resource.

Requirement to provide pre-application services

- The regulations must make provision about the timelines by which statutory consultees should respond to any information requirements or requests. The delays experienced in the current system create uncertainty for all parties and delay the delivery of the economic benefits that renewables projects provide. This provision will improve the system by helping to provide developers and communities with more certainty about response times.
- Planning Performance Agreements have a clear role to play in agreeing service levels expected by developers, statutory consultees and LPAs in the provision of pre-application advice. A proportionate fee is appropriate if a professional service is provided. Any fees must remain at a consistent level.

Developments of national significance (DNS)

- Vattenfall welcomes the principle of the designation of onshore wind projects 25-50MW as DNS. This will help to efficiently bring forward the projects that Wales needs to contribute to the UK's renewable/2050 targets and to grow the Welsh supply chain. However, the supporting policy and secondary legislation will be crucial in determining how far this designation improves the current consenting process and how successful this will be in achieving the Welsh Government's objectives. The supporting policy and legislation must ensure that the DNS designation does not create extra practical or cost burdens on developers, particularly at a time when significant efforts are being made to reduce costs.
- Fundamental to the DNS achieving the Welsh Government's objectives is a clear statement in the NDF relating to renewable energy projects and secondary consents.
- The clarification of what constitutes a secondary consent is welcome. DNS applications must include all related consents to help ensure projects can proceed to agreed timelines and at least cost.
- The Bill does not state at what point in the development timeline a developer should notify Ministers that a DNS application will be made. This should be clarified to avoid

confusion. Care must be taken throughout that provision is made for clear timescales for decisions at each stage of the DNS process. This will provide developers and all parties with the certainty they require and which the Bill is intended to achieve.

- The process undertaken by the Planning Inspectorate to progress the application using the written representations procedures must be efficient and time limited. The timetable for receiving representations and providing the report must be made public at the start of the process and adhered to.
- The Welsh Government must provide clear guidance for LPAs and developers for this new process to ensure it is clearly understood and does not create further delay when introduced.

Option to make application to Welsh Ministers

- Vattenfall welcomes the principle of the option for developers to make a direct application to Welsh Ministers where the LPA is designated poorly performing.
- The Bill must provide clear timescales for evidence gathering and decision making by Ministers to ensure this option achieves the Welsh Government's objective of more timely and efficient decision making and greater certainty for developers.

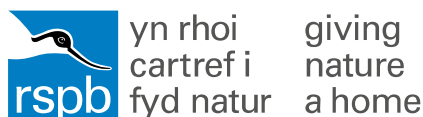
Statutory Consultees

- Vattenfall welcomes the principle of legislation to ensure statutory consultees are obliged to respond in a timely and substantive way. This will help ensure that applications can progress within proposed timescales and will help developers better manage costs and resource.
- The relevant development order must be clear on the deadline for response and the penalty for not doing so. Response times should be monitored and regularly reported on.

Appeals etc: Costs and procedure

- The provision for the award of costs at Part 6: 44 have the potential to increase exponentially increasing cost on developers. These costs must be transparent and reasonable.
- The provision of a time limit at Part 6: 45 for any party to respond and for Ministers to proceed to decisions is welcome. Similar provisions should apply to statutory consultees and be clearly stated throughout the Bill, not just in this section.

National Assembly for Wales
Environment and Sustainability Committee
PB 32
Planning (Wales) Bill
Response from RSPB



Evidence submitted by RSPB Cymru to the Inquiry of the Environment and Sustainability Committee into the general principles of the Planning (Wales) Bill
November 2014

RSPB Cymru is part of the RSPB, the country's largest nature conservation charity. The RSPB works together with our partners, to protect threatened birds and wildlife so our towns, coast, seas and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations. The RSPB has over 1 million members, including more than 51,000 living in Wales.

1. Introduction

- 1.1 The RSPB welcomes the opportunity to input to the Environment and Sustainability Committee's Stage one scrutiny of the Planning Bill. We would be keen to elaborate on our written evidence provided in this paper by giving oral evidence to the Committee should the opportunity arise.
- 1.2 The RSPB welcomes the advent of the Planning (Wales) Bill as the first item of Welsh primary legislation on planning matters. We consider that in general, the introduced Bill strikes a reasonable balance between the understandable desire to speed up and simplify processes associated with the town and country planning system in Wales, and the need to retain what we consider to be the central pillars of a modern planning system. These pillars consist of an emphasis upon strategic planning to avoid "downstream" confrontation, complete local development plan (LDP) coverage, and the primacy of the development plan as the major material consideration in local planning decisions. We consider that to erode the central importance of the development plan or to attempt in some way to give greater weight to economic matters at the expense of environmental protection and enhancement would be contrary to the pursuit of sustainable development which is recognised in *One Wales: One Planet* as the "central organising principle" for government in Wales. The pursuit of sustainable development demands an energetic and imaginative search for sustainable solutions which attain all of the three elements of sustainable development. This is the spirit and essence of Green Growth.

2. A Statutory Sustainable Development Purpose for the Welsh Planning System:

2.1 We are surprised and disappointed to note the absence of any provision in the Bill for the introduction of a statutory sustainable development purpose for the Welsh planning system. We consider the introduced Bill's treatment of sustainable development to be deficient, and not in conformity with the way in which the Independent Advisory Group (IAG) "*Towards a New Welsh Planning Act: Ensuring the Planning System Delivers*" June 2012 addresses this matter. The IAG Report recommended a statutory purpose for planning as follows :-

"the purpose of the town and country planning system is the regulation and management of the development and use of land in a way that contributes to the achievement of sustainable development" (Recommendation 1) and that :-

“The Welsh Ministers may issue guidance to planning authorities of the application of the purpose in exercising or performing those powers or duties and the planning authority shall have regard to any such guidance so issued” (Recommendation 3).

We support these recommendations, and see no reason to exclude them from the introduced Bill.

2.2 The IAG Report accepts the definition of sustainable development in Planning Policy Wales, which is itself drawn from the *One Wales: One Planet* document, and in respect of this matter we note that the concurrent Well-being of Future Generations (WFG) Bill proposes six ‘well-being goals’, which, taken together, constitute in effect a sustainable development ‘duty’ on the public bodies listed in the Bill. The descriptor for one of these, ‘A Resilient Wales’, makes reference to ‘A biodiverse natural environment with healthy functioning ecosystems...’. Welsh Ministers are included in the list of public bodies to which the Bill will apply, together *inter alia* with local planning authorities, National Park authorities and Natural Resources Wales. The Bill requires the listed public bodies to ‘seek to achieve’ the well-being goals through their ‘governance arrangements’ and subsequent objectives and actions.

2.3 We therefore strongly advocate that a statutory sustainable development duty be introduced, along the lines of that applied to the Scottish planning system via para 28 et seq of Scottish Planning Policy 2014.

3. Over-reliance on Recourse to Secondary Legislation:

3.1 We consider that the Planning Bill as introduced, contains worrying references to the use of secondary legislation in places where we believe that primary legislation is more appropriate. The main example of is Clause 53(2), which would give powers to the Welsh Ministers to change primary planning legislation in the future by subordinate legislation. We do not accept that “this power is required to provide flexibility to amend technical provisions” (p77 Explanatory Memorandum), and consider this a sweeping power which would not allow for the appropriate level of scrutiny on what could be fundamental changes to the planning system in the future.

4. Relationship with the Environment (Wales) Bill:

4.1 National Natural Resource Policy (NNRP):

4.2 Clarification of the relationship between the introduced Planning Bill and the provisions of the emerging Environment Bill is required. We understand Welsh Government intends the NNRP in the forthcoming Environment Bill to be the policy expression of natural resource management (NRM) at a national scale. We also understand Welsh Government wishes to use the Environment Bill to set a direction for NRM, which will be “an area-based approach” and create Area Statements as the products of the process to drive change forward. To achieve change however, both the NNRP and the Area Statements must have materiality within the planning process. Thus, the National Development Framework (see below) should be in conformity with the overarching NNRP and LDPs should be in conformity with the Area Statements.

5. Relationship with the Well-being of Future Generations Bill:

5.1 Clarification is further required of the relationship between the introduced Planning Bill and the provisions of the emerging Well-being of Future Generations Bill for the creation of Public Services Boards and the local well-being plans for which they will have responsibility (Part 4, Chapters 1 and 2 of the WFG Bill). The status of these plans and processes is unclear, especially with reference to LDPs. In our evidence concerning the WFG Bill to the Committee, we expressed concern that lines of planning

responsibility might become blurred, especially in relation to environmental management and improvement.

6. Governance:

6.1 The National Development Framework (NDF):

6.2 The RSPB supports the introduction of the power to formulate a NDF, as we consider that a statutory national spatial plan that identifies broad locations of constraint and opportunity on a macro scale is good planning. We further support the intention that the NDF will be part of the development plan, and therefore that lower-level plans (Strategic Development Plans (SDPs) and Local Development Plans (LDPs)) will have to be in conformity with it, because this will deliver the predictability and certainty which a modern planning system should create in the interest of sustainable development in the round.

6.3 Thus, given the importance of this new national spatial plan, it is vitally important that the NDF is fit for purpose as a national spatial plan, because were unsustainable locations for development to be identified in it, that would embed such locations in the “downstream” planning structures of the SDP and LDP, and in development management, making it difficult if not impossible, to correct mistakes made at this level. It is important to consider that “customers” of the planning system are not only the applicants, but also communities, civil society, non-governmental organisations and indeed the environment of Wales. We therefore raise the following issues in relations to the NDF :-

6.3.1. We consider that, given the above, and the fact that, unlike all other levels of planning in Wales, the introduced Bill (Clause 2(60) *et seq*) does not provide for a public examination of the NDF, the proposed arrangements with regard to scrutiny and validation of the NDF are inadequate. Our experience in Scotland with regard to the Scottish National Planning Framework is that a 60 day scrutiny period is insufficient in this respect, and consequently, we advocate a 100 day period. We understand that a number of Members of the Scottish Parliament voiced similar concerns about the 60 day timescale.

6.4 It is difficult to overestimate the importance of the NDF or the way in which it will address the overwhelming majority of large-scale development, hence the need to ensure a thorough scrutiny process.

6.5 We are also disappointed that the IAG’s view (Para 4.15) that an Inspector assists in the Assembly’s scrutiny process over the NDF is not included in the introduced Bill, as this would greatly aid scrutiny.

7. Environmental Constraints and the National Development Framework (NDF):

7.1 In order to avoid “creeping validation”, whereby damaging developments becoming enshrined in the NDF before a full understanding of their impacts emerges, we advocate that the Bill provides for the provision of the spatial expression of environmental constraints in the NDF, as well as development opportunities. Again, experience in Scotland shows that where this does not happen, for example, as in the case of the Hunterstone Powerstation application, expensive and time-consuming resistance was encountered. We consider that, at a minimum, Sites of Special Scientific Interest (SSSIs) and Natura 2000 sites/Ramsar Sites (respectively UK-important and internationally important sites for nature conservation) are indicated in the NDF, with a very strong presumption against development affecting such sites included as policies in the NDF. This means that developers are able to identify very early in project development, where Developments of National Significance (DNSs) are unlikely to be acceptable and therefore, by extension, where they are likely to be acceptable.

7.2 “Zones” versus “Sites”:

7.3 Given that the NDF is an “upstream” plan, its strength is that there is considerable potential to design DNSs in a way, and at a location which obviates material adverse environmental impacts, because such upstream projects would not have become so deeply embedded in the consent process. We advocate therefore that the Bill includes reference to “zones” rather than specific sites to be indicated in the NDF, allowing the developers the time and flexibility to “design away” problems, through optimal location of development within a wider zone.

8. The Wales Infrastructure Investment Plan (WIIP):

8.1 The RSPB is concerned about a lack of clarity on the part of the introduced Bill with regard to the WIIP. The draft Bill stage consultation document “Positive Planning” implied that the WIIP is one of the “family” of national policy statements, however we do not consider the WIIP to be a mature and properly-formulated statement of national policy because *inter alia* :-

8.1.1. No proper consultation or validation processes were associated with its formulation, and the likely adverse environmental impacts of infrastructure projects contained within it were not examined in any way.

8.1 No Strategic Environmental Assessment (SEA) or Habitats Regulations Assessment (HRA) was carried out in respect of it, in spite of the fact that it made spatial statements.

8.2 We therefore consider that the WIIP should be deleted, and that that contained within it form part of the evidence base for the NDF.

9. Relocation of the Spatial Element of the TANs into the NDF:

9.1 The RSPB considers that the relocation of the spatial elements of the Technical Advice Notes (TANs) in the NDF, as set out in Explanatory Memorandum (para 3.23,) could have adverse unintended consequences in the case of the Strategic Search Areas (SSAs) for onshore windfarm development, delineated pursuant to TAN 8 (which was referred to specifically in the draft Bill stage “Positive Planning” consultation). This provision could allow for the deletion of existing SSAs, the expansion of existing SSAs or the delineation of new SSAs, and this would then have subsequent requirements for a Strategic Environmental Assessment (SEA) and/or a Habitats Regulations Assessment (HRA). Furthermore, there is no indication that the Welsh Government has considered whether a Revocation SEA would be required for TAN 8 itself, i.e because the spatial elements have been removed. Both SEA and HRA require the consideration of alternatives, and require public consultation, which must be taken into consideration by the plan or programme formulator.

10. Relationship of the NDF with the “Family” of other National Plans:

10.1 The RSPB is of the view that clarity is required on the part of the Bill with regard to the relationship of the NDF with the family of other national plans (see above). These plans include *inter alia* the National Natural Resource Policy, the Wales Infrastructure Investment Plan (WIIP) and the Wales National Transport Plan (WNTP).

11. Developments of National Significance (DNS):

11.1 The RSPB understands the desire to reduce lengthy public inquiries in relation to such development types, and supports thoroughgoing validation and scrutiny processes in respect of them. However we have concerns about some aspects of the DNS proposal, which we set out below:-

11.2 Clause 17(62D(3)) contains provision for Welsh Ministers to develop criteria which could have the effect of rendering any development a Development of National Significance (DNS). This creates a lack of clarity over the nature of DNS development types, and therefore a lack of certainty and predictability in terms of the way in which development types will be considered. Furthermore, this is an example of the over-reliance on recourse to secondary legislation referred to earlier in our evidence.

11.3 Notwithstanding the above, the process by which a development type becomes a DNS is not clear in the Bill. There appears to be two routes to a development type becoming a DNS (Clause 17/62D(2) above, and *via* subordinate legislation and in neither route is a list of development types provided), even though a list is provided in Annex B to the draft Bill stage consultation document "Positive Planning". Furthermore, green infrastructure or equivalent is absent from Annex B(i) of the above document, but present in Annex B(ii) (major development).

12. DNS and Lessons Learned from the Nationally Significant Infrastructure Project (NSIP) Process:

12.1 The proposed arrangement with regards to DNSs bears considerable resemblance to the England and Wales NSIP process (indeed the IAG Report makes reference at para 4.85 to "a Welsh NSIP process"). The UK Government has carried out an independent review of lessons learnt so far, and has responded to the review^{1,2}. The RSPB's experience in our engagement with the NSIP process over several years leads us to make the following points in relation to this matter :-

12.1.2 There should be no provision for the developer to submit late supplementary information in support of his application. The Inspector should obtain confirmation from NRW at the appropriate stage in project development that all necessary environmental information has been provided.

12.1.3 "Frontloading" the application process (i.e. a greater emphasis on early consultation by the developer) should be meaningful, and where necessary, allow for substantive changes to the project.

12.1.4 NSIP deadlines (and the associated risk of punitive costs awards) are so draconian as to discourage members of the public/civil society and NGOs from engaging with projects.

12.1.5 There is a democratic deficit, which manifests itself as an overly professionalised approach, meaning that although the public, and local planning authorities can make contributions to the process, one gains the distinct impression that such contributions are treated as tokenistic. The fact that the "success-rate" of applications for NSIPs currently stands at 100% adds weight to this perception.

13. Environmental Restoration Enhancement Projects as DNSs:

13.1 We consider that large-scale environmental restoration/enhancement projects, for example opening seawalls and re-flooding areas to create new wetland habitats as well as more sustainable (or 'soft') flood management projects or other green infrastructure (GI) projects, should be capable of being DNSs. For example, the Scottish National Planning Framework includes the Central Scotland Green Network project. This would have the benefit of providing a presumption in favour of such landscape-scale green infrastructure projects, thus ensuring that the NDF plays its full role in relation to the provision of ecosystem services, possibly using Payment for Ecosystem Services schemes, pursuant to green

1

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262984/Reviewing_the_National_Significant_Infrastructure_Planning_Regime_-_Discussion_document.pdf

2
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306404/Government_response_to_the_consultation_on_the_review_of_the_Nationally_Significant_Infrastructure_Planning_Regime.pdf

infrastructure and climate change mitigation and adaptation imperatives, and in conformity with the provisions of the emerging Environment Bill.

14. Statutory Consultees and the Planning Bill:

14.1 We would like to point out an error in para 3.103 of the Explanatory Memorandum which accompanies the introduced Bill, which states :-

“The [IAG’s] evidence base identified that the general level of performance of statutory consultees does not reflect their important role and influence in the planning system... Concern was expressed that statutory consultees cause delay in the process by providing late responses to consultation requests”

14.2 This is simply incorrect. As a member of the IAG, we can state that, apart from individual anecdotes, no quantifiable evidence was submitted pursuant to the IAG’s Call for Evidence which supports this claim. Indeed, evidence submitted by the then Countryside Council for Wales and Environment Agency Wales proved that the “hit rates” for consultation responses was in the range 80-95%. This is reflected in para 4.136 of the IAG Report, which states :-

*“**Whether fully justified or not** there was a common thread criticism about delays due to late responses to consultation”* (on the part of statutory consultees) (emphasis added)

This is included in the IAG Report to reflect the fact that such claims were not supported by evidence submitted.

14.3 Clause 18(100A(2)) contains a new duty placed upon NRW, to provide a substantive response, which must be submitted within a specified period. Whilst we do not disagree with the principle of timely and substantive responses on the part of statutory consultees, this, in effect, imposes new duties without commensurate new funding. The timescales have to be proportionate and there needs to be reciprocal requirements on applicants to provide full and adequate information at the start of the process.

15. Development Management:

15.1 A Statutory Requirement for Pre-Application Public and Statutory Consultee Consultation:

The RSPB welcomes a statutory requirement for pre-application public and statutory consultee consultation. However, based on previous experience, we are concerned by reference in the Explanatory Memorandum at para 3.54 to the aim of “frontloading” being to :-

“smooth the passage of the application, by enabling any issues to be flushed out and resolved in advance”

15.2 The concept of frontloading in the planning system has been pursued for several years by the Welsh Government, through reviews of the LDP formulation process for example. It is the RSPB’s experience that it is a misconception that the mere fact of “flushing out” objections will, of itself, result in them being resolved. This is clearly illogical. There will be many instances where the development proposal and the environmental value of the “receiving land” are simply not compatible, and no amount of discussion and design modifications can remove such impacts, or reduce them to an inconsequential level.

15.3 Additionally, by definition, the pre-application stage takes place before a full appreciation of the environmental impacts of the development proposal can be gained, because, for example, a statutory Environmental Impact Assessment (EIA), where appropriate, would not have been carried out.

15.4 In order for the town and country planning system in Wales to play its full role in environmental protection and enhancement, and for the system to retain the confidence of the people of Wales, the right to simply make and maintain objections on environmental grounds should not be eroded, either directly or indirectly, by the Bill either during the pre-application stage or afterwards.

FSB Wales

Planning
(Wales) Bill

7th November 2014





Planning (Wales) Bill

FSB Wales

FSB Wales welcomes the opportunity to present its views to the Environment and Sustainability Committee on the general principles of the Welsh Government's Planning (Wales) Bill. FSB Wales is the authoritative voice of businesses in Wales. With 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with business at a grassroots level. It undertakes regular online surveys of its members as well as a biennial membership survey on a wide range of issues and concerns facing small business.

Executive Summary

In response to the consultation FSB Wales makes the following headline observations:

We would call on the committee to examine why the following have been omitted from the Bill:

- A proper assessment of the impact of the Bill on micro, small and medium-sized businesses
- Any mention in the explanatory memorandum of the Planning Advisory and Improvement Service (PAIS)
- Further consideration of Permitted Development Orders for change of use - the biggest reason for SMEs engaging with the planning system
- A requirement for planning authorities to submit an Annual Performance Report outside of Strategic Development Plans
- Any reference to the role of National Parks in the planning process. FSB Wales is of the opinion that planning powers should be removed from Wales' National Parks and returned to local planning authorities

In reference to provisions found in the Bill as currently drafted we suggest:

- The Welsh Government should articulate a vision for developments in Wales and clearly set out what will be considered a Development of National Significance
- The committee should examine the governance arrangements for the proposed Strategic Development Panels to prevent a lack of accountability and to ensure the views of SMEs are represented
- The proposals to front-load the development plan process and for Ministers to be able to direct local authorities to produce a joint LDPs, where appropriate, are to be welcomed
- Proposals around community engagement in the LDP process should include an emphasis on engaging with the local business community
- Pre-application advice remains a key area of concern to FSB members and we call for the call for the implementation of recommendations of our 2008 report Small Businesses and the Planning System in Wales. We believe charges for pre-application advice should only be levied where an application proceeds
- The proposal to remove the requirement for mandatory design and access statements is welcome
- A move to ensure the role of statutory consultees is defined more appropriately in legislation is appropriate
- Proposed reform of planning committees and the delegation process is to be welcomed.



- Additional enforcement powers for planning authorities need to be accompanied by oversight from PAIS to ensure their use is fit, proper and proportionate
- Changes to the planning appeals process are welcome, and we would like to see the creation of a Commercial Appeal Service.

Introduction

FSB Wales warmly welcomes the introduction of the Welsh Government Planning (Wales) Bill to the National Assembly for Wales. FSB Wales has taken part in numerous work streams in anticipation of the Bill that helped form a part of the evidence base. Our response to the Committee's inquiry is split into two sections. Firstly, our response considers issues that are not considered in the Bill. Secondly, we discuss the proposals included in the Bill and their likely impact on Wales' micro, small and medium sized businesses.

This is the first opportunity for a Wales specific Bill in relation to the planning system, following legislative devolution confirmed in the 2011 referendum. This provides a fantastic opportunity to streamline the planning system to make it easier for development opportunities to be managed positively to fruition. As such, FSB Wales largely agrees with the need and general principles of the Bill as introduced to the National Assembly for Wales.

Omissions from the Bill

There are a number of issues that are mentioned in the previous Positive Planning consultation document that have not been included in the Bill as laid in the National Assembly for Wales¹. While FSB Wales recognises that the reason for this is that some policies do not require primary legislation to be implemented, we have focused here on issue that we believe pertain to the legislation. We would call upon the committee to explore why these issues have been omitted from the Bill, despite their inclusion in the Positive Planning consultation.

Impact Assessment and SMEs

FSB Wales welcomes the detailed impact assessment that accompanies the Bill. However, we are concerned that there is little attention paid to the impact on micro, small and medium sized businesses. Rather, businesses are categorised as 'developers'. This makes the assumption that the nature and type of planning applications are homogenous and the impact is therefore the same. FSB Wales believes this isn't the case. For instance, the vast majority of planning applications submitted by FSB members relate to relatively small issues such as change of use, extensions, minor physical improvements and signage issues (see Figure 1). Therefore, assessing the impact of pre-application advice fees, for example, could potentially mask the nature and resultant workload of a wide range of application sizes. This could lead to SMEs potentially shouldering a higher burden of the impact, with fees being a substantially larger proportion of expected returns from any development proposals.

FSB Wales therefore urges the Committee to examine this issue further to clarify the impact on SMEs. In particular, the Committee should ascertain whether the assumptions made in the impact

¹ Welsh Government 2013. *Positive Planning: Proposals to reform the planning system in Wales*. WG20088



assessment are reasonable and proportionate to firms of varying sizes. The need for an improved impact assessment process was highlighted as a priority in our recent report, *Better Regulation for Wales*².

Planning Advisory and Improvement Service

FSB Wales welcomes the Welsh Government's proposals for a Planning Advisory and Improvement Service (PAIS). The Independent Advisory Group on Planning (IAG) identified the need for development to be better managed by planning officers and FSB Wales agrees with this assessment. The PAIS should also work to ensure that planning officers have knowledge and understanding of the day-to-day constraints of small firms and how this could potentially impact on the planning application process.

There is no mention of the proposed Planning Advisory and Improvement Service in the explanatory memorandum. This suggests that the body will not be underpinned on a statutory basis. As such, FSB Wales believes it is important that the Welsh Government's current task and finish group on the formation of a PAIS engages widely with SMEs. This should reflect and consider the Committee's previous recommendation that PAIS should be independent of Welsh Government.

Review of PDO for Change of Use

The publication of the Planning (Wales) Bill was accompanied by a large number of consultations on specific secondary legislation that could have a bearing on the planning reform agenda. In this respect, FSB Wales is disappointed not to see further consideration of Permitted Development Orders for change of use via a review of the use class order, as was suggested in the Positive Planning consultation³. FSB Wales data (see figure 1) shows that this is a primary area of use for SMEs using the planning system. As such, FSB Wales believes this issue should be examined in conjunction with wider planning reforms.

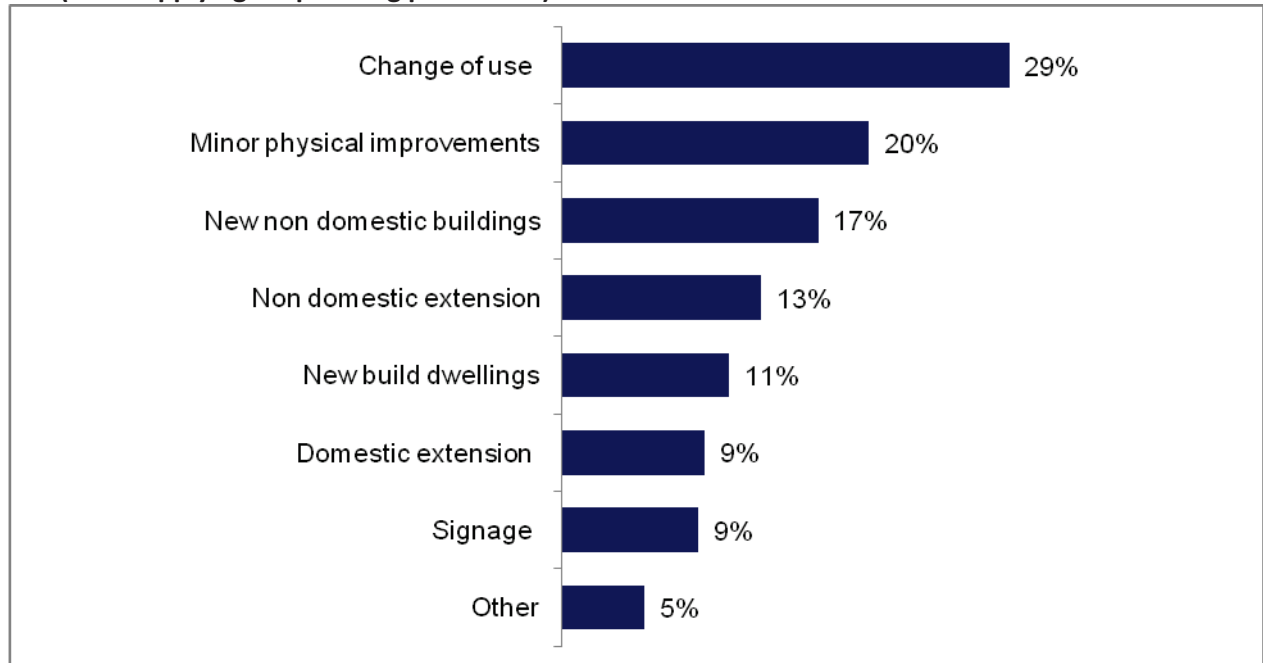
² FSB Wales. 2014. *Better Regulation for Wales* [Online]. Available at: <http://www.fsb.org.uk/wales/publications>

³ Welsh Government 2013. *Positive Planning: Proposals to reform the planning system in Wales*. WG20088 P.30



Figure 1

Q27. Specifically, what type of alteration or development does your application relate to? Base: 241 (those applying for planning permission)



Annual Performance Report

The Positive Planning consultation suggested that all planning authorities would need to submit an Annual Performance Report as part of the reform programme. FSB Wales is concerned that this is only referenced in relation to Strategic Development Plans and believes the Committee should consider the form and nature of reporting mechanisms of planning authorities. The publication of an Annual Performance Report would strengthen the level of scrutiny of local planning authorities

National Park Planning Powers

The current Bill makes no reference to the role of National Parks in the planning process, despite the issue being considered by the previous Positive Planning consultation. While FSB Wales recognises the Welsh Government is currently reviewing the role of statutory landscapes via an Independent Panel led by Professor Terry Marsden, there is a danger that these issues will now run in parallel and as a result the opportunity to reform National Park Planning Authorities in the present Bill will be missed.

FSB Wales recently published a qualitative study of planning in national parks that revealed a number of concerns around the ability to pursue development in the national parks⁴. Key concerns raised as part of this report were the quality of communication between officials and the businesses concerned, frequent requests for additional information and a perceived lack of accountability for

⁴ FSB Wales. 2014. *Planning in National Parks [Online]*. Available at: <http://www.fsb.org.uk/policy/rpu/wales/images/fsb%20planning%20issues%20in%20welsh%20national%20parks%20report%20english%20website.pdf> (accessed 11th February 2014).



decision making. This has ultimately led a large number of applicants to use external planning advisors to deal with the burden of information required.

While the report did not draw firm conclusions on the role of national parks in relation to planning powers, FSB Wales is of the view that planning powers should be removed from national parks and returned to constituent local authorities. FSB Wales also feels there is merit in discussing the potential for one national park authority to cover all three national parks and for that authority to be a statutory consultee in the planning process. FSB Wales believes this should be considered further as part of the response to the Williams Commission review into public services. Moving toward such a model could provide greater expertise and resilience within the national parks authorities.

Bill Specific Provisions

The following issues relate specifically to the proposals found in the Planning (Wales) Bill as currently drafted.

National Development Framework

One of the weaknesses of the current planning framework in Wales is the absence of a hierarchy of development plans, with the Wales Spatial Plan failing to deliver a Wales wide approach to spatial planning. The Planning (Scotland) Act 2006⁵ addressed similar issues in Scotland and a similar process has also been undertaken in London to provide an overarching spatial plan for the region. FSB Wales therefore welcomes this approach.

The vast majority of firms in Wales will be engaged in applications relating to far smaller developments than those proposed for consideration on a regional or national basis. That said, FSB Wales hopes that by bringing together spatial planning with influential documents such as the Wales Infrastructure Investment Plan, the Welsh Government will be able to articulate a vision for developments in Wales that will provide certainty for all concerned. Furthermore, the Welsh Government should define quite clearly what sorts of applications will be defined as a Development of National Significance and as regionally important for the purpose of Strategic Development Plans.

Strategic Development Plans

As is the case with the National Development Framework, FSB Wales is supportive of Strategic Development Plans to cover economic regions. It is crucial that the emerging city regions are linked in with the SDP process. While FSB Wales members will largely be concerned with planning applications at a more localised level, FSB Wales believes the creation of a well articulated planning hierarchy would benefit decision making.

One area of concern is the governance arrangements of the proposed Strategic Development Plan Panels. One of the issues identified by small businesses who deal with National Park Planning Authorities is the lack of accountability in their governance arrangements. FSB Wales is concerned that similar issues will arise from the SDP Panels if one third of the membership is drawn on the prerogative of the Welsh Ministers. Appointments made to City Regions and Sector Panel Advisory

⁵ Planning (Scotland) Act 2006. [Online]. Available at: <http://www.legislation.gov.uk/asp/2006/17/part/1> (accessed 22nd February 2014).



Boards suggest that there is a focus on large businesses with SMEs playing a limited role in informing policy. FSB Wales is concerned that these issues could be replicated in the future, to the detriment of the SDP process, and would therefore call for a deeper examination of this issue by the Committee. By contrast, the Education Workforce Council regulations provided FSB Wales the right, on a statutory basis, to nominate a representative on behalf of the SME community.

Local Development Plans

Local planning authorities have in the past been slow to deliver on local development plans. FSB Wales is therefore supportive of the Welsh Government's proposals to front-load the development plan process and reduce the number of stages involved. FSB Wales also agrees with the Welsh Government's proposals to allow Welsh Ministers to direct local authorities to produce a joint LDP where appropriate. This should be seen in the context of the Williams Commission's proposals to merge local authorities, and the potential impact of mergers on costs to customers of the planning system should be examined further by the Committee.

While FSB Wales is sympathetic towards placing an end date for all local development plans in force, FSB Wales believes it is vital that local planning authorities frequently reassess and review the content of their LDPs to ensure they are up to date. Furthermore, FSB Wales would encourage the Welsh Government to ensure that the proposals around community engagement include an emphasis on engaging with the local business community. It is essential that the business voice does not get lost in this process.

Pre-Application Advice

FSB Wales commissioned an extensive research project from Cardiff University's School of City and Regional Planning in 2008 to examine the experiences of small firms and the planning system⁶. Unsurprisingly, pre-application advice was a key area of concern highlighted by many members in the report and the subsequent recommendations included the need to improve and formalise the pre-application advice process.

FSB Wales is of the view that many of the themes highlighted in the report around pre-application still hold true and should be implemented by the Planning (Wales) Bill. The recommendations included:

- 1) Local planning authorities to be encouraged to **review procedures for recording pre-application advice** given by officers and to explore more effective ways of communicating that advice to potential applicants. This may require a degree of formalisation of the processes of providing and recording pre-application advice.
- 2) Local planning authorities consider introducing mechanisms for being proactive in **identifying whether persons seeking pre-application advice are small businesses**, so that suitable guidance can be issued and advice given at an early stage.
- 3) Local planning authorities to aim to ensure **continuity between the officer providing pre-application advice to a small business and the allocation of the case officer** once a planning application is submitted. This may be extended to the establishment of a **dedicated small**

⁶ FSB Wales. 2008. *Small Businesses and the Planning System in Wales*. Cardiff. P.22.



businesses team comprising a small number of planning officers that are trained and briefed in the service needs of small businesses.

As currently constituted, the Planning (Wales) Bill will allow for the formalisation of pre-application advice as recommended in our research, via secondary legislation. The Bill is as follows:

“The Welsh Ministers may by regulations make provision for and in connection with the provision of pre-application services by a local planning authority in Wales or the Welsh Ministers.”⁷

While FSB Wales warmly welcomes the intention of this provision, we would request that the Committee consider whether this is the best method of securing pre-application services across Wales. In particular, it may be appropriate to specify in the primary legislation that pre-application services will be provided but that the nature and level of the services will be set out by secondary legislation. This would strengthen the provisions and ensure all LPAs and Welsh Government are providing this service.

Likewise, the following provisions relating to the keeping of records are also to be welcomed. That said, the provisions are phrased in the same way by allowing secondary legislation on the matter. FSB Wales sees this as vital to the formalisation of the pre-application process and would like to see this area strengthened to ensure records are kept, the nature of which should be specified in secondary legislation.

In terms of costs for pre-application advice, FSB Wales has previously advised against charging for advice, unless an application proceeds. That said, FSB Wales welcomes a national charging framework that would ensure consistency across local planning authority areas for pre-application advice.

Design and Access Statement

In recognising the Welsh Government’s own research that suggest the current mandatory design and access statements process does not achieve stated policy objectives, FSB Wales welcomes the proposal to remove the requirement in section 62 (5) of the Town and Country Planning Act 1990 and to examine an alternative measure to promote good design and access policy.

Statutory Consultees

FSB Wales has encountered several examples from members where statutory consultees have delayed the planning process by providing information outside the designated period. This can often be frustrating, particularly for planning applications that require significant amounts of resources. Therefore, FSB Wales welcomes the Welsh Government proposals to ensure the role of statutory consultees is defined more appropriately in legislation and ensuring that they are able to respond in the necessary timeframe. We would also like to know what provisions will be put in place if statutory consultees still consistently fail to respond within the prescribed period.

⁷ Planning (Wales) Bill, as introduced. [http://www.assembly.wales/laid%20documents/pri-ld9940%20-%20planning%20\(wales\)%20bill/pri-ld9940-e.pdf](http://www.assembly.wales/laid%20documents/pri-ld9940%20-%20planning%20(wales)%20bill/pri-ld9940-e.pdf) P.18



Delegation at planning committees

FSB Wales welcomes the Welsh Government's proposed reform of planning committees and the delegation process to planning officers. Assuming that the remaining 10 per cent of applications would be determined by the Planning Committee of each LPA, FSB Wales would like to see greater transparency for applications dealt with in this way. For instance, committee members should have to declare an interest where relevant and the voting record for any decision should be published for wider public scrutiny.

Enforcement

As with many other regulatory functions, FSB Wales members frequently report poor practice in terms of enforcement. This often leads to a level of inconsistency between how regulations are applied and subjectivity from officers has damaged perceptions of the enforcement process in the past. FSB Wales believes that any additional enforcement powers gained by planning authorities need to be accompanied by work from the PAIS to ensure that their use is fit, proper, and proportionate.

Local planning authorities should be open and transparent about the enforcement process and justify why enforcement measures have been taken. There should be a direct line of accountability to those that ultimately make the decision to apply enforcement measures and this should be included as an issue for consideration in an annual performance report.

Planning appeals process

FSB Wales broadly welcomes the changes suggested to the planning appeals process. In particular, the ability of appellants to recover costs from the written appeal process is to be welcomed. The Positive Planning consultation suggested an expedited process would be created via a Commercial Appeal Service, on a similar basis to the already established Householder Appeals Service. FSB Wales welcomes this development.

Conclusion

FSB Wales hopes that the National Assembly for Wales will take the specific needs of small businesses into consideration throughout the Planning (Wales) Bill as it progresses and ensure that relevant links are made to other major pieces of planned legislation.



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The Federation of Small Businesses Wales

The FSB Wales is non-profit making and non-party political. The Federation of Small Businesses is the UK's largest campaigning pressure group promoting and protecting the interests of the self-employed and owners of small firms. Formed in 1974, it now has 200,000 members across 33 regions and 194 branches. FSB Wales currently has around 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees meaning FSB Wales is in constant contact with small businesses at a grassroots level in Wales.

Lobbying

From the Press and Parliamentary Affairs Office in Cardiff, FSB Wales campaigns with AMs, MPs and MEPs in Cardiff Bay, Westminster and Brussels in order to promote our members' interests. FSB Wales also works closely with local, regional and national media outlets to highlight our members' concerns. Development Managers work alongside members in our regions to further FSB Wales influence at a regional level. More widely, the FSB has Press and Parliamentary Offices in Westminster, Glasgow, Belfast and Brussels to lobby the respective Governments.

Member Benefits

In addition, Member Services is committed to delivering a wide range of high quality, good value business services to members of the FSB. These services will be subject to continuing review and will represent a positive enhancement to the benefit of membership of the Leading Business organisation in the UK.

Vision

A community that recognises, values and adequately rewards the endeavours of those who are self employed and small business owners within the UK.

The Federation of Small Businesses is the trading name of the National Federation of Self Employed and Small Businesses Limited. Our registered office is Sir Frank Whittle Way, Blackpool Business Park, Blackpool, Lancashire, FY4 2FE. Our company number is 1263540 and our Data Protection Act registration number is Z7356876. We are a non-profit making organisation and we have registered with the Information Commissioner on a voluntary basis.

Associate Companies

We have three active subsidiary companies, FSB (Member Services) Limited (company number 02875304 and Data Protection Act registration number Z7356601), FSB Publications Limited (company number 01222258 and Data Protection Act registration number Z7315310) and FSB Recruitment Limited. (company number 07836252 and Data Protection Act registration number Z3131666).

National Assembly for Wales
Environment and Sustainability Committee
PB 34
Planning (Wales) Bill
Response from Home Builders Federation



THE HOME BUILDERS FEDERATION WALES

National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

MH

14/11/14

Dear Sir/Madam,

**Response to: The Environment and Sustainability Committee inquiry
into the general principles of the Planning (Wales) Bill**

The Home Builders Federation Wales (HBF Wales) represents its members who are all involved in the delivery of homes across the whole of Wales.

We welcome the opportunity to provide written evidence to the Environment and Sustainability Committee on the general principles of the Planning (Wales) Bill. I would also confirm that I have already separately accepted an invitation to give oral evidence to the Assembly.

We supported the evidence based approach taken by the Minister and the general thrust and spirit of the proposals set out in the Positive Planning consultation exercise and the earlier draft Bill. We were pleased that many of those provisions were carried through into the Bill. We strongly believe there is a need to embed a new proactive and confident culture within planning in Wales, to boost economic prosperity and to create better places for our communities to live in through the delivery of more homes. Planners, politicians, consultees, developers, and the general public, all have a role to play in achieving this.

If you require further assistance, have any queries or require clarification of any points made, please contact HBF Wales on 07770752884 or e-mail mark.harris@hbf.co.uk.

Yours sincerely,



In summary HBF support the overall thrust of the changes proposed in the new Planning (Wales) Bill and see them as a positive step forward to achieving a fair, enabling and resilient planning system, which will allow our members to deliver the much needed housing that Wales requires.

The general principles of the Planning (Wales) Bill including the need for legislation in the following areas:

The requirement to produce a national land use plan, to be known as the National Development Framework;

We are heartened to see the consultation document recognise the significant shortcomings of the Wales Spatial Plan. We are also encouraged by the fact that the NDF will be a completely different document in nature and focus, and will have the benefit of development plan status.

We believe the NDF will be a positive addition to the planning process in Wales. It will deal with issues that are 'nationally important' and as such, we expect housing issues to play a significant role in its make-up, particularly the inclusion of clear guidance and direction on the need to ensure we increase the supply of homes built in Wales each year. As such, it is considered appropriate that the Plan should include a National Housing Target which would help focus the minds on the need for more housing now and in the future.

We recommend that the NDF has genuine engagement and public scrutiny in its preparation and then it is reviewed every three years rather than the five suggested.

We would also recommend that the NDF deal specifically with local authorities that fail to achieve a 5 year land supply by setting out clear guidelines on the implications of not maintaining a 5 year land supply, particularly when there is an adopted LDP or SDP in place. We believe failure to demonstrate a 5 year land supply should be conferred additional weight in the decision making process and that the NDF should include specific provisions to address this.

The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues;

We wholeheartedly agree with the creation of Strategic Development Plans. We believe such a system in Wales is long overdue and, if done correctly, would bridge a significant gap that currently exists between national and local policy in areas that would benefit from a cross-boundary approach to planning matters such as housing provision. We also agree with the proposal to set up a Strategic Development Plan Panel, however, we believe it will be necessary to ensure that the lead authority cannot sway decisions on the panel, by holding a majority vote.

We also agree that it is appropriate to identify an area to be designated a Strategic Planning Area, given that we believe it would not be appropriate to simply follow administrative boundaries to identify Strategic Planning Areas, particularly in South East Wales. However, to ensure the most appropriate area is selected, we believe the process of identifying a Strategic Planning Area should be subject to thorough and robust public consultation.

In terms of the Strategic Development Plan Panel, given that house building issues will be a major consideration for Strategic Development Plans, we believe the Panel should include a representative from the house building industry. The HBF would be willing to help identify suitable persons as appropriate.

In terms of the SDP and its relationship to national guidance, we again believe it should be in strict conformity, rather than in 'general conformity' with the NDF. Further in terms of hierarchy the SDP sits above the LDP so it should not be led by the LDP. It is suggested that there should be a requirement to review LDPs which fall under a SDP within a certain time period to bring them in line with the SDP and also to remove the policies covered by the SDP, to create what is described as a 'light touch' LDP.

We agree that LDPs should be 'light touch' where there are SDPs addressing issues of strategic importance, however, clarification is required for situations where only part of a local authority is covered by an SDP. In this context, such a local authority would need major issues such as housing (for example) to be dealt with through both an SDP and also through an LDP for the area that is not subject to the SDP. Also in terms of the status of an SDP in relation to an existing LDP. If SDP have to follow existing LDP's, as is currently suggested, there may be conflict as the SDP will cover more than one LDP area and these plans may be at different stages and have different policies. We believe these issue requires further clarification.

Due to the small number of SDP's likely to be created and to help with resource issues and in order to create consistency across wales, a key theme of the new Planning Bill, the HBF would suggest the formation of a single board with a number of key members responsible for the creation of SDP's across Wales. This would then be supplemented with an agreed number of local people co-opted on in each area where a SDP is created.

Due to the small number of local authorities in North Wales some concern is raised about the effectiveness of such an approach in the area, particular if LPA's merge as currently planned.

Changes to Local Development Plan procedures;

We note that the details of this are being looked at in a separate consultation which the HBF will comment on separately.

Notification of LDP withdrawal

This is seen as a positive step in helping to speed up the preparation of LDP's, as from experience, the decision to withdraw a plan is often a political one rather than one based on planning reasons.

Period for which Development Plan has effect

Support this in principle, however would suggest that clarification is required over the suggestion that although a time expired plan will no longer be a planning consideration, that the evidence base used could still be considered when determining planning application. It is suggested that this should only be the case where the evidence base has been updated within the last 5 years of the plan otherwise evidence which is out of date could be used to determine planning applications.

Welsh Ministers' power to direct preparation of Joint Local Development Plans (LDPs).

Support.

Joint Planning Boards

Support this in principle, although we do have some concerns over the efficiency of such a process if the two Authorities who are producing a joint LDP have no political will to do so. The current planning system is often delayed by political issues and this is likely to be compounded in a situation where two LPA's who have no desire to work together are forced to.

Front-loading the development management process by making provision for pre-application services;

Requirement to carry out pre-application consultation

Support in principle, but consider that a higher threshold than that currently provided by the definition of a major application. This currently defines schemes over 10 units or 1ha as major development. There is likely to be a large amount of work associated with the pre application consultation process and associated report and this will be a resource drain on smaller to medium

size developers. Further, it is likely that public interest in schemes at the lower end of the currently proposed threshold are less likely to create sufficient local interest to warrant detailed public consultation. The current threshold essentially means there does not seem to be a distinction between (for example) a development of 11 units and one of 1000 units. Clearly the level of detail, community engagement, pre application discussion etc., required to submit an application of 1000 units would be far greater than that of 11 units. As such, we believe there needs to be a re-think of the definition of major development with the threshold increased to over 30 units or 2 ha.

It is also suggested that this should not be a requirement for sites which are allocated for housing in the adopted LDP to undergo pre-application consultation, as these will have already been publicly consulted on as part of their allocation.

We would suggest that a set of timescales need to be agreed across Wales for the delivery of such a service, to ensure that it does have the desired effect of speeding up the planning system.

Requirement to provide pre-application services

Support in principle, however the regulations should go further and set out a fee schedule for such a service so that consistency is created across Wales. Currently LPA's can set fees at any level and there is no way that a developer can challenge these, other than to not use the service. Although it is accepted that this process cannot guarantee a decision and is only an officer's opinion, much greater certainty and willingness to use the service would be achieved if some level of commitment was given to stand by the advice given. All too often in the current system the opinions given in the formal response are changed once the application is submitted. When this happens there is no way of challenging it.

There is concern that there would be a requirement to publicise pre-application advice as it is often undertaken on a confidential basis. Some enquiries with LPAs do not result in proposals being taken further forward. As such, local residents could be made aware of speculative proposals that do not materialise and then become irate for no reason which is not effective in managing the expectations of local residents, particularly those who are not familiar with the planning process. There needs to be flexibility in the system to still allow 'informal' conversations to occur between officers and developers at the very early stages of a sites consideration.

Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;

Support.

Option to make applications direct to Welsh Ministers

Support this proposal as we agree that it would be useful to have an 'escape route' to submit planning applications where local authorities are failing to

deliver an appropriate and timely planning service. However, it is imperative that certain conditions are met to ensure the proposed system operates effectively and achieves the desired outcomes.

In this respect, if the Welsh Government is to act as a pseudo planning authority to determine planning applications in place of poorly performing local authorities, it is essential that agreed standards of service are set out from the outset. Currently, when planning applications are called-in or recovered, our members state that the experience is far from acceptable. For instance, our members report that there are no fixed timescales for dealing with call-in or recovered applications and significant delays have been reported before a decision is provided. This situation is clearly unacceptable and we believe it is important to ensure that this level of uncertainty is not prevalent in a system which aims to speed up the decision-making process of planning applications. As such, if the Welsh Government is to potentially become responsible for dealing with a significant number of planning applications, the relevant WG department should be subject to the same performance and monitoring targets as the local authority planning department it aims to replace.

Allied to the issue above, we are also concerned with the potential resources that might be available within the Welsh Government to deal with planning applications in an efficient and timely manner.

In light of the above, in order for this process to operate efficiently and effectively, we believe it is imperative that robust key performance targets and indicators are put in place from the outset. If applicants are to submit applications to the Welsh Government, they need to be clear about the level of service they can expect, they need to have clear understanding of the timescales for determination and they also need to fully understand the options available to them should any of the timescales or performance targets be breached.

Streamlining the development management system;

Section 26: Power of local planning authority to require information with application.

We support the introduction of limits on local planning authorities' power to require information to accompany planning applications and that information requests must be reasonable, and relevant. We also suggest that any request should be 'proportionate', particularly in the context of the theme of reducing the documentation required to be submitted with planning applications and the "enabling" culture change that is being promoted.

Section 36: Stopping up or diversion of public paths where application for planning permission made.

We support the proposed change which will allow the process leading to the stopping up or diversion of public paths to start before planning permission has been granted.

Planning Committees and Delegation

We support this and believe the principles of delegating decisions to planning officers should be consistent across Wales.

We believe that where a proposed development is development-plan compliant, the need for it to be deferred to committee should be negated. Provided the development plan is robust and with flexible policies, planning applications on allocated sites should not need the extra scrutiny of a planning committee. In our view, given that the principle of housing development as a land use has already been 'approved' by the council and its elected members, a discussion over the technical detail of the application should be all that is required.

We support the recommendations of the recent RTPI report and note that the details of this are being looked at in the Planning Committee and Delegation consultation paper which the HBF will comment on separately.

Decision Notices

We support the standardisation of decision notices across Wales and the requirement for a condition tying the permission to the listed plans, documents and drawings.

In principle the idea of a single decision notice which gives you the current position on a site with regard to the discharge of planning conditions and any amendments to the scheme is seen as positive. However we do not consider the concept of a 'live consent' is necessarily the best way to achieve this. The requirement to keep a decision notice up to date will cause a lot of additional work at a time when resources are becoming more stretched in LPA's. Most LPA's register discharge of conditions as planning applications anyway so a separate decision notice is produced, it may be simpler to attached/link these decision notices to the original decision notice.

Notification of Development

We support this, however it is suggested that a single sided abbreviated version of the decision notice is produced for display on site consisting of an overview of information such as the developers name the application description, the application reference and information on where the plans/documents can be viewed (i.e. the web or at Council offices). This would avoid the need to display what might be a very lengthy document.

Statutory Consultees

We welcome a requirement for statutory consultees to respond within a specified timescale and welcome that this is also proposed for pre-application enquiries. However, we believe the list of statutory consultees should be expanded to include major organisations that can have a significant impact on housing delivery. In this respect, our members often report that utilities companies such as Welsh Water can cause major delays to the delivery of new homes, as well as major delay to the timely consideration of planning

applications. Local authorities will rarely take action on a planning application in advance of any comments from organisations like Welsh Water and therefore, we believe organisations like this should be made Statutory Consultees, in order to ensure not only that they make appropriate comments in a timely manner, but also to ensure they are fully included in the consultation procedures by local authorities.

There is no mention of what happens if the consultees do not respond in time. For example, can the statutory consultee respond by saying that they require a further two weeks to comment or is it that once the timescale for response is reached and no response is made then it is taken that the statutory consultee has no objection? Also with regard to reporting performance to WG if there is no clear penalty for underperformance there is no incentive to perform. The reporting also needs to be on a regular basis (quarterly) rather than yearly, otherwise any consultees who are failing to perform will have potentially done so for over a year.

Design and Access Statements

We support this and completely agree with the research which shows that Design and Access Statements have not been effective in achieving the desired policy outcomes.

We note that the details of this are being looked at in consultation on Design in the Planning Process which the HBF will comment on separately.

Changes to enforcement and appeal procedures;

Planning appeals

We support the proposal for a right of appeal against the decision of an LPA not to register a planning application, using a streamlined appeal procedure administered by the Planning Inspectorate (Section 28).

We disagree with the proposal to not allow any alterations to an appeal once it is submitted. The ability to submit amendments after an appeal has been submitted is a crucial part of the process. More often than not, such amendments can be the result of deliberation and agreement between all parties involved in the appeal process and can therefore remove the need for protracted debate through the process thereby potentially saving a significant amount of inquiry time, or even negating the need for a hearing or public inquiry completely.

The same concerns apply to the proposal that an appeal must be determined on the basis of the matters before the LPA when it made its decision, except where new information could not have been raised earlier or was not raised because of exceptional circumstances.

It is considered that the existing situation in which an Inspector has the discretion to accept changes to the application and the submission of new information, subject to the rules of natural justice and the requirement that

those who are entitled to comment have the opportunity to do so, is appropriate and should be retained.

We support the proposal to allow the recovery of costs incurred by the Welsh Ministers or appointed persons in cases where appeals proceed by written representations and giving the Welsh Ministers the ability to recover their own costs in cases where a party or parties behave unreasonably.

Changes in relation to applications to register town and village greens.

We support this, as it is seen as a positive step which will stop the process of TVG applications being used to delay development.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.

It is understood that the changes proposed by the Bill are likely to come into effect in late 2015 early 2016, just at a time when the ongoing resource issues and other changes such as LPA Planning Department merger could be starting to take real effect. We would request that consideration is given to some form of interim support for LPA's to ensure that the proposed changes are implemented quickly and efficiently in order that the development industry can benefit from them rather than suffer delays while new systems are put in place.

The Committee's pre-legislative scrutiny of the Draft Planning (Wales) Bill and the extent to which the revised Bill takes account of the Committee's recommendations.

We consider that this process has worked well and allowed a range of stakeholders to engage in the process.

Whether there are any unintended consequences arising from the Bill.

As stated above the HBF are concerned at resource issues in Local Planning Authorities which are only likely to get worst over the next few years for various reasons. Although once the changes are in place there may be an overall resource saving, in the shorter term the various changes necessary to implement the Bill and associated legislation, will be a considerable strain on what are already stretched resources. The potential short term impact on developers will be the slowing down of the time it takes to determine planning applications which in turn will affect the number of houses delivered.

The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill).

Pre-application community consultation (Part 3, Section 15)

The HBF consider that the costs associated with the preferred option have been significantly underestimated. The cost appears to have been calculated only taking account of the preparation of the report, which is only a small part

of the process. It is suggested that the cost would be considerably more when the time taken to prepare for the consultation, and the actual time spent on the consultation event are taken into account. It is also not always true to say that smaller application will result in less work, often the smaller applications are the most sensitive and result in the most local interest.

The HBF are not suggesting that these higher cost be a reason not to carry our pre-application consultation, but instead, that the threshold which triggers the requirement for such pre- application public consultation be raised to 30 units or 2ha as this will reduce the financial impact on the smaller to medium size developer.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

No comment.

The measurability of outcomes from the Bill, i.e. what arrangements are in place to measure and demonstrate the fulfilment of the Welsh Government's intended outcomes from making this law.

We consider that appropriate targets and associated non-performance penalties, have long been missing in the planning system in Wales. Although we are supportive of most of the measures which the new Bill proposes we are concerned that some do not go far enough. Clearly the threat of a Council being determined to be 'failing' is a big one but we question how badly they will have to fail before this happens. It is suggested that a national standard of targets against which LPA's have to report should be established and these should be backed up by guidance on how this data should be recorded/reported. A league table should then be produced quarterly and instead of looking to punish poorly performing Councils consideration given to rewarding the LPA's who perform well.



**NATIONAL ASSEMBLY FOR WALES
ENVIRONMENT AND SUSTAINABILITY COMMITTEE
INQUIRY INTO THE GENERAL PRINCIPLES OF THE PLANNING (WALES)
BILL
SUBMISSION BY BOYER PLANNING LIMITED**

INTRODUCTION

1. Boyer Planning Ltd is an established multi-skilled planning consultancy who work on behalf of private developers, landowners and public sector clients throughout Wales and England.
2. Our work encompasses both the Development Plan and Development Management aspects of the planning system. We have long and extensive experience of the plan-making system and its operation, the preparation and determination of planning applications and, where it has been necessary, planning appeals and enforcement action.
3. This response draws upon our experiences of the way in which the planning system in Wales is presently operating, firstly, in terms of the central tenet of managing the development and use of land in the public interest; and, secondly, the application of procedures presently prescribed in various legal instruments.
4. It has been prepared without reference to any development proposal that is either presently before, or may in the future be submitted to, a Local Planning Authority or the Welsh Ministers.
5. We previously submitted representations to the consultation exercise earlier in 2014. On this occasion, our submissions are structured around the provision of the Bill.

PART 2: DEVELOPMENT PLANNING

Section 2 - National Development Framework for Wales

6. In replacing Section 60 of the Planning and Compulsory Purchase Act 2004 (PCPA) the Welsh Government (WG) propose to prepare a new National Development Framework (NDF) for Wales as an alternative to the Wales Spatial Plan (WSP).

7. The WSP was, at the time of its preparation and subsequent updating, an important and invaluable exercise in defining certain national and regional priorities and outcomes which the land use planning system intended to secure. Despite the statutory purpose of the WSP being clear, its purpose has been diluted and its impact limited.
8. The National Development Framework is intended to achieve the following:
 - i. set out land use priorities by defining key locations to accommodate change and infrastructure investment;
 - ii. specify nationally significant land use issues;
 - iii. identify nationally significant areas of growth and change; and
 - iv. provide a national land use framework for lower tiers of the Development Plan system (Strategic Development Plans and Local Development Plans) to conform with; and
 - v. provide the starting point for the determination of applications for Development of National Significance.
9. Section 8 of the Draft Bill expressly identifies the NDF as part of the Development Plan.
10. Given its defined purpose and status, the NDF will, in these terms, be central to the subsequent plan making and development management regimes that operate across Wales through the provisions of the other Planning Acts (for example Section 38 of the 2004 Act which defines the development plan, and section 70 of the 1990 Act which prescribes the decision making framework).
11. Accordingly, its preparation must be afforded proportionate examination.
12. As did a great many others in their initial representations, we set out the importance of the NDF's policies and proposals being subject to appropriate and independent scrutiny. The WG summary of consultation responses notes this, but has not explained why it does not agree this is necessary.
13. It must be recognised that the process of preparing the NDF will draw upon evidence around a great many issues, some of which will undoubtedly conflict or compete. As with all aspects of planning policy, the NDF will need to balance social, economic and environmental considerations consistent with the longstanding principles of the way in which the planning system operates and the tenets of sustainable development.
14. Judgements will need to be reached by the Welsh Ministers in preparing the Draft NDF based on the evidence prepared and the statutory plan making assessment regimes¹. Moreover, the representations that are invited will need to be grounded in an articulation

¹ Sustainability Appraisal, Strategic Environmental Assessment and Habitat Regulations Assessment

of this or other evidence – in some instances the policies and proposals of the Welsh Ministers will be challenged for good and sound reasons.

15. Ultimately, the evidence and the representations made will need to be examined – or put simply ‘tested’ - before a final NDF can be adopted. How else can the NDF be afforded the weight that will be prescribed to it, without adequate consideration of its policies and proposals?
16. Presently, the Bill simply requires the Welsh Ministers to have regard to any resolution passed by the NAW or a recommendation made by a committee of the NAW (Section 60B (3)).
17. In the interests of natural justice, fairness and transparency, such examination should be conducted by an independent person appointed by the Welsh Ministers. We strongly believe that this should be an examination-in-public. This would necessitate amendments to Section 60B from that presently drafted.
18. The Committee may wish to consider the expression of statutory provisions associated with examinations-in-public that existed in the 2004 Act (for the purpose of Regional Spatial Strategies) (Sections 7 and 8 refer).

Section 3 - Strategic Planning

19. We welcome the intention for there to be a statutory basis for the preparation of Strategic Development Plans (SDPs).
20. There is undeniably a need for co-ordinated and collaborative planning that responds to, and addresses, the land use issues that arise from the functional relationships between places that extend beyond local authority boundaries.
21. Neither the Draft Bill, nor the Explanatory Memorandum, at present explain what the WG expect the individual ‘Panels’ to address when it refers to “*objectives in relation to development and the use of land*”. (Section 01(2))
22. The closest the Explanatory Memorandum gets to this is paragraph 3.35 which refers in the context of LDP preparation that “*issues such as the overall level of housing, employment and retail provision will have already been addressed and do not need to be repeated*”.
23. It is not clear whether Section 60E (2) is intended to encompass by way of reasons the matters which the WG intend are included within the proposals for the preparation of Strategic Planning Areas. We suggest it ought to and that, for the avoidance of doubt, this Section of the Bill be amended accordingly.

24. In our opinion the scope of Strategic Development Plans should extend to providing a broad development strategy for the region for a twenty year period, including, but not limited to:
- the identification of the scale and distribution of provision for new housing;
 - priorities for the environment, such as countryside and biodiversity protection; and
 - transport, infrastructure, economic development, agriculture, minerals extraction and waste treatment and disposal.
25. In this context, Strategic Development Plans should:
- articulate a spatial vision of what the region will look like at the end of the period of the strategy and show how this will contribute to achieving sustainable development objectives;
 - provide a concise spatial strategy for achieving that vision, defining its main aims and objectives, illustrated by a key diagram, with the policies clearly highlighted;
 - address regional issues that will often cross unitary authority boundaries, and take advantage of the range of development options that exist at that level.
 - be consistent with, and supportive of, the National Development Framework and adjoining Strategic Development Areas and other relevant strategies;
 - be specific to the Plan area: whilst they should have regard to national policies, a SDP should not simply repeat them. It should provide spatially specific policies by applying national policies to the circumstances of the region; adding value to the overall planning process;
 - be locationally, but not site, specific, while not going into the level of detail more appropriate to a LDP.

Section 7 - Duty to consider whether to review Local Development Plans

26. We agree that with publication of the NDF (or a revision to it), LPAs will need to consider whether to review their Local Development Plan. In practice such a review is unlikely to proceed until such time as an SDP has also been prepared or revised. The reality of the current situation is that, for a considerable period of time, Local Development Plans will not be in conformity with the higher tiers of the Development Plan.
27. In such instances Section 38(5) of the PCPA 2004 is wholly relevant; stating that “If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is

contained in the last document to be adopted, approved or published (as the case may be).”

Section 10 - Period for which the development plan has effect

28. We welcome the proposed amendment to Section 62 of the PCPA 2004 for it to specify that the LDP ceases to be the development plan on the expiry of a particular date.
29. There have been numerous instances where local planning authorities have based decisions on development plans prepared a great many years ago and when the end dates have elapsed by quite some time.
30. Clarity in this regard will firstly assist decision making and the judgement about weight to be afforded to planning policies relative to other material planning considerations and, secondly, underscore the importance of development plans as a whole – the NDF, SDP and LDP - being kept up to date.

PART 3: PRE APPLICATION PROCEDURE

31. To take forward this approach requires a paradigm that hitherto has not existed in the planning arena. A pre-condition to successful pre-application engagement will be for all stakeholders to exercise realism as to the development needs not only of their own area but also the nation, region and sub-region.
32. Very often individuals who oppose a new development proposal will cite an absence of need, yet as is the case with housing almost always nowadays there is an assessment which indicates a requirement for housing in excess of what was being planned for in the first instance. Our experience of community consultation is consistent in revealing that the local benefits of development proposals – eg. physical and community infrastructure improvements – let alone the wider contribution to meeting housing need, rarely outweigh the perceived objections. Opinions formed at the pre-application stage then permeate through the development control process.
33. A means of conflict resolution must be created that places obligations upon local authorities, the local community, development and environmental interests to work together within a protocol that ensures that broader issues are adequately reflected. It cannot be that wholesale opposition to a proposal from a local or parochial consensus allows required development to be prevented.
34. We recognise that this is associated with the culture change sought by the Welsh Government but that this cannot be legislated for. Absent a strong government lead to this effect there is a very real risk that the planning system will be governed by vocal

minorities working to short term horizons. Difficult but necessary decisions will not be taken.

PART 5: DEVELOPMENT MANAGEMENT

Section 35 - Consultation etc in respect of certain applications relating to planning permission

35. Experience has shown that in far too many instances, statutory consultees have little regard to the efficient and effective operation of the development management system in Wales.
36. As such we welcome a requirement for statutory consultees to respond within a specified timescale (Subsection (3a)).
37. We recognise that there may be instances where a response cannot be provided in the prescribed period. However the Order that is to follow must make clear that this must be exceptionally the case.
38. The Order should prescribe that where such an alternative date is sought, the reasons for this must be specified. Similarly, the action which the statutory consultee is to take to provide the response within this new time period must be specified also. Subsection (4) should be amended accordingly.
39. Such measures are necessary for transparency and to engender the behavioural change necessary.

PART 6: ENFORCEMENT / APPEALS

Section 42 - No variation of application after service of notice of appeal against planning decisions etc.

40. By inserting Subsection (4BA), the appellant will be denied the right to vary the appeal scheme following the notice of the Appeal to the Welsh Ministers.
41. Restricting the Appellant's ability in this regard could prevent the opportunity for an acceptable form of development to be achieved. It is often the case that Reasons for Refusal are added at the Planning Committee stage that are not substantive matters and can be overcome through negotiation and modification. To deny the ability to achieve this during the Appeal process would seem nonsensical in the context of the priority afforded to sustainable development.

42. Similarly, were there to be a restriction placed on up to date and relevant information being provided after the Appeal is lodged this would appear to deprive the decision maker of the necessary evidence to reach a sound decision.
43. Whilst greater prescription is required as to the extent to which relevant material can be deployed in the Appeal process, (to avoid protracting the process and lengthy adjournments), so long as no prejudice arises, this ought not become an absolute restriction that frustrates the ability to achieve determinations that would deliver sustainable development.

Section 44 - Costs on applications, appeals and references

44. Section 44 proposes to insert a new provision into Section 322 of the TPCA 1990 to enable the costs incurred by Welsh Ministers to be paid in full by persons as are so directed.
45. If such a measure is to be introduced it could only be applied where an Appeal has been brought about by conduct, either on behalf of a Local Planning Authority or Appellant, that is truly frivolous and spurious and the Welsh Ministers must be able to demonstrate why they have incurred unreasonable costs beyond that which ordinarily arise in the process of administering the Appeals system.
46. It would be wrong and counter to natural justice if such costs were being sought to administer a legitimate appeal as this would impede and discourage Appeals by increasing the financial burden.
47. That said, where a Local Planning Authority's unreasonable behaviour has resulted in the need for an Appeal to be prosecuted, the Welsh Minister ought to be able to recover costs in the same way as the Appellant can. For example, in the instance of an Appeal against non-determination a proportion of the planning application fee submitted initially to the LPA could be required to be paid to cover the costs of the said appeal.

OJ/7th November 2014



Clerk to the Committee
The Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1 NA

7 November 2014

Dear Clerk

General Principles of the Planning (Wales) Bill: written evidence

The Welsh Language Commissioner welcomes the opportunity to submit written evidence to the Environment and Sustainability Committee as part of its investigation into the general principles of the draft Planning Bill.

Context

The principal aim of the Commissioner is to promote and facilitate the use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles underpin the Commissioner's work:

- In Wales, the Welsh language should be treated no less favourably than the English language;
- People in Wales should be able to live their lives through the medium of Welsh if they choose to do so.

In due course, secondary legislation will introduce new powers allowing the setting and imposing of standards on organizations. Until then, the Commissioner will continue to

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inspect statutory language schemes through the powers inherited under the Welsh Language Act 1993.

The post of Commissioner was created by the Welsh Language Measure (Wales) 2011. The Commissioner may investigate failure to implement a language scheme, allegations of interference with individuals' freedom to use Welsh in Wales and, in future, complaints regarding the failure of organizations to meet standards.

One of the Commissioner's priorities is to scrutinize policy developments in terms of the Welsh language. Therefore the Commissioner's main role is to provide comments in accordance with this remit and to act as an independent advocate on behalf of Welsh speakers. This approach is used to avoid any possible compromise of the Commissioner's functions in the area of regulation.

1. Planning - context

- 1.1 The planning system in Wales is based on laws enacted in Westminster, such as the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004. These laws are supplemented by regulations and secondary legislation enacted by the Assembly and Westminster. The draft Planning (Wales) Bill is an attempt to simplify this complex legislative system.
- 1.2 In Wales, all planning authorities must prepare a local development plan for their area. This is a statutory requirement resulting from the Planning and Compulsory Purchase Act 2004. It is these plans that offer a basis for making decisions on individual planning applications and appeals. Planning authorities are required to make decisions in accordance with the development plans unless relevant considerations suggest otherwise.
- 1.3 The Welsh Government's land use policies are outlined in *Planning Policy Wales 2012*, and the policy is supplemented by a series of technical advice notes providing guidance on specific matters. In preparing their development plans local authorities should consider the national planning policy and the technical advice notes, but that does not mean there is a statutory requirement upon local authorities to implement them.

2. Planning and the Welsh Language

- 2.1 The Welsh Government's strategy for the Welsh language, *Iaith Fyw: Iaith Byw (A Living Language: A Language for Living) 2012-2017*, states that the planning system is an important means of managing change in communities and the Government's planning policy states that the Welsh language is part of the social fabric of Wales.



2.2 Economic policy matters, such as employment and housing affect the sustainability of communities and linguistic sustainability is a matter that needs to be addressed in this context. The Welsh Government recognises the influence of the land use planning system on Welsh communities in *Planning Policy Wales*. For example, section 4.13 of the Policy states:

“All local planning authorities should consider whether they have communities where the use of the Welsh language is part of the social fabric, and where this is so it is appropriate that this be taken into account in the formulation of land use policies.”

2.3 The Policy also states:

“It should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language”.

2.4 There are other references to the Welsh language in the Policy too, for example regarding the ability of areas to cope with more housing and the effect on the Welsh language in deciding which sites to designate for housing.

2.5 The document that provides advice and guidance to local authorities on how to do this is Technical Advice Note 20 (TAN20). A new version of the document was published in October 2013 and it outlines the framework for when to consider the Welsh language. Further practical guidance supplementing TAN20 was published in June this year. According to TAN20 the land use planning system should *“where feasible and relevant contribute to the future well-being of the Welsh language by establishing the conditions to allow sustainable communities to thrive”.*

3. Shortcomings in terms of the Welsh language's place in the planning system

3.1 Although there are references to the Welsh language in the national planning policy, unlike other aspects of the planning system, it is not a statutory requirement on authorities to give consideration to the Welsh language. For example, section 62 of the Planning and Compulsory Purchase Act 2004 requires authorities to undertake a **sustainability appraisal** of the development plan and prepare a report on the findings. The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 incorporate a directive from the European Union and require authorities to conduct a **formal environmental assessment** when developing specific plans and programmes. There is no comparative statutory requirement for conducting an assessment of the effect on the Welsh language.



- 3.2 The process of considering the Welsh language in the planning system therefore depends on policies and guidelines. Before the new Technical Advice Note 20 was published in October 2013, the Welsh Language Commissioner carried out a study of the consideration given to the Welsh language by planning authorities as they formulated their development plans.
- 3.3 As part of the study, planning authorities were asked three questions:
- had they carried out an assessment of the impact of their local development plan or unitary plan on the Welsh language
 - did they have supplementary planning guidance on the Welsh language
 - had they carried out an assessment of the impact of individual applications on the Welsh language.
- 3.4 Twenty three (23) of the twenty five (25) authorities responded to the study and the findings suggested that the Welsh language was not being considered consistently under the planning system and that all authorities had not considered the Welsh language in formulating their development plans. Substantial variation was also seen in the content and detail of the authorities' policies on the Welsh language and variations in the process of how and when to conduct a linguistic impact assessment.
- 3.5 A new version of TAN20 has been published since the study and further practical guidance is available to authorities. However, it appears that a large number of authorities have already adopted their development plans and others have gone too far in the process to be able to give full consideration to the new guidance. The development plans of 14 of the 25 planning authorities had been adopted before the practical guidance on the Welsh language was published by the Government in June 2014.
- 3.6 The new TAN20 also places emphasis on assessing the linguistic impact through the development plan only. Although it is reasonable for the main plan to be the subject of a thorough impact assessment, planning authorities should also have the flexibility to hold impact assessments of individual applications on the Welsh language under some circumstances. This is not supported by the new guidance.
- 3.7 Evidence therefore suggests that planners have been reluctant to follow planning guidelines on the Welsh language thus far, and that there is nervousness about making decisions on the basis of linguistic impact assessments. It is likely that part of the reason for this is that the Welsh language is the subject of non-statutory guidance, rather than robust directions via legislation.
- 3.8 An example of this can be found in the report "*The Welsh Language in Carmarthenshire*" published a working group of the County Council in March 2014. According to section 3.2 of the report:



“The present methodology and guidelines (in respect of the Welsh language) for local planning authorities on assessing the impact of development and establishing mitigation measures are not adequate and there is a need to draw up a standard national methodology to support local authorities.”

Also, recommendation 22 in the report calls on the Welsh Government to include the Welsh language as a “material” consideration in part of the Planning Bill.

4. Draft Planning (Wales) Bill

- 4.1 The Planning Bill offers an unique opportunity to address the lack of consideration currently given to the Welsh language in the planning system. A legal basis is required for the process of assessing linguistic impact. The current system of policy and guidance has not worked so far and it is unlikely that the new TAN20 will change the situation.
- 4.2 There is no mention of the Welsh language in the Bill at present (save for one technical reference in the schedules). This is a missed opportunity to give the Welsh language the same status as already exists for sustainability and the environment.
- 4.3 The Government has argued against including the Welsh language in the Planning Bill on the grounds that it is a structural and framework piece of legislation, and the Welsh language is a policy matter. But in our opinion, structural reasons account for the need to include the Welsh language in the Bill. The Welsh language needs an impact assessment framework in law rather than it being dependent on guidance. Evidence suggests that there is a high risk that a system reliant on guidance alone will not be implemented.
- 4.4 Although there are no references to the Welsh language in the Bill, there are several references in the associated Explanatory Memorandum. For example, section 1 of the memorandum begins with a statement that the provisions of the Bill will create sustainable places that will promote use of the Welsh language. Reference is made to the Welsh language also in section 3 on the aim of the Bill:

“to deliver a planning system which is positive in outlook and enables development, helping to deliver sustainable places that include homes, jobs and infrastructure, whilst providing opportunities to protect and enhance our most important built and natural environments and support the use of the Welsh language”

It is unclear how the Bill will succeed to achieve these objectives unless it includes specific provisions for consideration of the Welsh language in the planning system.

- 4.5 The new system proposed in the Bill offers a structure that includes a National Development Framework; Strategic Development Plans and Local Development



Plans. This means that for the first time there will be development plans on land use at national, regional and local level. We have already referred to the need to put a statutory framework in place for considering the Welsh language in local development plans, this should happen for regional and national plans too.

4.6 The Bill also makes provision for “developments of national significance” and the need for “local impact reports”. This is an example of the Bill making new provision for assessing the local impact of major developments, by amending the Town and Country Planning Act 1990. It is disappointing that the Bill as it stands makes no new provision for assessing linguistic impact in a similar manner.

4.7 The Commissioner responded to the Welsh Government's consultation “Positive Planning” on the Planning Bill white paper in February this year. The response included a number of the arguments included in this document. As part of the response, some possible improvements to the draft Bill were suggested. They were examples and initial ideas, but the intention was to provide amendments that would:

- Require Welsh Ministers to assess the effect of the National Development Framework on the Welsh language.
- Require local planning authorities / strategic planning panels to assess the impact of Strategic Development Plans on the Welsh language
- Require local planning authorities to assess the impact of Local Development Plans on the Welsh language
- Require planning authorities to include an assessment of the impact on the Welsh language as part of the local impact assessment of nationally significant developments.

As part of these improvements, it should also be ensured that local authorities have the flexibility to conduct a linguistic impact assessment on individual developments when necessary. Although we support the principle of assessing impact through development plans, circumstances will arise with some individual applications where a specific assessment of the impact on the Welsh language will be necessary.

4.8 Finally, it should be noted that our comments have been restricted to the main matters that need strengthening through the Planning Bill legislation. There are other aspects of Welsh language and planning that are important and need further consideration, such as the Welsh language on signs and the names of developments and population projections that lead to housing development targets.



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Thank you for the opportunity to submit comments on the Committee's investigation into the general principles of the Bill. Please note that I am willing to give oral evidence to the Committee if it so wishes.

Yours sincerely

Meri Huws

Welsh Language Commissioner



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Study of local planning policies and the Welsh language

September 2013

Background

In response to the recent discussions on revising Technical Advice Note 20, the Welsh Language Commissioner decided to conduct a study on local planning policies and the Welsh language. The aim of the study was to assess to what degree the Welsh language is considered under the current planning system.

The study was conducted in two stages. Firstly, the Commissioner wrote to the 25 local planning authorities in Wales during June 2013 asking three questions:

- did they have supplementary planning guidance on the Welsh language;
- had they assessed the impact of their local or unitary development plan, on the Welsh language; and
- had they assessed the impact of individual applications on the Welsh language.

By the end of September, 23 of the 25 authorities had responded.¹

Further to this and as a second step, during August and September 2013, consideration was given to the policies on the Welsh language included in the development plans of the 25 authorities.

A summary of the findings is given below.

Policies on the Welsh Language in local or unitary development plans

A study of planning authorities' current and proposed development plans showed that 14 of the 25 planning authorities had included policies on the Welsh language in their plans. This included 11 county councils and three National Parks.

There was a geographic pattern to the authorities that had included policies on the Welsh language. Every authority in north Wales and mid Wales had developed a policy as had the authorities in south-west Wales², except for Swansea.

Some of the authorities that had not included policies on the Welsh language in their development plans, such as Bridgend and Torfaen, said that they had considered the Welsh language but had concluded that the use of Welsh in their communities was low and that planning and development policies weren't likely to have any further impact on the usage.

¹ The only authorities to fail to provide information were Flintshire county council and Blaenau Gwent council.

² i.e. Pembrokeshire county council; Pembrokeshire Coast national park authority; and Neath Port Talbot council.

The policies that did exist on the Welsh language varied significantly. That variation can be explained to some degree by the fact that some authorities continue to implement a unitary development plan whilst others have moved on to adopt a local development plan. Despite this, there were also significant variations in the policies on the Welsh language in local development plans.

For example, **Development Policy 18 of Snowdonia national park authority's Local Development Plan** gave detailed instructions. It clearly stated the following: 'Refusing development which, due to its size, scale or its location, would cause significant harm to the character and language balance of a community'. It provided further instruction on the type of assessment that applicants would be required to submit under different circumstances, including a 'Community and Linguistic Statement' to be submitted with the planning application for a smaller development, and 'A more detailed assessment in the form of a "Community and Linguistic Impact Assessment" ' to be submitted with a planning application where developments are of a larger scale. The policy also defined the different levels of development.

Policy GDP1 of Wrexham Council's Unitary Development Plan was less detailed and stated that every new development should 'have regard to the need to safeguard those areas that possess a strong Welsh cultural and/or linguistic identity from development that could harm this identity'. But it also defined those areas where the Welsh language was considered part of the social fabric.³

The policies of some authorities such as Wrexham (above) and Powys, name the areas where the Welsh language was considered part of the social fabric, but others such as Pembrokeshire county council, Pembrokeshire Coast national park authority and Brecon Beacons national park authority set a threshold for defining where the Welsh language was part of the social fabric. Pembrokeshire county council considered communities with 25% or more Welsh speakers as part of the definition, whereas for Pembrokeshire coast national park authority and Brecon Beacons national park authority, the threshold was 30%.⁴

Some authorities such as Neath Port Talbot gave guidance on the headings of linguistic impact assessments in the policy itself referring also to the supplementary planning guidance on the Welsh language that would give further advice to developers.

³ The term 'social fabric' derives from Technical Advice Note 20 (2000). Beneath the headline 'Unitary Development Plans', planning authorities were required to consider whether they had areas where the use of the Welsh language was part of the social fabric.

⁴ The document Planning and the Welsh Language: The way ahead published by a consortia of organisations in 2005 proposes 20% as a threshold. Some planning authorities have used and developed the methodology proposed in the document in preparing their planning policies on the Welsh language.

Other authorities included policies in their development plans on wider issues regarding the Welsh language. For example, some authorities included a policy on encouraging bilingual signs in line with the guidance in Technical Advice Note 20 and others included statements on development and street names in Welsh.

In general, the assessment of policies outlined significant variation and inconsistency in the way that the Welsh language is treated in different areas. Although some local variation is expected, it is possible that the inconsistency reflects a lack of clarity in the national policy regarding the Welsh language.

Supplementary planning guidance on the Welsh language

Some policies on the Welsh language included in development plans refer to supplementary guidance. This guidance contains further information on how and when to conduct a linguistic impact assessment. Of the 23 responses received to the Commissioner's letter, five authorities responded to say that they had supplementary guidance in place on the Welsh language⁵ and four others responded to say that they were in the process of drafting guidance.

Of the 14 Authorities that had developed a policy on the Welsh language in their development plan (see the previous section), four had stated that they didn't have supplementary planning guidance on the Welsh language and one other hadn't contributed towards the study.

Impact assessments of development plans on the Welsh Language

The authorities were asked whether they had assessed the impact of their development plans on the Welsh language since publishing Technical Advice Note 20 in 2000. During that time, two main systems have been adopted, the first being the unitary development plans and more recently, the local development plans, that are gradually replacing the unitary plans.

It became clear that not much consideration was given to the Welsh language overall, during the process of preparing unitary development plans. Only 2 authorities reported with certainty that an assessment of the Welsh language was conducted. The situation with

⁵ Anglesey; Gwynedd; Wrexham and Neath Port Talbot councils and Snowdonia national park authority.

local development plans was more positive with six authorities reporting that they had assessed the impact on the Welsh language and three others reporting that an assessment was planned as part of the process of preparing a Development Plan. Despite this, the evidence suggests that there is variation in the way the assessments are carried out.

Another six authorities reported that they had conducted a basic assessment of the Welsh language as part of another arrangement, such as a sustainability assessment or environmental impact assessment. Finally, six authorities reported that they hadn't assessed the impact of their development plan on the Welsh language. This conclusion raises doubts about the degree to which Planning Policy Wales and Technical Advice Note 20 (2000) were considered by these authorities as they prepared their development plans. The findings also raise questions about the role of the Planning Inspectorate responsible for inspecting development plans and ensuring that they are consistent with national policy before they are adopted.

Impact assessments of individual planning applications on the Welsh language

The authorities were asked whether they had assessed the impact of individual planning applications on the Welsh language since publishing Technical Advice Note 20. They were also asked to give an indication of how many assessments were conducted.

The information received varied from concise answers explaining whether or not any assessments were conducted, to detailed answers that included copies of assessments. Eight authorities reported that they had conducted assessments. Of those only three reported that they had conducted more than one or two assessments, with one other authority admitting that it didn't keep information on the number of assessments. Although the evidence was incomplete, it seemed as though there had been a small increase in the number of assessments conducted in recent years.

The number of authorities requesting a linguistic impact assessment from applicants was lower than the number that had included policies on the Welsh language in their development plans. This can be explained to a degree, due to the fact that some of the policies are relatively new, but it raises the question as to what degree policies on the Welsh language in development plans are implemented by some authorities.

The study's main findings

1. The Welsh language isn't considered consistently under the current planning system.
2. Not every planning authority has considered the Welsh language in preparing its development plan. This suggests that not every authority has complied with Planning Policy Wales⁶ and Technical Advice Note 20 (2000).
3. There is variation and inconsistency in the content and detail of policies on the Welsh language in development plans and because of this, the procedure in terms of how and when to conduct a linguistic impact assessment differs. That suggests a lack of clarity in the national policy.
4. There is variation and inconsistency in the supplementary issues on the Welsh language considered in development plans. Some plans include policies on bilingual signs and others include policies on the name of developments. Once again, that suggests a lack of clarity in the national policy.
5. Although over half of the planning authorities had included a policy on the Welsh language in their development plans and even though good practice does exist, the policies are limited and superficial in some cases. Furthermore, not every authority has published supplementary planning guidance to give further guidance on the policy.
6. The number of linguistic impact assessments conducted on individual planning applications is small in the majority of authorities. This suggests that the policies are not being implemented fully in some areas.

⁶ Section 4.13 of Planning Policy Wales explains the expectations for considering the Welsh language.

Date • Dyddiad 7th November 2014

Your ref • Eich cyfeirnod

My ref • Fy nghyfeirnod

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Cllr Jamie Adams

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Carl Sargeant – Minister for Natural Resources
Welsh Government
Cathays Park
Cardiff

Dear Sir,

Thank you for the opportunity to submit evidence into the general principles of the Planning Bill, as set out by the National Assembly for Wales Environment and Sustainability Committee.

Pembrokeshire County Council's Cabinet met to consider its initial response to the Planning Bill on the 3rd November 2014. At this meeting it was resolved that I should respond to this call for evidence on behalf of the Authority and also write specifically to you identifying the following concerns:

1 The Council is disappointed at the lack of regard to the Welsh language contained within the Bill and wish to echo the concerns of Cymdeithas yr Iaith and Carmarthenshire County Council regarding this omission. The Welsh language plays a key role in many of Pembrokeshire's communities and the planning system has an important part to play in ensuring that the language is both protected and promoted. The Planning Bill provides an opportunity to make the Welsh language a statutory consideration in the planning system, a failure to do so will be a wasted opportunity.

2. Some elements of the new proposals (for example the introduction of Developments of National Significance) will have extensive resource implications for Local Planning Authorities, in that substantial inputs to the application process will be required, but unsupported by planning fee income. It is important that any such new requirements involving local planning authority input are accompanied by improved resourcing, to sustain Development Management performance.

3. Whilst the Council supports the introduction of the Planning and Advisory Information Service (PAIS) (as noted in its previous response on the Positive Planning Consultation), it has concerns that as currently envisaged there may be too great a distance between PAIS and Welsh Government. It is important that this service embraces all of those involved in planning, including Welsh Government planners and Assembly Members.

4. In its response to the Positive Planning consultation the Council expressed its concern at the proposal that Local Development Plans would cease to be given any

weight, once the period for implementation of the Plan ended. This proposal remains in the Draft Bill. Whilst the Council appreciates the importance of all Authorities retaining up to date Development Plans, the proposals to cease giving any weight to LDPs after their adopted period appear to be an overly draconian attempt to ensure that up to date plans are produced. If Local Government re-organization does take place, the amalgamation of different Authorities who are at different stages in LDP production or review, might create a position where there are temporary gaps in the coverage of LDPs. To cease to give any weight to a policy document that might otherwise provide a useful guide for development proposals in an area during this time, appears short-sighted.

Pembrokeshire County Council is grateful for the opportunity to give oral evidence to the Committee regarding its initial representation, but regrets that due to resource limitations it will be unable to do so.

Many thanks again for the invitation to submit initial comments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Adams', with a long horizontal flourish extending to the right.

Jamie Adams, Pembrokeshire County Council Leader

Copy also sent to:

The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Mentrau laith Cymru

Ymgynghoriad: Egwyddorion cyffredinol y Bil Cynllunio (Cymru)

Ymateb Mentrau laith Cymru

1. Cyflwyniad

- 1.1. Mae Mentrau laith Cymru yn croesawu'r cyfle i ymateb i'r ymgynghoriad ar Egwyddorion cyffredinol y Bil Cynllunio (Cymru)
- 1.2. Yn ogystal â'n hymateb ysgrifenedig rydyn ni am gyflwyno tystiolaeth i'r Pwyllgor ar lafar fel rhan o'r ymgynghoriad hwn.
- 1.3. Mae Mentrau laith Cymru yn cefnogi gwaith y 23 Menter laith sydd yn hyrwyddo defnydd o'r Gymraeg yn eu cymunedau lleol ar draws Cymru gyfan. Rydym am weld cynnydd yn y nifer â'r ganran o bobol yn defnyddio'r Gymraeg.
- 1.4. Mae'r Mentrau laith yn cydweithio â Llywodraeth Cymru i wireddu'r weledigaeth o weld y Gymraeg yn ffynnu, gan arwain at gynyddu'r nifer â'r canran o bobl sy'n siarad Cymraeg ac yn ei defnyddio fel rhan o'u bywydau bob dydd.

2. Ymateb Mentrau laith Cymru

- 2.1. Gofynnwn i'r Pwyllgor Amgylchedd a Chynaliadwyedd ystyried cynnwys effaith ar y Gymraeg fel ffactor sydd yn dylanwadu ar addasrwydd datblygiad i gael caniatâd cynllunio.
- 2.2. Mae Mentrau laith Cymru yn credu nad mewn gwagle mae'r gwaith o gefnogi'r defnydd o'r Gymraeg, a bod clytwaith o fudiadau a sefydliadau yn mewnbynnu i lwyddiant cynyddu niferoedd a chanran y bobol yn defnyddio'r iaith.
- 2.3. Mae nifer o bolisiâu, strategaethau, deddfau a biliau yn effeithio ar bobl, ar y byd maen nhw yn byw ynddo ac ar ddyfodol ein hiaith. Gall hyn gynnwys bron i bob deddf, bil, polisi neu strategaeth sydd yn cael ei wneud yng Nghymru, Prydain neu gan yr Undeb Ewropeaidd. Gall yr effaith hyn ar ddyfodol y Gymraeg fod yn bositif neu yn negyddol.
- 2.4. Credwn fod gan Llywodraeth Cymru a Chynulliad Cymru ddyletswydd i sicrhau fod y biliau, deddfau, polisiâu a strategaethau yng Nghymru yn cael effaith positif ar y Gymraeg. Wedi'r cwbl, mae gan y Gymraeg statws swyddogol yng Nghymru ers Mesur Y Gymraeg (2011), ac mae Llywodraeth Cymru wedi ymrwymo i greu Cymru wirioneddol ddwyieithog. Mae strategaeth iaith y Llywodraeth laith Fyw:laith Byw yn datgan eu bod eisiau gweld cynnydd yn y canran o bobol sydd yn defnyddio'r iaith o ddydd i ddydd, a chredwn fod angen i bob darn o ddeddfwriaeth, bil, polisi neu strategaeth anelu tuag at yr un uchelgais.

- 2.5. Mae pwysigrwydd y Gymraeg yn cael ei nodi dro ar ôl tro mewn dogfennau polisi megis y Cynlluniau Datblygu Lleol a TAN20, ac felly mae yn ein pryderu yn fawr iawn nad yw'r Gymraeg yn cael ei drafod o gwbl yn y Bil Cynllunio.
- 2.6. Heb i'r Gymraeg fod yn rhan greiddiol o'r Bil Cynllunio newydd, mae'r gwaith o hyrwyddo'r Gymraeg sydd yn cael ei wneud gan Llywodraeth Cymru gyda'i bartneriaid yn cael ei danseilio gan bolisiau mewn meysydd megis cynllunio, sydd yn anffodus, pan mae datblygiadau heb ystyried y Gymraeg yn ddigonol, yn tanseilio'r ymdrech ehangach i gefnogi twf yr iaith.
- 2.7. Cyhoeddodd y Prif Weinidog ddogfen bolisi o'r enw "Bwrw Mlaen" ym mis Gorffennaf ac Awst 2014, lle addawodd ystyried '*pob cam ymarferol ar gyfer atgyfnerthu'r Gymraeg o fewn y system gynllunio*'.
- 2.8. Ym mis Hydref 2013, cyhoeddwyd crynodeb o ganlyniadau'r Gynhadledd Fawr a oedd yn galw am newidiadau i'r system gynllunio ac yn dweud mai symudoldeb poblogaeth yw'r '*her gyfredol fwyaf*' i'r iaith.
- 2.9. Dim ond tri awdurdod cynllunio lleol o'r 25 yng Nghymru cynhaliodd asesiad effaith datblygiadau ar y Gymraeg rhwng 2010 a 2012 . Cyfanswm o 16 asesiad allan o bron i 50,000 o geisiadau cynllunio.
- 2.10. Anfonodd Comisiynydd y Gymraeg gyngor ysgrifenedig at y Llywodraeth ynghylch y Bil gan nodi mai *dim ond hanner cynghorau sir Cymru sydd wedi cynnwys polisiau iaith Gymraeg yn eu cynlluniau datblygu lleol*. Rhai o brif gasgliadau'r adroddiad:
 - 2.10.1. Nid yw'r Gymraeg yn cael ei hystyried yn gyson o dan y gyfundrefn gynllunio gyfredol.
 - 2.10.2. Nid yw pob awdurdod cynllunio wedi ystyried y Gymraeg wrth lunio ei gynllun datblygu. Mae hynny'n awgrymu nad yw pob awdurdod wedi gweithredu yn unol â Pholisi Cynllunio Cymru a Nodyn Cyngor Technegol 20 (2000).
 - 2.10.3. Mae amrywiaeth ac anghysondeb yng nghynnwys a manylder y polisiau ar y Gymraeg mewn cynlluniau datblygu... Mae amrywiaeth ac anghysondeb yn y pynciau atodol mewn perthynas â'r Gymraeg a ystyrir mewn cynlluniau datblygu.
 - 2.10.4. Mae'r nifer o asesiadau effaith ieithyddol a gynhaliwyd ar geisiadau cynllunio unigol yn isel yn y mwyafrif o awdurdodau. Mae hynny'n awgrymu nad yw'r polisi yn cael eu gweithredu'n llawn mewn rhai ardaloedd.

3. Astudiaethau Achos

- 3.1. Mae sawl astudiaeth achos gennym isod (gweler pwyntiau 8 - 12) o sut effaith mae cynllunio yn ei gael ar y Gymraeg, ac mae'r dystiolaeth yn glir nad yw'r system bresennol yn gweithredu i amddiffyn a datblygu'r Gymraeg mewn modd effeithiol a chynaliadwy. Credwn fod y Bil Cynllunio hwn yn gyfle i newid y patrwm yma a gwneud y Gymraeg yn flaenllaw wrth ystyried effeithiau datblygiadau newydd.

- 3.2. O'r astudiaethau achos mae'n bosib gweld bod y maes cynllunio yn un o'r elfennau pwysig sydd yn effeithio ar yr iaith Gymraeg ac rydym yn awyddus i sicrhau bod polisi cynllunio yn cyd-fynd â pholisiau eraill sydd am gefnogi'r Gymraeg.
4. **Fframwaith i ystyried y Gymraeg**
- 4.1. O'r wybodaeth rydan ni wedi ei dderbyn gan rai o Swyddogion Cynllunio sirol, nid ydynt yn teimlo fod modd iddynt ystyried ceisiadau datblygu ar sail "effaith ieithyddol" oherwydd nad yw'r fframwaith statudol yn ddigon cryf iddynt wneud ar hyn o bryd. Rydym yn galw am gryfhau'r fframwaith statudol i fesur effaith ar y Gymraeg gan ddatblygiadau, i rymuso swyddogion ar lefel lleol i wneud eu gwaith yn effeithlon.
- 4.2. Hefyd rydym am weld yr asesiadau iaith gael ei wneud gan gorff annibynnol statudol yn yr un ffordd mae Cyfoeth Naturiol Cymru yn asesu ceisiadau amgylcheddol. Nid yw yn dderbyniol nac yn ddigon gwrthrychol a tryloyw fod datblygwyr yn gwneud yr asesiadau yma.
5. **Sut i fwrw mlaen?**
- 5.1. Nid yw Mentrau Iaith Cymru ddim yn galw am stop i bob datblygiad a gwaith cynllunio. Rydym yn croesawu cynllunio a datblygiadau sydd yn addas ar gyfer yr ardal ac sydd yn pwysu a mesur yr effaith ar yr iaith yn lleol yn yr un ffordd ac mae'r broses cynllunio yn ystyried yr effaith mae unrhyw ddatblygiad newydd yn ei gael ar fywyd gwyllt. Rydyn ni am weld datblygu cynhaliol sydd yn ymateb i'r angen lleol, sydd ddim yn cael effaith negyddol ar sefyllfa'r Gymraeg.
- 5.2. Angen cydnabod bod cynllunio yn cael dylanwad ar y Gymraeg, a mabwysiadu fframwaith i fedru cynnwys hyn yn y system gynllunio fel ei bod yn cael ei ystyried wrth wneud penderfyniadau i roi caniatâd i ddatblygiad newydd neu beidio.
- 5.3. Er mwyn i'r Gymraeg gael llawn ystyriaeth o fewn y gyfundrefn cynllunio yng Nghymru credwn fod angen cymryd y camau canlynol:
- 5.3.1. **Sylfaen statudol**
Rhoi sylfaen statudol iddi o fewn y mesur newydd bydd yn rhoi lle amlwg iddi o fewn "Fframwaith Datblygu Cenedlaethol" newydd.
- 5.3.2. **Ardaloedd Cynllunio Strategol**
Sefydlu ardaloedd cynllunio strategol ar gyfer y Gymraeg.
- 5.3.3. **Craffu ar geisiadau**
Creu system o graffu ar geisiadau yng nghyd destun y Gymraeg.
Credwn fod dau opsiwn i ddarparu hyn sef:
- Grymuso Swyddfa'r comisiynydd y Gymraeg i wneud y gwaith. Bydd angen adnoddau dynol ychwanegol i fedru ymgymryd efo'r gwaith.
 - Sefydlu awdurdod cynllunio arbenigol newydd sydd yn delio â materion ieithyddol.
- 5.3.4. **Rhagdybiaethau ffigyrau poblogaeth**

Mae angen asesu sut mae'r ffigyrau yma yn cael ei sefydlu. Deallwn fod y drefn wedi ei sefydlu ers 1997, cyn sefydlu'r Cynulliad ac mae'n system rydym ni yng Nghymru wedi etifeddu gan Lywodraeth San Steffan. Credwn fod angen ffigyrau annibynnol i Gymru ac Arolygaeth Cynllunio ar wahân i Gymru. Mi ddylai rhagdybiaethau ffigyrau poblogaeth gael ei seilio ar angen lleol. Bydd angen i awdurdod cynllunio lleol weithio yn agos gyda chynghorau cymuned i fesur y galw yma.

6. **Amod 106**

6.1. Caniatáu tai o bob math i fod ar gyfer galw lleol o dan amod 106, nid tai fforddiadwy yn unig.

7. **Seilwaith Cymdeithasol**

7.1. Gwneud y Gymraeg yn rhan annatod o'r Seilwaith Cymdeithasol fel bod modd creu ac ariannu effeithiau lliniaru priodol.

8. **Astudiaethau Achos**

8.1. Mae angen i ddatblygiadau tai newydd gael yr un faint o ganran o siaradwyr Cymraeg ac sydd yn bodoli yn barod yn y gymuned er mwyn cynnal yr iaith, ond hoffem weld canran uwch na'r canran lleol er mwyn tyfu'r defnydd o'r iaith yn lleol.

9. **Astudiaeth Achos 1 - Penybanc, Sir Gâr**

9.1. Mae'r achos yma yn arbennig yn tanlinellu diffygion o fewn y system gynllunio mewn perthynas â'r Gymraeg. Cafodd yr ardal ei hadnabod gan Bwrdd yr Iaith Gymraeg, fel ardal o arwyddocâd ieithyddol lle mae'r iaith yn colli tir. Yr ymateb i hyn oedd sefydlu cynllun ardal Aman Tawe. Bwriad y cynllun yw gwrthdroi'r sefyllfa yma. Yn wir mae'r Llywodraeth erbyn hyn yn ariannu 3 swydd llawn amser yn yr ardal.

9.2. Er hyn oll mae caniatâd wedi ei roi i godi 298 o dai ym mhentref Penybanc (sydd yn ward Saron lle mae 54% yn siarad Cymraeg yn ôl cyfrifiad 2011 a 65% yn 2001). Cyflwynwyd 2 astudiaeth trywydd iaith, un gan y Datblygwr ac un gan y Cyngor Cymuned. Roedd astudiaeth y datblygwr o'r farn buasai codi'r tai newydd yn gwneud lles i sefyllfa'r Gymraeg tra roedd astudiaeth y Cyngor Cymuned o'r farn y bydd yn niweidiol i sefyllfa'r Gymraeg. Gwrthodwyd y cais ar y cam cyntaf ond pam aeth i apêl fe'i caniatawyd.

9.3. Mae'r astudiaeth achos yma yn esiampl o ddau faes polisi yn gwrthdaro yn erbyn ei gilydd - dyma'r union sefyllfa sydd angen ei osgoi yn y dyfodol drwy gynnwys y Gymraeg yn rhan ganolog i'r Bil Cynllunio.

10. **Astudiaeth Achos 2 - Abergele, Sir Conwy**

10.1. Rydym yn arbennig o bryderus am y syniad i ddatblygu 873 o dai newydd yn ardal Abergele. Er bod Abergele tu hwnt i ardal sydd wedi ei ddynodi yn "ardal ieithyddol sensitif", credwn y bydd y datblygiad yma yn gwanhau'r Gymraeg ym mhellach yn y dref ac yn cael effaith negyddol ar ardaloedd agos megis Llanfairtalhaiarn.

10.2. Gweler y patrwm rhwng cynyddu'r stoc tai a chanran y siaradwyr Cymraeg

Blwyddyn	Nifer o anheddau ychwanegol yn y cyfnod hyd at y cyfrifiad	Canran Siaradwyr Cymraeg
1971	281	26%
1981	1004	25%
1991	gwybodaeth ddim ar gael	22%
2001	gwybodaeth ddim ar gael	21%

10.3. Wrth ddadansoddi'r data yn fwy manwl yn Abergele dros y cyfnod 1971 i 2001, gallwn weld fod y raddfa preswylwyr sydd yn medru'r Gymraeg yn y tai *newydd* wedi bod yn gyson oddeutu 8%. Mae canran siaradwyr Cymraeg yn yr ardal yn ystod y cyfnod rhwng 26% a 21%.

10.4. Felly gallwn weld fod datblygu yn yr ardal wedi cael effaith negyddol ar y Gymraeg gan fod y canran o bobol yn y tai newydd ddim yn cyfateb i'r canran o siaradwyr Cymraeg yn yr ardal yn barod. Mae caniatáu i'r system gynllunio beidio ag ystyried natur ieithyddol yr ardal wedi newid natur yr ardal yn ieithyddol yn gyfan gwbl. Mae'r ffaith fod siaradwyr Cymraeg yn ganran mor isel o'r preswylwyr yn y tai newydd yn dystiolaeth fod ffigyrau ar gyfer amcan y twf poblogaeth leol yn rhy uchel i allu cynnal y Gymraeg fel canran uchel o'r boblogaeth.

11. Astudiaeth Achos 3 - Llangennech, Sir Gâr

11.1. Mae'r effaith o godi tai newydd yn fwy eglur yn yr achos yma:

Blwyddyn	Nifer o dai yn Llangennech	Canran Siaradwyr Cymraeg
1957	850	90%
1981	930	84%
2011	1600	40%

11.2. Rhwng 1957 a 1981 dim ond oddeutu 80 o dai adeiladwyd yn y pentref. Cynyddwyd y stoc dai o 9% a bu cwmp bach yn y canran o siaradwyr Cymraeg. Rhwng 1981 a 2011 fe godwyd 670 o dai ychwanegol, oedd yn cynyddu'r stoc tai 72%. Mae'r effaith yn frawychus o eglur. Mi ddisgynnodd y canran o siaradwyr Cymraeg o 84% i 40% erbyn 2011. Eto ni chafwyd dystiolaeth o angen tai yn lleol, bu gwrthwynebiad ar lefel leol gan y

trigolion lleol, Cyngor Sir Dyfed, Cyngor Cymuned Llangennech ac yn fwy diweddar gan Cyngor Sir Gâr.

12. Astudiaeth Achos 4 - Cwm Tawe Uchaf

12.1. Nid yw'r ddogfennaeth ynglŷn â'r Cynllun Datblygu Lleol hwn ar gael yn y Gymraeg. Rydym wedi dyfynnu felly o'r ddogfennaeth uniaith Saesneg yn uniongyrchol isod. Mae'r astudiaeth hon wedi darganfod bod datblygiadau newydd yn cael effaith niweidiol ar y Gymraeg yn yr ardal:

12.1.1. Powys Local Development Plan - Welsh Language Impact Assessment Of Communities in the Upper Swansea Valley (2013)

When compared with the area of long established housing, the new development:

- contained a lower percentage of people able to speak Welsh, 37.5% (49.3% in the older housing)
- had a lower percentage of young people who spoke the language 42% (61%)
- had a lower percentage of households in which Welsh was the language of the household, 21.4% (39.2%)
- had a lower percentage of people who had been educated through the medium of Welsh 13% (34%)
- had a lower likelihood that Welsh speaking residents would use Welsh in their everyday activities
- had a lower percentage of people who felt there was community spirit.
- had a lower percentage of people who felt they were part of a Welsh speaking community.

13. Astudiaeth Achos 5 - Cwm Tawe

13.1. Nid yw'r ddogfennaeth ynglŷn â'r Cynllun Datblygu Lleol hwn ar gael yn y Gymraeg. Rydym wedi dyfynnu felly o'r ddogfennaeth uniaith Saesneg yn uniongyrchol isod. Mae'r astudiaeth yma wedi darganfod bod datblygiadau newydd yn cael effaith niweidiol ar y Gymraeg yn yr ardal.

13.2. Neath Port Talbot Local Development Plan. Welsh Language Impact Assessment Of Communities in the Swansea Valley (2012)

When compared with the area of long established housing, the new development:

- contained a lower percentage of people able to speak Welsh, 22% (52%)
- had a lower percentage of households in which Welsh was the language of the household, 8% (34%)
- had a lower percentage of people who had been educated through the medium of Welsh
- had a lower likelihood that Welsh speaking residents would use Welsh in their everyday activities.

It should be noted that the results also confirm the scale of change that is

occurring in existing communities: although new development is likely to create new pressures for the language, it is compounding the on-going erosion of the language that is taking place within the existing communities.

The Committee Clerk
Environment and Sustainability Committee
National Assembly For Wales
Cardiff Bay
CF99 1NA

Dear Sir/Madam

Inquiry into the General Principles of the Planning (Wales) Bill: The Evidence of the Natural Resources Body for Wales

This is the Natural Resource Body for Wales' (NRW) formal response to the Environment and Sustainability Committee's inquiry into the general principles of the Planning (Wales) Bill.

The purpose of the Natural Resources Body for Wales (NRW) is to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used. In this context sustainably means with a view to benefitting and in a manner designed to benefit the people, environment and economy of Wales now and in the future. Our functions are set out in the Natural Resources Body for Wales (Functions) Order 2012. Our comments are therefore provided in the context of this remit.

We welcome the opportunity to contribute to the Inquiry, as we consider the Planning (Wales) Bill, together with the Environment and Wellbeing of Future Generations Bills, represent a once in a generation opportunity to significantly improve the statutory framework for the integrated management and planning of environmental and natural resources in Wales to meet the challenges facing Wales. These challenges include the effects of climate change, the need for energy security and efficiency, the depletion and deterioration of natural resources including the continuing decline in biodiversity, the need to create and maintain jobs, and the inequality in the access that the people of Wales have to the benefits that the environment provides.

We consider that the Environment Bill, the Wellbeing of Future Generations Bill, the Wales National Marine Plan, the Review of Designated Landscapes and the Planning (Wales) Bill are complementary and mutually supportive. To ensure a joined up approach to addressing the environmental, social and economic challenges we now face, it is important that these linkages are recognised and clearly articulated within the context of the wider process of public service reform and delivery in Wales.

Within this framework of policy the Planning system is designed to manage the development and use of land in the public interest and is an important mechanism for delivering sustainable development and shared outcomes within a spatial context. As well as providing land for development and infrastructure, the planning system also provides protection and opportunities to enhance the environment. We welcome the aim of the Bill to deliver a planning system which is positive in outlook and enables development that helps to deliver sustainable places whilst providing the protection and enhancement opportunities that Wales' environment requires. NRW has a key role to play in supporting the proposals in the Planning (Wales) Bill through providing evidence and guidance, and in our role as a statutory consultee. In this statutory consultee role, the Bill proposes that we will provide statutory advice through substantive responses at a number of stages in the planning application process. This will involve advice on the environmental impact of development, and potential solutions, to inform developers and decision makers to ensure the right development is located in the right place, and implemented within the impact parameters assessed for developments.

NRW has developed a set of Strategic Objectives for our Planning Advice, which was endorsed by our Board on 18 December 2013. These align with the overall approach set out in the Planning (Wales) Bill. They emphasise the need to move towards an enabling, solutions based approach, working strategically and through early engagement with developers and decision makers to enable the right development in the right location whilst respecting environmental limits in accordance with the ecosystem approach. A copy of our Strategic Objectives is attached at Annex 2 for your information.

Our response to the Planning (Wales) Bill highlights the importance of:

- The integration of legislation, policies and plans;
- Parallel tracking of planning and connected environmental consents and permits;
- Integration of outcomes to optimise the benefits from development;
- The opportunity to develop a common evidence base to inform the National Natural Resources Policy, the National Development Framework and the Wales National Marine Plan.
- Strategic engagement with the National Development Framework and other strategic plans to provide evidence and advice to direct nationally important development and infrastructure to the most suitable locations;
- Early engagement in the development management process – at the site selection phase;
- Clarity over the proposed future role of statutory consultees and others in the planning process.

We note that the Bill sets out a number of provisions which rely upon subordinate legislation for their implementation. Whilst much of this detail is not currently available, we view that this secondary legislation will be of considerable importance. Natural Resources Wales looks forward to continued discussion with regard to the scope and detail of the provisions of secondary legislation.

We note that the Regulatory Impact Assessment has considered the options, costs and benefits of proposals on Statutory Consultees, including the desirability of statutory consultation and the requirement for substantive responses at additional stages of the Planning process. We look forward to working with Welsh Government to establish the full extent of these new responsibilities, our respective roles, particularly in relation to the connected consents process, and how best to resource them so as to maximise our effectiveness in delivering the Welsh Government policy objectives in relation to the Planning, Environment and Wellbeing of Future Generations Bills, and the emerging Wales National Marine Plan.

We will continue to work with the Welsh Government and other stakeholders to develop further the details of this important piece of legislation and associated secondary legislation, policy and technical guidance.

Our detailed response to the terms of the Committee's inquiry are set out in Annex 1.

Finally, NRW has this week been invited to attend to give oral evidence to the Committee, which we will be pleased to do.

Yours faithfully

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

Head of Sustainable Communities
Pennaeth Cymunedau Cynaliadwy

Inquiry into the General Principles of the Planning (Wales) Bill

Evidence of the Natural Resources Body for Wales

1. The General Principles of the Planning (Wales) Bill and the need for legislation in specified areas.

We welcome the opportunity to contribute to the Inquiry, as we consider the Planning (Wales) Bill, together with the Environment and Wellbeing of Future Generations Bills, represent a once in a generation opportunity to integrate the statutory framework for the management and planning of environmental and natural resources in Wales. We consider that the Environment Bill, Wellbeing of Future Generations Bill, the Wales National Marine Plan, the Review of Designated Landscapes and the Planning (Wales) Bill are complementary and mutually supportive. To ensure a joined up approach to addressing the environmental, social and economic challenges we now face, it is important that these linkages and interconnections are recognised and articulated through the various Bills within the context of the wider process of public service reform in Wales.

The challenges we face include tackling the causes and effects of climate change, the need for energy security and efficiency, the depletion and deterioration of natural resources including the continuing decline in biodiversity, the need to create and maintain jobs and the inequality in the access that the people of Wales have to the benefits that the environment provides. Addressing these challenges needs to be delivered within the context of the wider processes affecting the delivery of public services across Wales.

The Planning system is designed to manage the development and use of land in the public interest and is an important mechanism for delivering sustainable development and shared outcomes within a spatial context. As well as providing land for development and infrastructure, the planning system also provides protection and opportunities to enhance the environment. We welcome the aim of the Bill to deliver a planning system which is positive in outlook and enables development that helps to deliver sustainable places whilst providing the protection and enhancement opportunities that Wales' environment requires.

NRW has developed a set of Strategic Objectives for our Planning Advice, which was endorsed by our Board on 18 December 2013. These reflect the overall approach set out in the Planning (Wales) Bill. They emphasise the need to move towards an enabling, solutions based approach, working strategically and through early engagement with developers and decision makers to enable the right development in the right location whilst respecting environmental limits i.e. adopting the ecosystem approach. A copy of our Strategic Objectives is attached at Annex 2 for your information.

The requirement to produce a national land use plan, the National Development Framework

NRW welcomes the proposal to introduce a National Development Framework (NDF) to replace the Wales Spatial Plan. The NDF will be evidence based, and therefore provides an opportunity to direct nationally strategic development and infrastructure to the most appropriate locations based on clear evidence, some of which will be provided in the State of Natural Resources Report and, in due course the National Natural Resources Policy and Area Natural Resources statements. In this context it will be important that green infrastructure is identified in the NDF, and the role that it has in delivering multiple benefits such as managing flood risk and providing health benefits, thereby reducing the social and economic costs associated with flooding and poor health for government, business and communities.

Integration between the NDF, National Natural Resources Policy and the Wales National Marine Plan will be essential to ensuring integrated solutions to the economic, social and environmental challenges facing Wales within the context of the Goals set out in the Well Being of Future Generations Bill.

A significant opportunity exists to develop a common evidence base to inform the Natural Resources Policy, the National Development Framework and the Wales National Marine Plan.

The NDF will need to -

- clearly define the role of the land use planning system in delivering the national outcomes of government and any long term goals arising out of the forthcoming Wellbeing of Future Generations Bill ,the Wales National Marine Plan and future Environment Bill provisions with respect to Natural Resource Management.
- set out a long term vision focussed on the delivery of sustainable development goals and outcomes to ensure a resilient economy and environment
- clearly articulate the relationship between the different tiers of plans and processes
- clearly articulate the relationship between the NDF, the Wales National Marine Plan, the Wales Infrastructure Investment Plan (WIIP), the Wales Climate Change Strategy and its associated Sectoral Adaptation Plans and the Wales Transport Strategy and the spatial expression of major development and infrastructure arising out of non-devolved Plans and programmes e.g. National Policy Statements
- clearly articulate the relationship between the NDF and the Natural Resources Policy proposal for the Environment Bill and between the NDF and the Wales National Marine Plan. Section 60B of the Planning (Wales) Bill should make provisions for the Ministers to have regard to, or consider, natural resources policy and the Wales National Marine Plan in the preparation of the NDF.
- clarify that the NDF will set out a spatial expression of Natural Resources Policy including green infrastructure and strategic recreation and access provision, flood defence and other flood risk management measures, such as upland catchment management measures together with pressured environments and National and Internationally important designations.

- clarify whether Developments of National Significance are to be criteria led or reflected spatially in the NDF, informed by the Wales Inward Investment Plan, Wales Transport Strategy and Natural Resources Policy.
- highlight the key natural resource requirements that target setting and land allocation further down the planning hierarchy will need to take into account e.g. water resource availability when setting housing allocation targets for Strategic Development Plans (SDP) and Local Development Plans (LDP).
- align the review period with that proposed for the Natural Resources Policy and State of Natural Resources Reporting.

We note and welcome the development plan status of the NDF and that the Bill requires a Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA) to be carried out for it. This will help ensure clarity, certainty and consistency throughout the planning hierarchy in Wales and avoid unnecessary conflict and delay arising from inappropriate development in inappropriate locations. Specifically some environmental issues such as flood risk manifest themselves at regional or national spatial scales, such as large river catchments and coastal process cells. These and other environmental issues should be firstly addressed at the national spatial planning level in order to most effectively influence strategic and local development decisions.

Investment in such development and infrastructure will need to be founded on robust environmental evidence to ensure that proposals are directed to locations that can deliver intended outcomes for the long term, whilst being resilient to current and future challenges such as climate change impact.

The NDF can play an important role in achieving Wales' emissions reduction targets in a way that otherwise uncoordinated local planning decisions will fail to do. It will be important to ensure that SEA/SAs are fit for purpose and demonstrate long term sustainability. In this context, and given the importance of meeting EU, UK and Welsh Government targets on carbon reduction, the Framework and its proposals should be required to demonstrate at least a 3% reduction in carbon emissions per annum, over the lifetime of the Framework. Reducing carbon emissions in line with Welsh Government targets is one key step in assuring long term sustainability.. Similarly, the SEA process should demonstrate how the developments proposed in the NDF and their total impact, reduce the impact on natural resources in line with for example Biodiversity targets.

To deliver SA/SEAs that are fit for purpose it will be important to ensure that the necessary expertise and competencies are available, particularly if it is to deliver the larger than local framework and account for the total impacts of the Plan. A realistic assessment of total impacts will be required at the NDF level. The assessments should not be relegated to the SA/SEAs of the lower tier Strategic (SDP) and Local Development Plans (LDP), so that the bigger picture proposed in the NDF recognises how it is contributing to environmental impacts, as well as delivering any economic, social and environmental benefits.

Whilst welcoming the requirement for SA/SEA, we are concerned however that no reference is made to the need to undertake a Habitat Regulation Assessment of the Plan to ensure that compliance with and full consideration is given, to the requirements of the

Conservation of Habitats and Species Regulations (as amended) (The Habitat Regulations), which transposes the requirements of the EC Habitats Directive (Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora) into UK law. Consideration should therefore be made to amending Section 60B(1) of the Bill should to include the requirement for a Habitat Regulations assessment to be carried out, either by inserting the reference as part of (c) or by inserting an additional criterion.

The proposals for the scrutiny and review of, the NDF will need careful consideration particularly if the intention is to include the spatial elements of existing TANs, such as TAN 8 and 15, within the NDF. As Strategic Development Plans (SDP) and Local Development Plans (LDP) will be required to be in conformity with the NDF, it also provides the context for both of those plans, and it is therefore of key importance that it is given appropriate scrutiny before being finally published.

The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues

There are a number of areas in Wales where larger-than-local cross-boundary issues will benefit by greater collaboration between authorities and in being considered at the strategic or regional level. Most notably these include housing allocations particularly for South East Wales and Cardiff, and North East Wales; mineral and waste allocations; and green and blue infrastructure, informed by Area Natural Resources evidence and statements, to complement the delivery of grey infrastructure. Strategic Development Plans (SDPs) therefore seem an appropriate tool to consider such issues.

However, given that consideration is being given to larger local authorities in light of the recommendations set out in the *Report of the Commission on Public Service Governance and Delivery* (The Williams Report), it is anticipated that if such changes are introduced, a number of Local Development Plans will cover a much larger area and therefore become more strategic in nature.

It is not clear from the Bill what the interrelationship between SDPs, the Local Development Plans (LDPs) of larger local authorities and Area Natural Resources evidence and statements will be. This needs to be defined or reference provided to the provisions for it to be clarified in secondary legislation.

Similarly, in areas where no SDPs are proposed, the NDF will need to provide an adequate framework for the LDP for the area, to ensure that the LDP is able to demonstrate the necessary conformity with the NDF.

As stated for the NDF, we similarly welcome the requirement for the Strategic Planning Panel to carry out a Sustainability Assessment and Strategic Environmental Assessment of the SDP. However, as for the NDF, we have concerns that there is no reference to the requirement to carry out a Habitats Regulations Assessment of the SPD. We consider this an omission in the Bill and suggest that it is included.

Similarly there is no legislative requirement for the SDP to be informed by the National Natural Resources Policy or Area Natural Resources Statements, although Paragraph 5.26 of the Positive Planning Consultation stated that SDPs would be informed by it and the area based approach for natural resources management. To ensure that the Bill and the emerging Environment Bill are integrated and mutually supportive, we recommend that the proposed Section 60I (6) of the 1990 Act referred to in the Bill is amended by adding reference requiring SDPs to have regard to or to consider National Natural Resources Policy and the area based approach for Natural Resources Management.

We also consider that the Committee should emphasise the importance of the SDP having to have regard to the coordinating processes and timetables between the plans referred to above and the SDP, as well as the coordinating processes and timetables of other National regional plans including:

- National Natural Resources Policy
- The Wales National Marine Plan
- The Wales Infrastructure Investment Plan
- Climate Change Strategy
- Area Natural Resource Management statements
- The Local Development Plan
- Well Being Plans
- National Park and Area of Outstanding Natural Beauty Management Plans
- Regional Transport Plans

The Committee should also seek provisions requiring information on the coordinating processes to be set out in secondary legislation.

We reiterate that specifically some environmental issues such as flood risk, climate change mitigation and adaptation manifest themselves at regional or national spatial scales, such as large river catchments and coastal process cells. These and other environmental issues should be firstly addressed at the national spatial planning level, integrating the National Natural Resource Policy, the Wales National Marine Plan and the National Development Framework in order to most effectively influence strategic and local development decisions.

Changes to Local Development Plan Procedures

We generally welcome the proposals to refine the LDP process and for LDPs to be in conformity with the NDF and, where relevant SDPs. However, guidance will be required on how any conflict between the different authorities are to be resolved, particularly if they still remain at the examination stage of the LDP.

We consider that where there is sufficient evidence to support a joint LDP, they can be a useful tool in providing a local/sub-regional framework to resolve conflict between land allocations and the capacity of the environment to accommodate change in relation to for example flood risk, water resources or Natura 2000 sites.

Frontloading the development management process by making provision for pre-application services

We welcome the potential to influence the design and siting of applications at the pre-application stage of a proposal to try and ensure that environmental impacts are minimised, and that any opportunities for enhancement of green and blue infrastructure and access to green space provision are explored.

Our experience of the pre application stages of applications for Nationally Significant Infrastructure Projects (Planning Act 2008), however, has demonstrated how resource intensive this stage can be for consultees. Pre application consultations can frequently involve reviewing a number of iterations of information submitted by applicants before an application is finally submitted to the decision maker. It is therefore important that expectations of what applicants can expect from consultees at this stage, and what consultees can expect from applicants, is clearly established at the outset.

Although we fully recognise the value of pre application consultation, currently it is often above our current statutory obligations and can be resource intensive. Consequently we are not always able to provide a consistent level of pre application service across Wales. NRW is working to develop and standardise this service in recognition of these factors. As part of this our Board has asked us to look at the options, benefits and costs of introducing a charging element for non-statutory advice, learning from the models being used and developed by organisations who already offer this service, including those being adopted in England. NRW is currently seeking views on options to charge for non statutory planning services as part of a consultation on our charging scheme for 2015-16.

The introduction of a statutory requirement at the pre application stages for DNS and major applications for statutory consultees to provide substantive responses will need to be considered as part of our service improvements and options for charging. A statutory element in the pre application stage needs to be tightly defined otherwise we suggest there could be unintended consequences on statutory consultees.

We note that provision is made to expand on the detail of the proposals in secondary legislation, with further detail provided in the current Welsh Government consultation – Frontloading the Development Management system – which identifies that bespoke advice will be required to ensure full consideration of the proposals and site. NRW will be responding to this consultation in January.

We also note that statutory consultees will be required to produce an annual monitoring report detailing compliance with the requirement to provide substantive responses as pre-application advice, and within the specified timescales. We consider that the indicators currently proposed are a good starting point but could be improved by greater emphasis on outcomes as well as outputs, for example by linking this to the indicators emerging from the Wellbeing of Future Generations (Wales) Bill.

Introducing a new category of development to be known as Developments of National Significance to be determined by the Welsh Ministers

NRW supports the proposed Developments of National Significance (DNS) category in principle for developments which are of 'National' significance. The Bill and secondary legislation will need to clarify their links with the NDF and the spatial expression of major development and infrastructure arising out of National Policy Statements and other non-devolved Plans and Programmes. Additionally, it will be important that their thresholds and criteria are clearly set out.

We note the provision for secondary connected consents in respect of certain applications, including DNS, to be dealt with by the Ministers. Whilst this has the potential to speed up the determination of proposals by allowing them to be considered simultaneously, implementation of the proposal, and resource implications need to be carefully discussed between Government, statutory consultees and local planning authorities.

It will also be important to consider the resource implications for NRW of inputting to the Nationally Significant Infrastructure Project (NSIP) and DNS processes when applications are submitted simultaneously, as is likely to occur, and the balance that is to be struck in trying to ensure that both processes are adequately resourced. This is possibly an unintended consequence of the Bill and an area where there is the potential for conflicting priorities.

Streamlining the Development Management system

We support the principle of streamlining the Development Management system to deliver a system that provides greater certainty for all involved, and that is effective, efficient, proportional and transparent. We particularly welcome the proposal to update decision notices as conditions are discharged or varied.

Changes to Enforcement and Appeal procedures

We generally support the principle of changes to improve the planning appeals process. However again, many of the provisions will be referred to in secondary legislation, where the detail of the proposals will be important.

Although we are generally supportive of some changes being provided by an applicant to improve a scheme once the appeal has been registered, they can, depending on the scale and nature of the change, add considerable delay to the appeals process. We therefore support the principle of generally not allowing alterations to a scheme. However, we consider that there should be an exception for amendments to be allowed by applicants where they would overcome consultee/3rd party objections, and avoid a subsequent application having to be submitted, which would add more cost and time requirements to all concerned.

Changes in relation to applications to register town and village greens.

We note the changes proposed to applications to register town and village greens. However it is important to recognise the importance of these areas of green space to both urban and rural communities, many of which will have been enjoyed by communities for a number of years and have recognised health and well being benefits associated with them.

2. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them

Critical to implementation of the Bill will be clarity of the integration and interrelationship between other on- going legislative and policy proposals, notably the Well Being of Future Generations Bill, The Environment Bill, the Review of Designated Landscapes and The Wales National Marine Plan.

Careful consideration needs to be provided to the resource implications in the context of the current review of Public Service Delivery, particularly where bodies are required to provide advice to assist determination of applications by Welsh Ministers or their appointed body. This needs discussion nationally between WG, statutory consultees and Local Government, and solutions considered at a National and Regional Scale to help ensure a resilient planning service locally.

Loss of fees for bodies that would ordinarily determine connected secondary consents, but which will still be required to allocate staff resources to assist in their consideration.

Our experience from Nationally Significant Infrastructure Projects is that considerable resources can be required to assess an application as submitted and to ensure the project has evolved in an iterative way, addressing advice and any concerns provided at the pre application stage. Whilst there may be a time saving at application stage our experience is that substantial resources are still likely to be required at that stage without necessarily benefitting from the savings outlined in the Regulatory Impact Assessment. This will require careful management.

3. The extent to which the Revised Bill takes account of the Committee's recommendations in their scrutiny of the Draft Planning (Wales) Bill

No comment.

4. Any unintended Consequences arising from the Bill?

Please see comments above in relation to implications for charging for non statutory pre application advice, and consultee input into DNS proposals and the relative balance to be given to that when simultaneous input into NSIPs is also required.

5. Financial implications of the Bill, as set out in the Regulatory Impact Assessment

Whilst we welcome opportunities to speed up the planning process, and recognise that secondary connected consents have the potential to speed up the determination of proposals by allowing them to be considered simultaneously, implementation of the

proposal, and resource implications need to be carefully discussed between Government, statutory consultees and local planning authorities.

Careful consideration will need to be provided to the resource implications in the context of the current review of Public Service Delivery, particularly where bodies are required to provide advice to assist the determination of applications by Welsh Ministers or their appointed body.

Further, there will be a loss of fees for bodies that would ordinarily determine connected secondary consents. Those bodies will still be required to allocate staff resources to assist in their consideration by the Welsh Ministers or appointed body, but will not receive the fee income to contribute to the costs of the work involved.

These issues should be part of a discussion nationally between WG, statutory consultees and Local Government, and solutions should be considered at a National and Regional Scale to help ensure a resilient planning service.

6. Appropriateness of the powers for Welsh Ministers to make subordinate legislation

We agree with the principle of Welsh Ministers having the power to make subordinate legislation, subject to that such legislation being developed and informed by:

- a clear evidence base
- engagement with key stakeholders and interest groups – including statutory consultees, and
- a transparent process.

7. The measurability of outcomes from the Bill

The Well Being of Future Generations Bill, State of Natural Resources Report and the move toward a common evidence base for Natural Resources Policy, Area Natural Resources Statements, the Wales National Marine Plan, National Development Framework, SDP/LPD, Well Being Plans and National Park and AONB Management Plans, and the Planning (Wales) Bill all provide the opportunity to deliver an integrated framework to address environmental, social and economic challenges. Such a framework should be viewed as complementary and mutually supportive and ensure a joined up approach to decision making that is based on a sound environmental evidence base and optimises potential benefits to environmental, social and economic interests.

Annex 2

NRW's strategic objectives for engagement with the planning system

The Board adopted in December 2013 our proposal for a new approach, with increased emphasis on working at the strategic level and adopting a solutions-based culture. The recommended strategic objectives are as follows:

(i) Principles

We will:

- Engage proactively with the planning system - this is an important means of delivering sustainable development, natural resource management and positive outcomes for Wales' natural heritage
- Engage proactively with regeneration and economic development initiatives - to ensure that initiatives take account of environmental constraints and natural resource management and that consequential developments are sustainable
- Focus our efforts on providing evidence and advice on strategic and spatial plans – to steer development to appropriate locations and minimise future conflicts at the individual application level
- Use the same natural resource evidence base throughout NRW – to ensure consistency of advice
- Encourage early engagement with developers - to influence and identify any problems and creative solutions at an early stage.
- Ensure our statutory advice is a reasoned opinion reached after due consideration, weighing our full range of relevant purposes, duties and guidance – to ensure we comply with our legal duties. Specific duties must be complied with, where these are engaged
- Provide objective and expert environmental advice, based on good place-based knowledge - to assist decision makers in discharging their duties. We recognise that in balancing their duties, decision-makers may come to a different conclusion to NRW on the acceptability of any residual risk or impact of a particular development.

(ii) Ways of working

We will:

- Ensure our responses are as clear, unambiguous, and consistent as possible
- Ensure that our internal processes in providing statutory planning advice are designed and implemented to prevent conflicts of interest (for example where we are the applicant or landowner as well as the statutory consultee)

- Ensure transparency of decisions by being able to explain the reasoning behind our advice, and by publication of decision documents in contentious cases
- Adopt a positive approach. This means trying to find the right solution for the environment and the developer. It means avoiding objecting if we can. However, if it is not possible to find the right solution for the environment, either because the applicant is unwilling or unable to modify proposals, or because the development is sited in the wrong place, we may need to object. If the impact raises issues of national importance, we would need to object.
- Use a risk-based approach in our reactive work, responding to individual applications. This means directing our resources to developments likely to produce significant effects and affecting important and sensitive sites/areas
- Use standing advice where appropriate as it has value in responding to less complex applications and can reduce workloads; however, this does not replace the need for place-based and bespoke advice, particularly in more complex cases
- Charge for non statutory (eg pre-application) advice - where we can demonstrate that this will deliver improved customer service and better environmental outcomes
- Work in partnership with the LPAs and PINS - to deliver joint outcomes, training initiatives and to manage the consultations which are sent to NRW
- Work with developers and their sector groups to clarify the role of NRW (viz providing advice not making decision); identify common evidence needs and solutions
- Work with other statutory consultees such as Cadw to clarify our respective roles in planning and share evidence

(iii) Outcomes:

- Developers seek and take our advice at an early stage so that the siting and design of new development is influenced, encouraging development which avoids negative impacts, is within environmental limits and sustainable
- Decision-makers are taking natural resources into account as a result of our clear and well-targeted advice, so protecting these resources and achieving sustainable development
- Opportunities for environmental enhancement are identified and delivered through the planning system
- Improved relationships and customer satisfaction due to the quality and clarity of our responses and provision of the right information at the right time.

- NRW's role in the planning system is understood by our customers and stakeholders
- Improved compliance with response deadlines

The Committee Clerk
Environment and Sustainability
National Assembly for Wales
Pierhead Street
Cardiff
CF99 1NA

National Office
Swyddfa Genedlaethol

7 November 2014

Dear Sir/Madam,

Consultation on the general principles of the Planning (Wales) Bill

BMA Cymru Wales is grateful for the opportunity to respond to the consultation on the Planning (Wales) Bill.

The BMA represents doctors from all branches of medicine all over the UK; and has a total membership of over 150,000 including more than 3,000 members overseas and over 19,000 medical student members. It is the largest voluntary professional association of doctors in the UK, which speaks for doctors at home and abroad, and is also an independent trade union. BMA Cymru Wales represents some 7,000 members in Wales from every branch of the medical profession.

Whilst we do not intend to provide a detailed response to this consultation, we would like to ask that the committee gives consideration to two additional proposals we would suggest could be incorporated:

Health Impact Assessments (HIAs)

In the first instance, we would recommend the incorporation of a proposal for Health Impact Assessments (HIAs) within this legislation.

Health Impact Assessments have been researched, reviewed and promoted by the BMA across the United Kingdom in a variety of ways since 1994. The Association therefore has a long history and substantial literature on the effectiveness and feasibility of HIA.

HIAs would require all public bodies in Wales to properly assess the full health impacts of all new public sector policies, proposals, plans and strategies in all circumstances where the current statutory environmental assessment process applies, including in relation to larger-scale planning applications.

The intention of such an approach would be to:

- promote greater equity in health;
- increase awareness amongst policy and decision-makers across sectors of how decisions may affect health;
- identify the connections between health and developments in other policy areas;
- better co-ordinate action between sectors to improve and protect health;
- promote evidence and knowledge-based planning and decision-making;
- allow health benefits to be maximised and health risks to be minimised; and
- invest in more action to enable people to prevent ill health.

We note that as far back as 1999, the then Welsh Assembly Government committed to taking forward HIAs, and set out its approach in a document entitled 'Developing Health Impact Assessments in Wales'¹.

¹ http://www.wales.nhs.uk/sites3/Documents/522/developing_hia_in_wales.pdf

Ysgrifennydd Cymreig/Welsh Secretary:

Dr Richard JP Lewis, CSU MB ChB MRCP Dip IMC RCS (Ed) PGDip FLM

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The idea of introducing HIAs in Wales on a mandatory basis was also consulted upon in the Welsh Government's 2012 Public Health Green Paper. The published summary of responses to that Green Paper stated that *"there was a high level of support for the concept of using Health Impact Assessment as a method for ensuring health issues are considered as part of policy making"*. It also stated that a clear majority of those who responded indicated that Welsh Ministers, Welsh Government departments and local authorities should be required to use HIAs whilst acknowledging that fewer respondents suggested other sectors should also be required to do so.

Despite such clear support having been expressed, particularly in relation to Welsh Ministers, Welsh Government departments and local authorities, we were therefore both surprised and disappointed to see that the more recently published Public Health White Paper dropped all mention of HIAs. In our view, not taking forward the previously considered proposal to place HIAs on a mandatory footing would represent a distinct loss of opportunity to bring forward legislation that would be regarded as both innovative and groundbreaking.

We note that the Minister for Health and Social Services, Mark Drakeford, recently expressed support for undertaking HIAs in relation to planning applications. During a plenary debate on an update statement on the Public Health White Paper on 8 October, he indicated: *"I would be very keen—I always have been—to be able to make the public health impact one of the considerations that local authorities are able to take into account in making planning and licensing determinations."*

Given this link between HIAs and the planning process which had clearly been recognised by Welsh Government, we would consider that the now published Planning (Wales) Bill therefore represents a further legislative opportunity to take forward the adoption of HIAs on a mandatory footing.

The Chief Medical Officer for Wales, Ruth Hussey, has also recently expressed her support for HIAs, telling the Health and Social Care Committee on 8 October 2014: *"...we should be using health impact assessments at the beginning of a process to ask how we can get the most health benefit from whatever proposals, policies or services we are developing, and to ask whether we can get added value."*


Adopting HIAs could make Wales an international exemplar in the field of public health, and we would therefore urge members of the committee to give consideration to advocating incorporation of the concept into this Bill.

Making Public Health Wales a statutory consultee for planning applications

We would further propose that there is a strong argument from a health perspective for making Public Health Wales a statutory consultee for planning applications, to ensure health considerations are better able to be taken into account.

We would urge members of the committee to also give thought to adopting such a view, and thereby support our call for such a proposal to be incorporated into this legislation.

Yours sincerely,



Rodney Berman
Senior Policy Executive



The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

Sent by email to ES.Comm@wales.gov.uk

7 November 2014

Consultation: General principles of the Planning (Wales) Bill

Tidal Lagoon Power welcomes the introduction of the Planning (Wales) Bill in October this year as a significant milestone towards positive planning reforms in Wales. Tidal Lagoon Power is promoting major infrastructure in Wales and considers that steps to improve delivery of key projects in the national interest is vital.

Tidal lagoons are a unique and significant opportunity to generate secure and affordable low carbon energy while providing a diverse range of direct and integral economic, social and environmental benefits.

The Tidal Lagoon Swansea Bay project establishes a scalable blueprint for tidal lagoons. If consented, that project will be the first in a series of lagoons, marking the beginning of a new industry. Our intention is to supply up to 8% of the UK's electricity by building five full-scale tidal lagoons in UK waters; three of the sites identified for further development are in Welsh waters.

The current situation is that energy NSIPs in Wales can be disadvantaged because of the limitations to the scope of project elements that can be consented under the Planning Act 2008 in Wales. We offer no comment on existing or future devolution settlements. However, we do ask that any reformed planning system in Wales enables an integrated and/or synchronised consent for nationally significant infrastructure projects such that future energy NSIPs in Wales are facilitated and not disadvantaged.

We recognise that there are a number of stages remaining in the Bill's passage through the National Assembly for Wales and that work will be underway within the Welsh Government on implementation of the planning reforms. We welcome the opportunity to discuss our views further with the Welsh Government as planning reform progresses.

Please contact me at catrin.jones@tidallagoonpower.com or 07867129796 if you have any queries or wish to discuss further.



Yours sincerely

Catrin Jones

Strategic Planning Manager

Tidal Lagoon Power

6th November 2014

The Committee Clerk
Environment and Sustainability
Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

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Dear Sir/Madam

Call for Evidence- Planning Bill Wales

Severn Trent Water welcomes the introduction of a Planning Bill for Wales and its aim to move from a development control approach encompassed in the current arrangement to one that encourages and supports appropriate investment. We welcome a Bill that recognises the uniqueness of Wales and gives appropriate context for decision making.

As a deliverer of essential infrastructure that will be part of the required ingredients to meet Wales' economic, social and environmental goals, we see this Bill as an opportunity for the proactive consideration of water and waste water infrastructure. As part of any such consideration the cross boundary nature of and subsequent interdependencies associated with infrastructure provision and operation should not be underestimated. Whilst we will pursue this through the development of future frameworks and plans at this stage we feel it is important that the Bill acknowledges the cross boundary nature of infrastructure networks.

To this end we believe that in the approach to strategic infrastructure ministers should be able to take a broader view through the introduction of a process that deals with development of national significance.

We also see opportunities to reduce the unnecessary administrative burden for all parties when dealing with planning consent for essential infrastructure, which will speed up delivery of investment. An example of this would be expanding the permitted development rights for water and waste infrastructure.

As the steward of substantial rural catchment areas in mid Wales we welcome opportunities that could be introduced by this Bill around sustainable investment.

At this stage we are unaware of any unintended consequences of the Bill as forwarded or any potential barriers to implementation and support the ability for Welsh Ministers to make subordinate legislation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Bullimore', written in a cursive style.

Gillian Bullimore
Business Manager
Severn Trent Water



The trade association
for the energy industry

**National Assembly for Wales Environment and Sustainability Committee
inquiry into the Planning (Wales) Bill**

Submission by Energy UK

Introduction

1. Energy UK is the trade association for the energy industry. We represent over 80 members made up of generators and gas and electricity suppliers of all kinds and sizes as well as other businesses operating in the energy industry. Together our members generate more than 90 per cent of the UK's total electricity output, supplying more than 26 million homes and investing more than £11 billion in 2012 in the British economy.
2. The energy industry is a major contributor to the Welsh government's economic growth, sustainability and energy policy goals. Our members will deliver the majority of low carbon and renewable energy projects needed to meet the Welsh and UK governments' renewables targets and ensure continued security of energy supplies in Wales and across the UK. The Industry estimates that £110 billion of investment are required in the UK's energy sector over the next ten years.
3. In order to deliver this level of investment, a stable, long-term legislative and policy framework is required which provides certainty, streamlined decision-making processes and clear lines of accountability. For several years Energy UK has worked in support of planning reform that will deliver a simpler, speedier, transparent and lower cost planning system that balances the urgent national need for all forms of low carbon and renewable energy infrastructure, with local communities' views and the need to protect the environment.

Overarching comments on the Planning (Wales) Bill

4. Energy UK welcomes the proposals in the *Positive Planning* consultation document (December 2013) and the now published *Planning (Wales) Bill* ('the Bill') towards simplifying the Welsh planning regime and making it clearer, more collaborative, and an 'enabler' which helps to deliver growth, jobs and infrastructure. We are therefore pleased to submit this response to the Committee's invitation to contribute to its Inquiry into the Bill.
5. Before dealing with the specific provisions in the Bill, we would like to make the following overarching observations which set the context for our detailed comments:
 - **General thrust of the proposals:** Energy UK generally supports the proposals in the Bill which have the potential to simplify and clarify the planning regime in Wales and, thus, to contribute towards attracting much needed investment.
 - **Framework nature of the Bill:** We generally support the approach that the Bill provides a framework, with further detail to be set out in secondary legislation and guidance. The aim should be to provide clarity on key principles in the Bill, but to retain some flexibility regarding the detailed implementation. We generally consider that the Bill strikes the

right balance in this respect. We would, however, welcome further clarification in relation to a number of issues, either in the Bill itself or through clear statements of intent which we understand the Welsh government intends to publish during the passage of the Bill. We would also welcome the opportunity to support the Welsh government in the development of secondary legislation.

- **Democratic accountability:** Energy UK considers that the Bill proposes an appropriate distribution of responsibilities and democratic accountability across the development hierarchy in Wales. We agree that matters which are of significance to Wales as a whole, such as the National Development Framework (NDF) and Developments of National Significance (DNSs), should be the responsibility of Welsh Ministers. We also consider that the measures in the Bill will improve and simplify local plan making and development management. Energy UK supports the concept of meaningful and proportionate consultation with local communities, and we believe that the provisions in the Bill, supported by appropriate secondary legislation and guidance, will facilitate this.
- **Policy dimension:** Energy UK strongly believes that the need for energy infrastructure should be recognised in Welsh Government policy, development plans, including in the proposed NDF and Strategic Development Plans (SDPs), the emerging Marine Plan and development management. However, we agree with the Welsh government that it would not be appropriate for the Bill to contain sector specific policy. This would be too inflexible and would confuse procedural provisions which should be in the Bill and planning policy and which should be set out separately.
- **Streamlining and efficiencies:** Whilst it is difficult to quantify the cost impact of the Bill, Energy UK considers that, on the whole, the proposals can help to streamline and simplify the planning system in Wales. It will be important that the framework character of the Bill is kept during its passage through the legislative process, and that subsequent secondary legislation and guidance ensure sufficiently detailed, clear, flexible, and proportionate implementation of the provisions.

National Development Framework

6. Energy UK welcomes the establishment of an NDF, which provides a national level framework for other development plans and development management decisions. A key role for the NDF will be to increase certainty for investment decisions e.g. through statements of need for certain types of infrastructure and the identification of DNSs, whilst remaining sufficiently flexible to allow nationally important projects that are not specified in the NDF to still be brought forward in a timely manner.
7. We consider that the Bill provides an appropriate framework for the preparation and review of the NDF. The detail can be left to secondary legislation and guidance which, among other things, should require that the NDF will need to have regard to, and align with, relevant national policy at UK and Welsh national levels, including any National Policy Statements under the Planning Act 2008; the Marine Plan; and the Welsh Infrastructure Investment Plan. Secondary legislation should also ensure that interested parties, including infrastructure providers, are involved in supporting the preparation of the NDF early in its development, and well in advance of any formal consultation.

Strategic Development Plans

8. Energy UK agrees with the need for a planning system that can span local authority boundaries and tackle larger than local issues effectively, including strategic infrastructure needs, taking into account the benefits for society as a whole, now and in the future. We agree that SDPs can be an appropriate tool to achieve this in areas where there is a clear need to address issues at a strategic level. The creation of larger units of local planning authorities (as proposed in the Williams Report) may in time reduce the need for SDPs in certain areas.
9. We also welcome the scrutiny of SDPs by an Inspector to enable them to be tested against Welsh and UK-wide government policy. The requirement to prepare Annual Monitoring Schedules is also supported e.g. to indicate progress towards meeting national policy. Associated secondary legislation should ensure that strategic infrastructure is explicitly recognised as an issue to be covered by SDPs. Where SDPs are developed, consideration should be given to the interaction with the Marine Plan.

Developments of National Significance

10. Energy UK supports the principle of establishing a clear development hierarchy in Wales that allows different types of projects to be dealt with in a proportionate way and at the appropriate level, depending on their significance and impacts. As part of this, we support the introduction of Developments of National Significance (DNSs) as a new category of development.
11. In our view, the Bill generally provides an appropriate framework for designating and processing DNSs. Further clarity would be welcome in respect of certain aspects of the DNS provisions, al. Much of this could be dealt with in secondary legislation and guidance. Where necessary, we outline below any changes or additions to the Bill that we feel are necessary. The majority of the points raised below are matters for secondary legislation and guidance, but the Welsh government could usefully provide appropriate reassurance on these matters in the expected statements of intent or elsewhere during the passage of the Bill.
12. **Types of development classed as DNS:** We agree that the types of development that are classed as DNS, and any associated thresholds, should be defined in secondary legislation. This will allow a sufficient degree of flexibility to review the types and / or thresholds as appropriate. Further to our response to the *Positive Planning* document consultation, Energy UK would welcome a commitment from the Welsh government that in putting in place secondary legislation it will ensure that:
 - The definitions should not be changed too frequently in order to provide sufficient certainty to developers, local authorities, statutory consultees and communities;
 - Development that currently benefits from permitted development rights (e.g. certain pipeline projects) should not be classed as a DNS; and
 - Development associated with Nationally Significant Infrastructure Projects under the Planning Act 2008 could be classed as a DNS.
13. **Prescribed timescales:** Energy UK strongly recommends there be a clearly prescribed maximum timescale for the overall DNS process from application acceptance to decision. This should include maximum durations for the acceptance, examination, reporting / recommendation and decision-making periods. These timescales should be proportionate to the size and complexity of the project and, where applicable, should mirror or better those

under the Planning Act 2008. Energy UK considers that this could be left to secondary legislation, but we would welcome a clear commitment from the Welsh government in this regard in the expected statements of intent or elsewhere during the passage of the Bill.

14. **Secondary consents:** Energy UK supports the proposal to allow secondary consents to be decided by Welsh Ministers alongside the main DNS consent. The objective should be to enable a 'one-stop-shop' approach where all necessary consents, licences and permits can be obtained in a co-ordinated manner. As recognised in *Positive Planning*, we strongly support the view that use of this power should be optional, in that it should be for the project promoter to decide whether they wish to seek the necessary consents simultaneously or separately.
15. **Compulsory land rights:** As part of the 'one-stop-shop' approach, the provisions regarding DNSs should also include the power to deal with the compulsory acquisition of land or an interest in land where these are necessary to implement a DNS. It is our understanding that the Welsh government intends to enable this by drawing on the proposed sections 62F and 62H of the Town and Country Planning Act 1990 ('the TCPA') (see clause 18 of the Bill), in conjunction with s226 of that Act. Energy UK would welcome a clear commitment from the Welsh government to this effect during the passage of the Bill.
16. **Rights of entry:** We suggest that the provisions regarding DNSs should enable applicants to apply to Welsh Ministers for rights of entry onto land (e.g. for the purpose of environmental surveys) where these are necessary to prepare an application, but where access cannot be agreed voluntarily or under existing legislation (e.g. Electricity Act 1989). Similar provisions already exist under the Planning Act 2008. Energy UK would welcome clarification from the Welsh government that such powers will be available, and clarity on how this will be achieved.
17. **Local Impact Reports:** Energy UK is supportive of the proposal to require local planning authorities to submit Local Impact Reports (LIRs). Experience with LIRs under the Planning Act 2008 shows that, whilst they are intended to be 'technical' assessments, in practice there can often be a high degree of overlap and duplication between a local authority's LIR and its formal representations. At a practical level it will be very difficult to separate the 'technical' view of an authority from its 'formal position'. Whilst no changes to the Bill are required in this respect, Energy UK would welcome a commitment from the Welsh government that secondary legislation or guidance will encourage local authorities to provide a single response that combines the LIR and its formal position. This would help to avoid unnecessary duplication and also limit the resource implications for local authorities, and those needing or wishing to review their response.
18. **Variation of an application:** Energy UK welcomes that the Bill enables Welsh Ministers to make provision regarding the variation of DNS applications once they have been submitted to Welsh Ministers. The *Positive Planning* document proposed a limit of one round of 'minor amendments' to an application, together with discretionary further public consultation. As explained in more detail in our response to the *Positive Planning* consultation, Energy UK considers that the process and requirements for making changes to applications should be more flexible than outlined in *Positive Planning* e.g. regarding the scale of permitted changes. Whilst no changes to the Bill are required in this respect, Energy UK would welcome a clear commitment from the Welsh Government that further consideration will be given to this during the preparation of secondary legislation and / or guidance.

19. **Changes to DNS consent post-determination:** As explained in our response to *Positive Planning*, experience with major infrastructure projects shows that there may be a need to vary a consent / planning permission after it has been granted. For example, some of the detailed design of a project can only be finalised after consent has been secured, a final investment decision has been made, the procurement process has been completed and a principal contractor has been appointed to progress the detailed design. It is therefore important that there is a clear process for making and agreeing (material and non-material) changes to an existing consent with Welsh Ministers or, where appropriate, the relevant local planning authority, without having to re-run the whole application process. Neither the Bill nor the *Positive Planning* document refers to this. Energy UK would welcome clarification from the Welsh government on this matter and a clear commitment that an appropriate process will be put in place to allow non-material and material changes to a consent, either through the Bill or through secondary legislation and / or guidance.

Applications to Welsh Ministers

20. Energy UK agrees that, where an authority becomes designated as 'poorly performing', developers of major projects under the TCPA should be able to apply to Welsh Ministers to determine the project instead of the local planning authority if they choose. We agree that, where applications are made directly to Welsh Ministers, there should be appropriate opportunities for engaging the affected local planning authority and local communities.
21. Energy UK would like to stress the importance of developers being able to choose to obtain a determination by Ministers, rather than this being an automatic requirement when an authority is designated as 'poorly performing'. A developer may wish for their project to remain under consideration of the local planning authority, for example, where the authority's performance within a specific sector is good, or because the developer will still have to work with the local planning authority which will discharge compliance of planning conditions.

Pre-application consultation procedure

22. Energy UK supports mandatory pre-application consultation for DNSs and major developments that is clear, proportionate and sufficiently flexible to take account of the nature of a project and its specific circumstances. The majority of energy developers already engage in meaningful and proportionate pre-application consultation which they find invaluable in developing their proposals. In our view, the Bill provides an appropriate framework in this respect, with further detail to be set out in proportionate and sufficiently flexible secondary legislation and / or guidance.
23. We are also supportive of the proposed duty on Statutory Consultees to provide advice to applicants during the pre-application process. It will be important that such advice is provided as early as possible during the pre-application stage to ensure that issues are raised before an application is made. The Bill provides an appropriate framework and we believe that secondary legislation should prescribe timescales and quality standards in order to ensure quality and timeliness of such advice.
24. In addition, Energy UK supports the proposed duty on local planning authorities, Welsh Ministers or their appointed persons to provide pre-application advice. The *Positive Planning* document stated that such advice should not relate to the merits of a scheme. Whilst no changes to the Bill are required in this respect, we would welcome a clear commitment from

the Welsh government in the expected statements of intent or elsewhere during the passage of the Bill, that such advice should include the merits of a project, as such advice might save developers wasting time and resources, and might help to improve a project. Energy UK considers that, as currently under the Planning Act 2008, any pre-application advice should be given on a 'without prejudice' basis and it would therefore not be appropriate for such advice to be binding.

Development management

25. The Bill contains a range of provisions regarding aspects of the development management process. Energy UK supports the general thrust of many of these measures, particularly:

- The proposed limits on local planning authorities' power to require information to accompany planning applications, to ensure requests are reasonable and relevant;
- The removal of the requirement for mandatory design and access statements, as these are unnecessarily resource intensive, often of little real relevance, and do not add much to the application;
- The proposed requirement on local planning authorities to notify applicants where applications are not validated, as well as the proposed right of appeal against an authority's decision not to validate a planning application;
- The proposals to make decision notices 'live' documents which are updated as conditions are discharged, removed or altered;
- The proposal to enable the process leading to the stopping up or diversion of public paths to start before planning permission has been granted; and
- The provisions which clarify and improve the process for handling planning applications and town and village green (TVG) registration applications. Energy UK agrees that parallel processes should generally be avoided and that applications to register land as a TVG should not be possible where land has entered in to the planning system.

Conclusions

26. In summary, Energy UK generally supports the proposals in the Bill which have the potential to simplify and clarify the planning regime in Wales and, thus, to contribute towards attracting much needed investment. Within the context of our general support, we would welcome further clarification in relation to the issues outlined above. Most of these could be dealt with in secondary legislation and / or guidance, but we believe it would be helpful for the Welsh government to provide a clear statement of intent during the passage of the Bill to cover these issues.

27. Energy UK is looking forward to working with the Committee, the National Assembly for Wales and the Welsh government during the passage of the Bill and the preparation of any secondary legislation and guidance. We would be happy to provide oral evidence should the Committee find this helpful.

-ends-



General principles of the Planning (Wales) Bill A Response by Friends of the Earth Cymru

Introduction

1. Friends of the Earth Cymru is part of Friends of the Earth England, Wales and Northern Ireland, and supports a unique network of local campaigning groups working in communities throughout Wales. Friends of the Earth Cymru inspires the local and national action needed to protect the environment for current and future generations, and believes that the well-being of people and planet go hand in hand.
2. We welcome the opportunity to respond to the Environment and Sustainability Committee's inquiry into the general principles of the Planning (Wales) Bill and would welcome the opportunity to give oral evidence and discuss this issue further as the committee undertakes its scrutiny.
3. We understand that the terms of reference for the inquiry are to consider the general principles of the Planning (Wales) Bill including the need for legislation.
4. Friends of the Earth Cymru's view is that some of the proposed legislation is unnecessary and counter-productive.

Sustainable Development

5. We are concerned at the failure to link the Well-being of Future Generations Bill aims and goals with the Planning (Wales) Bill. While Section 39¹ (Sustainable Development) of the Planning and Compulsory Purchase Act applies to the proposed National Development Framework and Local Development Plans, there should be a link on the face of the Bill.
6. We also believe it is essential to set out the purpose of planning in this Bill, and recommend that the Bill states that delivering on sustainable development is that purpose, in line with Planning Policy Wales (PPW). We refer you to paragraphs 1-10 of our response to the draft Planning (Wales) Bill which further outlines the case for this.²
7. We would also draw your attention to the Aarhus Convention of which the UK is a signatory and which states in Article 1 Objective *In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.*

¹ 39(2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development.

² <https://www.foe.co.uk/sites/default/files/downloads/proposals-reform-planning-system-wales-74131.pdf>

Public participation

8. There is duplication between the National Development Framework (NDF) and Strategic Development Plans (SDPs) and we are of the view that SDPs are unnecessary and should be dropped.
9. The most important element of public participation in planning decision-making is the right to be heard in person at local plan inquiries. This has not been afforded to persons affected by the NDF. We also note Article 7 of the Aarhus Convention which states: *Each party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public.* It also refers parties to the need for (Art 6(3)) *“The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public”* and *“for the public to prepare and participate effectively during the environmental decision-making”*. In addition Art 6(4) is extremely important *“Each party shall provide for early public participation, when all options are open and effective public participation can take place”*.
10. We recommend the Committee look carefully at the option of introducing a limited community (third) party right of appeal to rebalance the system, Given that private interests are able to appeal the decisions of planning authorities, it is broadly unfair that communities do not enjoy a set of similar but limited rights for matters of public interest.

Plan-led system and spatial planning

11. Section 8 (making 3 plans in effect the ‘development plan’ for any planning decision by a local planning authority) and the fact that the local plan has to be in conformity with the regional and national tiers, result in a much weakened local plan, with much of its responsibilities stripped away. Section 12 of the Planning Bill gives the Welsh Ministers a power to prepare a joint local development plans.
12. We note that the WLGA in their February 2014 consultation response to the draft Planning Bill expressed concerns: *“Whilst land use planning needs to operate at different spatial levels the relationships between plans need to be clear, their production must be properly synchronised and additional tiers of planning should not be introduced unless it can be clearly demonstrated how they will deliver improvement. The consultation document does not set out clearly what the benefits of proposed changes are expected to be.”*
13. In effect the Welsh Government is taking powers from local government (the opposite of devolution and subsidiarity) when it should be focusing on taking powers from Westminster. We are concerned that this pre-empts the full implementation of the Silk Commission recommendations and the impact of the Williams report in changing structure of local government in Wales.
14. We agree that there is an urgent need to tackle cross-boundary issues which is why we agreed with the principle of the Wales Spatial Plan, and there are clear issues which demand larger than local thinking e.g. mitigation of climate change emissions, adaptation to climate change, transport, river basin management, major energy projects, and biodiversity.

Undemocratic planning

15. There is no case or evidence that introducing an undemocratic tier of planning and decision-making through strategic planning boards will enable communities across Wales to benefit from a streamlined system. In response to the draft planning bill we obtained legal advice as to the proposals for NDFs, SDPs and Welsh Ministerial decision

making, which noted that this “introduces a degree of ministerial control which is unprecedented in England and Wales”.

16. We note that the WLGA have also raised concerns around dilution of democratic members’ roles and the creation of quangos in their response, and we share these concerns.
17. We are extremely concerned that corporate lobby groups who exist to promote private rather than public interest, such as volume house builders, have put themselves forward for the strategic boards (recorded in the Welsh Government’s response to the consultation). This in our view threatens public legitimacy and trust in the decisions that affect communities. Given the care taken to ensure that local planning committee members declare interests etc (see code of conduct for members), we do not see how the proposal to have a set of vested interests with no electoral accountability represented in decision-making can be reconciled with the principles of planning.
18. There must be fully democratic structures for deciding how society deals with issues such as “the strategy, population, strategic housing and employment sites, transport, retail, minerals and waste”.

Centralisation of decision-making

19. Nor do we believe that there is a case for introducing new legislation for ‘developments of national significance’. The Government could merely improve call-in powers, and focus on getting the over 50MW energy powers devolved.
20. Note also that the model for this legislation which is in the English Growth and Infrastructure Act (Section 26 - Bringing business and commercial projects within Planning Act 2008 regime) and the UK Planning Act 2008 (Part 3) sets out types of development and thresholds on the face of the legislation. Section 17 of the Planning (Wales) Bill merely inserts 62D (2) to the TCPA 1990 *A nationally significant development application is an application for planning permission for the development of land in Wales, where the development to which the application relates is of national significance*. The Explanatory Memorandum does state an intention for energy projects between 25MW and 50MW to be classified as Developments of National Significance (3.71) but no thresholds are mentioned for other types of developments.
21. Many significant developments will have huge local impacts – and the costs and impacts of the development will be felt locally (e.g. on services, transport, social and cultural heritage).
22. We would prefer to see an ATLAS style level of support to boost capacity around local government in Wales, to enable there to be a harmonious partnership between the skills and resources required to tackle the decision-making on major projects and the local government role³.
23. Front-loading the development management process by making provision for pre-application services is welcomed but should be better integrated with the process for planning application consultation. The applicant for development has a vested interest in the outcome and therefore is not independent. Concerns are often raised by the public that they are not being listened to. Accountability is an important part of ensuring trust in a system.

³ http://www.atlasplanning.com/page/about_atlas.cfm

24. We are also very concerned about the changes in relation to applications to register town and village greens. Sustainability requires us to think of the long term future of our communities. Land that is used for recreation is a valuable social and public asset, and protecting that land from development increases the value assigned to the area as a whole – both socially and economically. Developers do not necessarily have a long term interest in the area. This Section should be removed.

The Committee asks whether there are potential barriers to the implementation of these provisions and whether the Bill takes account of them.

The Committee’s pre-legislative scrutiny of the Draft Planning (Wales) Bill and the extent to which the revised Bill takes account of the Committee’s recommendations

25. We are disappointed that so many crucial issues raised by the committee’s pre-legislative scrutiny, and by many respondents to the public consultation to the Draft Planning (Wales) Bill, have not been addressed. We refer the committee to our response and recommendations to the draft bill⁴ which support the committee’s recommendations, as well as to specific comments below.

26. We support the Committee’s recommendation⁵ to include a Statutory Purpose for planning on the face of the Bill as recommended by the Independent Advisory Panel, and are disappointed to find that it has not be included in the Bill or even discussed in the Explanatory Memorandum (EM).

27. There is a total failure to address the Committee’s request to provide an explanation as to how the revised structures for land use planning are expected to function alongside other regimes such as for natural resources, transport and marine⁶. The Well-Being of Future Generations, Environment, or Heritage Bills are not mentioned in the Bill or EM.

28. No additional clarity has been provided for the definition of a Development of National Significance⁷ besides the proposal mentioned in the EM for energy developments between 25 and 50 MW to be categorised as Developments of National Significance.⁸

29. It is highly disappointing and of great concern that neither the Bill nor the EM contain a clear statement, as recommended by the Committee and by Planning Aid, setting out how the public can engage at each level of the proposed development plans⁹.

30. The Committee’s concerns over Strategic Development Panels, including that a third will be non-elected members, has not been addressed and the Government has not included in the Bill any way that ensures local communities will be heard in the planning process. The EM merely asserts that the unelected members will comprise of representation from social, economic and environmental organisations, however this has no statutory footing.

31. The Bill fails to deal with the current delivery arrangements for planning in Areas of Outstanding Natural Beauty or give them equal protection from inappropriate development as is given to National Parks.¹⁰

⁴ <https://www.foe.co.uk/sites/default/files/downloads/proposals-reform-planning-system-wales-74131.pdf>

⁵ Environment and Sustainability Committee letter to Carl Sargeant, Minister for Housing and Regeneration, on its findings and recommendations following scrutiny of *Positive Planning* and the Draft Planning Bill, 10 April 2014,

⁶ Ibid at para 2.6

⁷ Ibid at para 4.3

⁸ Explanatory Memorandum at para.3.71

⁹ Supra 3 at para.2.3

¹⁰ Ibid at para. 3.5

Whether there are any unintended consequences arising from the Bill

32. In our view there are four major unintended consequences.
33. The first is that the local plan-led system is undermined because of the need to align three tiers of statutory plans. Transition, timings and co-ordination could mean that Wales simply has no effective development plan system for a number of years. In our view the local plan should remain the pre-eminent plan, and the Welsh Government should aim to maintain stability and ensure that plans in Wales are not immediately rendered out of date either by new legislative arrangements or unnecessary changes to PPW. While developers may welcome a free for all, the costs of speculative and short term decisions on development will fall on the taxpayer and local communities. We recognise that there are problems with the current local plan making system which need to be resolved, such as the flawed population projections to determine the demand for housing, but local plans remain the cornerstone of local land-use planning and public involvement.
34. The second unintended consequence is the impact on public participation and democratic accountability.
35. With regard to public participation, this happens in two ways;
- a. By undermining the local plan, the right to be heard and contribute through local plan inquiries becomes devalued as the plan's value and influence on development decisions falls or disappears.
 - b. Centralised decisions that bypass local government mean that opportunities such as speaking rights at planning committee, and the opportunity to speak to ward councillors or local planning committee councillors in people's local area are no longer relevant. It is clear that there is more value to the public in speaking at planning committee than there is in submitting a consultation response which can easily be set aside by national decision-makers.
36. In terms of democratic accountability, the democratic deficit is widened when the decisions are made nationally by Ministers on an increased number of decisions, or regionally by Boards that are not fully democratically representative.
37. Thirdly, there could be a perverse incentive for developers to scale up their proposals, e.g. for housing developments, in order to fall under the definition of Developments of National Significance and be subject to what might be seen as less rigorous process of decision by Welsh Ministers. This could result in housing developments that are not appropriate for the needs of the community.
38. And fourthly, the ability for developers to "bypass" local authorities is considered in the Impact Assessment as having the effect of reducing the number of applications made to an 'average' local planning authority by 50% (para 7.432 of the Regulatory Impact Assessment) – that has been designated as 'poorly performing'.

The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill)

39. We are concerned that the Welsh Government has not looked at the external costs and benefits for communities, having engaged with authorities and the development industry as explained in the Regulatory Impact Assessment: "The costs and benefits associated with each option have been produced using the best available information at the time.

This information has been prepared through discussion with key stakeholders, including the Welsh Local Government Association (WLGA) and development industry.”

40. Indeed we cannot understand why the Welsh Government uses figures presented by the UK Secretary of State, Eric Pickles, in a speech in September 2011 as evidence, and the Killian Pretty Review, which was criticised at the time for failing to quantify the benefits of planning regulation.
41. The costs for the introduction of SDPs is put at £3.5 million, and interestingly relies on a ‘light touch’ LDP. It says that it will reduce “duplication” but essentially the same planning job will have to be done and planning departments are currently under-resourced. This figure is in our view is probably an under-estimate. And there is no indication of how the costs will pan out after local government reorganisation. We are concerned that there does not seem to be a reference to Audit Office figures here and would welcome clarification. Nor does the Welsh Government consider the “cost” to communities, it merely says that it will result in lower costs for the development industry as they will have to take part in fewer inquiries (paragraph 7.71 of the Regulatory Impact Assessment).
42. There is no estimate of the “external” costs – only the “cost of delay” to the development industry is quantified. This is a very internalised view of costs which says nothing about the costs to services, the public purse and the wider economy about decisions made poorly and in haste because of a particular private interest driver.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation)

43. Given the increase in Welsh Ministerial powers over planning decisions and structures that this Bill confers, we would recommend caution in the provision of significant further powers for Welsh Ministers to make subordinate legislation.
44. In particular we are concerned about the powers conferred in Section 17 relating to the criteria and type of developments to be dealt with as Developments of National Significance, and Section 22 - the procedure for considering applications made to Welsh Ministers.
45. If such decision-making powers are to be put in the hands of Welsh Ministers there should at the very least be assurance that the procedures for considering and determining those applications are to be fully scrutinised and open to amendments by the Assembly. Otherwise the power lies completely in the Minister’s hands not only as to what type of application they should decide upon, but how, to what timescale and who to consult. This is an unacceptable level of control to rest in a Minister’s hands.
46. A series of checks and balances is essential, and we would recommend that these provisions are set out in primary legislation to ensure full scrutiny and Assembly involvement, with changes made by Affirmative procedure in future.

The measurability of outcomes from the Bill, i.e. what arrangements are in place to measure and demonstrate the fulfilment of the Welsh Government’s intended outcomes from making this law.

47. We would welcome clarification on the monitoring and reporting mechanisms that measure the positive benefit of the planning system i.e. in delivering affordable homes,

ensuring adaptation and securing amenity and high quality places to live and work with connected services and so on.

Conclusion and summary

48. We are disappointed that this Bill as drafted would be a step backwards for public participation and local democracy in Wales, does not embed sustainable development in the planning process, and does not answer the concerns expressed by many organisations, and the Committee, during consultation on the draft Bill.

49. We would recommend the following key changes to this Bill;

- That the Bill states that delivering on sustainable development is the purpose of planning, and refers to the Well-being of Future Generation Bill.
- That the Welsh Government drop the proposals for Strategic Development Plans and Boards. These will duplicate the NDF on the one hand and the LDP on the other. However for cross border issues such as adaptation or river basin management, transport and biodiversity, it could be useful to prepare regional spatial evidence bases (that can be held as part of the NDF) and regional specific policies that could be adopted into the local development plans.
- That the Welsh Government drop the proposals for enabling developers to bypass local authority planning processes either due to those local authority in question being designated or the proposal being Developments of National Significance. Call-in powers should be improved instead.
- That the Bill introduce a community right of appeal to help redress the balance between developers and local communities, to create greater accountability, and enhance public participation in decision-making.

We would welcome the opportunity to give oral evidence to the committee during the scrutiny process.

Community Housing Cymru Group response

General principles of the Planning (Wales) Bill

1. About Us

The Community Housing Cymru Group (CHC Group) is the representative body for housing associations and community mutuals in Wales, which are all not-for profit organisations. Our members provide over 155,000 homes and related housing services across Wales. In 2012/13, our members directly employed 8,000 people and spent over £1bn in the Welsh economy. Our members work closely with local government, third sector organisations and the Welsh Government to provide a range of services in communities across Wales.

Our objectives are to:

- Be the leading voice of the social housing sector.
- Promote the social housing sector in Wales.
- Promote the relief of financial hardship through the sector's provision of low cost social housing.
- Provide services, education, training, information, advice and support to members.
- Encourage and facilitate the provision, construction, improvement and management of low cost social housing by housing associations in Wales.

Our vision is to be:

- A dynamic, action-based advocate for the not-for-profit housing sector.
- A 'member centred' support provider, adding value to our members' activities by delivering the services and advice that they need in order to provide social housing, regeneration and care services.
- A knowledge-based social enterprise.

In 2010, CHC formed a group structure with Care & Repair Cymru and CREW Regeneration Wales in order to jointly champion not-for-profit housing, care and regeneration.

Community Housing Cymru Group Members:
Aelodau Grŵp Cartrefi Cymunedol Cymru:

CHC general comments

CHC welcomes the overall principles of the new Planning Bill. CHC believes that there is potential in the bill to allow for a more efficient and accountable planning framework.

CHC believes that it is important as to how these changes will be implemented in practice. CHC thinks that it is important to consider the bill in light of potential merging of planning across LA regions and any impacts this may have on housing. For example, consideration of the inter-relationships between the different tiers of plans and how these will relate to potential proposed future local government merger plans? There could be uncertainty in terms of the national parks planning status and in this situation there could be an issue with housing policies within adopted LDP's being stuck until the 5 year review is implemented i.e. the housing authority having two LDP's in their region.

A further question CHC would ask is how will committees be standardised and whether this will lead to more consistent decision making by council members?

Community Housing Cymru Group
07/11/14

Community Housing Cymru Group Members:
Aelodau Grŵp Cartrefi Cymunedol Cymru:



INTRODUCTION

1. The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. The organisation attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
2. UKELA prepares advice to UK Governments with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared by the Wales Working Party..
3. UKELA welcomes the, primarily evidence based, proposals to introduce a revised planning system that that is transparent, flexible, focused on continual improvement, appropriate for facilitating development that meets the needs of the people of Wales, and encourages collaboration. However, UKELA is keen to ensure that any legislative proposals do not diminish environmental protection measures. In this respect, UKELA is concerned about the absence of detailed information on how the planning system will help deliver national outcomes under the Well-being of Future Generations (Wales) Bill and support implementation of the Environment Bill proposals.
4. UKELA's views on the Bill's current provisions are set out below:

The requirement to produce a national land use plan, to be known as the National Development Framework

5. There appears to be a sound case for establishing a National Development Framework to support the preparation and development of LDPs; set the context for national policy objectives; and provide a tool for the delivery of natural resources and planning objectives. However, there are concerns about the abandonment of the notion of spatial planning as the concept is considered vital to developing an approach which clearly integrates economic, social and environmental concerns. It is, therefore, important that the National Development Framework addresses planning for future generations and sustainable development in order to demonstrate clear linkages with the Well-being of Future Generations (Wales) Bill.

6. It is noted in the Bill's Explanatory Memorandum that there is an emphasis on providing businesses with opportunities to identify areas for development, whilst there is no reference to identifying areas for environmental protection and enhancement. In order to ensure that the three pillars of sustainable development are given equal status in any such framework there should be mention of the importance of identifying areas for environmental protection and enhancement in the legislation. .

The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues

7. If a strong and comprehensive National Development Framework is to be introduced for a relatively small country such as Wales, there does not appear to be a case for developing Strategic Development Plans (SDP) and establishing associated Strategic Planning Boards for particular areas. The need for Strategic Development Plans is not particularly evident and they have the potential to introduce an unnecessary layer of bureaucracy to the planning system. Furthermore, matters to be considered by the SDP will not necessarily include all relevant local planning issues and there is concern that some of issues to be considered may be more relevant for local determination.
8. Clarity is needed on how SDPs will link with LDPs and the local well-being plans to be developed by the new Public Services Boards proposed under the Well-being of Future Generations (Wales) Bill. It is suggested that any Strategic Planning Panels set up should have a responsibility to liaise with Public Services Boards.
9. It is pleasing to note that the areas for SDPs have not been identified in the Bill. UKELA has some concerns about strategic planning in areas that may not be covered by SDPs and whether SDP areas will be defined according to transport/economic features or environmental/natural resource management requirements, neither of which necessarily respects administrative boundaries.
10. There is a likelihood that planning for those areas not covered by Strategic Development Plans may be overshadowed and decisions on the areas to be covered by the plans may pre-empt those in the report of the Williams Commission on Public Service Governance and Delivery in Wales.
11. Overall, UKELA is concerned that there could be a danger of local issues not being given full weight if decisions are made on a wider geographical basis. In addition, care needs to be taken to ensure that Strategic Development Plans do not cover issues that are more appropriately dealt with at a local level.

Schedule 2A - Strategic Planning Panels (SSP)

12. This schedule, which details how the SPPs will operate, appears to place a great deal of power in the hands of Welsh Ministers in the following respects:

In providing regulations on the membership of SPPs: the Bill provides that the regulations are to stipulate (a) the total number of members of the panel, (b) the number of local planning authority members, and (c) the number of nominated members. In the interests of local democracy, UKELA's view is that only maximum numbers should be stated.

In appointing nominated members of the SPPs: the Bill provides that the Welsh Ministers will publish a list of persons who are to be nominating bodies and that if the nominating body nominates a person for appointment in response to a request from a strategic planning panel, the panel must appoint that person as a nominated member of the panel. In our view the Bill should be more specific about the nature of nominating bodies and the qualifications of nominated members in order to ensure that panels comprise individuals with appropriate skills and expertise.

13. The Bill should also give the SPP the discretion to decide whether or not to appoint a person suggested by the nominated body. Indeed, the initial appointments to a strategic planning panel under this paragraph are to be made by the local planning authority members of the panel; there does not appear to be a valid reason for deviating from this practice.
14. UKELA strongly agrees that the chair and deputy chair of a SPP should be appointed from its local planning authority members and that the meetings should be open to the public. However, the Bill should be specific as to where the notice of the meeting of the SPP and the record of business should be published to ensure complete openness and transparency. This is particularly important given Wales's obligation to ensure adequate public participation in environmental decision-making under the 1998 Aarhus Convention.
15. UKELA notes that local authorities are required to fund SPPs but must accept the calculation of costs provided by the Panel, which will, of course, include unelected members. The issue of accountability is very relevant here. UKELA is concerned about the limited provision for accountability of SPPs in the Bill; apart from basic reporting requirements to send copies of the financial reports and annual report to the constituent local planning authorities and Welsh Ministers, the only other provision is for financial accountability to the Auditor General for Wales.

Changes to Local Development Plan procedures

16. It could be argued that all local authorities are dependent to some extent on developments outside their immediate geographical boundaries and it is acknowledged that in view of the limited size of some authorities, and the

current difficult financial climate, the case for the merger of LPAs could be justified provided that account is taken of availability of expertise and resources.

17. If it is decided to go ahead with Strategic Development Plans in addition to LDPs and powers are introduced for establishing joint LDPs, Wales could end up with a four tier development planning system, which appears excessive for a relatively small country and possibly lead to confusion over the status of SDPs and joint LDPs.

Front-loading the development management process by making provision for pre-application services

18. The aim of encouraging the use of pre-application services is to be welcomed, along with the proposal to make this compulsory for developments of national significance and other major developments. This should improve the efficiency of the planning system by reducing the number of “call in” applications and planning appeals. However, care will need to be taken to ensure that both statutory consultees and members of the public are given the opportunity to comment on development proposals at an early stage and that the latter group is equipped to respond fully within required timescales. There should also be care taken to ensure that the system encourages and not deters developers from coming forward with projects.

Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;

19. Providing a ‘one stop shop’ for developers in gaining planning permission and related permits for nationally significant development is clearly important to ensure a more effective system of approval. However, it is equally important to ensure that the decision maker on such consents has the necessary expertise to fully consider the impacts of proposals on the environment. Consultative processes that currently exist in the provision of such consents should not be by-passed by the transfer of power from specialist agencies to the Welsh Government.
20. The Bill grants Welsh Ministers very wide powers to declare that a consent, necessary for a development of national significance, should be decided by them (s62F); and there is no appeal against such a declaration. There is also a very wide power to require a ‘relevant person to do things in relation to a secondary consent’ (s62G); and to make regulations regulating the manner in which such consents are to be dealt with by Welsh Ministers that may include provision:
 - (a) about consultation to be carried out by the Welsh Ministers before a secondary consent is granted or refused;
 - (b) requiring a person to provide a substantive response to any consultation carried out by virtue of the regulations.

21. UKELA believes that the basic requirements for consultation on such consents should be outlined in the Bill or that it should at least be a duty of Welsh Ministers to include this in regulations. There is also a very wide power for Welsh Ministers to direct LPAs to 'do things' in relation to applications for developments of national significance that would otherwise have been decided by them.

Streamlining the development management system

22. The introduction of the Planning Advice and Information Service (PAIS) and a competence framework for planners and elected representatives together with a core set of development management policies for consistent application should help in improving the efficiency and the effectiveness of the planning system in Wales. However, this view is predicated on there being a clear understanding of what is needed and that support services are developed to address these evidenced needs.

23. Whilst there may be circumstances in which it is appropriate for Ministers to intervene and take over the responsibilities of a poorly performing authority, there is an evident danger that the focus may be on time scales taken to reach decisions rather than the quality of the decision and the development outcomes for the local area.

Local Planning Authority Committees

24. The details of the provisions for this very important power to regulate LPA Planning Committees in the current Bill are written very broadly. Welsh Ministers can direct that any planning function be discharged by a committee, subcommittee or officer of the authority; and can 'prescribe the terms of the arrangements' for the discharge of functions by a planning committee. Welsh Ministers also have the power to make regulations prescribing "requirements relating to the size and composition of a committee or sub-committee by which a relevant function is to be discharged." This provides Welsh Ministers with significant power, which, together with the failure to set out the most effective size and composition of committees is of concern to UKELA.

Planning Hearings

25. Once again Welsh Ministers are provided with a wide power to prescribe the procedures to be followed in any inquiry, hearing or proceedings by way of written representation (s323A). This includes any (a) inquiry or hearing or (b) proceedings on an application, appeal or reference that is to be considered on the basis of representations in writing, which will cover, therefore, the procedures on applications for DNS and planning appeals. There is no provision to protect the basic rights of individuals to make representations in these processes. The focus is only on the efficiency of such proceedings with reference to the power to include in regulations time

limits for submitting representations in writing and any supporting documents; and generally for different classes of proceedings or an individual proceeding. Rules may also be introduced to enable Welsh Ministers to proceed to a decision, taking into account only such written representations and supporting documents as were submitted within the time limit; and to proceed to a decision even though no written representations were made within the time limit. This is of crucial importance and UKELA is very concerned that there is no reference in the Bill to the setting of minimum time limits in order to protect the rights of interested individuals.

Changes to enforcement and appeal procedures

26. UKELA has some concern about the absence of a third party right of appeals in such circumstances as approval for a development that contravenes the adopted development plan. We are of the view that a provision for third party appeals in clearly defined circumstances should be specified in the Bill.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation)

27. There seems to be some inconsistency in making the passage of regulations under s.62D(3) of the TCPA 1990 (enabling Welsh Ministers to set criteria for Development of National Significance (DNS)) subject to the affirmative resolution procedure whereas s.62D(6) (enabling Welsh Ministers to describe the type of applications to be dealt with as Developments of National Significance) is subject to the negative resolution procedure (NRP). It is not clear that the latter is simply a technical matter – as stated, and presumably the justification for the use of the NRP. Surely the ‘type’ of application to be dealt with as a DNS must be one that satisfies the criteria for DNS. If one is a non-technical matter then surely so must be the other.

Dr Victoria Jenkins

Dr Haydn Davies

UK Environmental Law Association Wales Working Party

7 November 2014

Good Evening,

I have one opinion for the consultation stage of the Planning (Wales) Bill. Mechanisms need to be in place from Welsh Government to ensure that Local Authorities ACT on their planning strategies not just write them. For example, Flintshire commissioned a Survey into open space provision in 2007, this was followed up by a green space framework strategy in 2013. Both highlighted areas where sports field provisions were desperately lacking and set targets to achieve based on NPFA Minimum Standards, and yet, an amateur football club in 2014 without a home in the town of Flint still can't locate who in the council is RESPONSIBLE FOR IMPLEMENTATION. KPI's need to be set based on planning strategies and funding withheld if they are not met. The current system is entirely redundant. The survey and the strategy documents are both completely impotent as the obligation for the LA went no further than to write documents they never had any intention on implementing.

Regards

Gareth Young

Consultation into the General Principles of the Planning (Wales) Bill

Response from the Guide Dogs for the Blind Association (Guide Dogs Cymru)

Prepared By

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Introduction

Guide Dogs Cymru welcomes the opportunity to respond to this consultation, and would be pleased to give evidence to the Committee.

Guide Dogs' vision is for a society in which blind and partially sighted people enjoy the same freedom of movement as everyone else. Our purpose is to deliver the guide dog service and other mobility services, as well as breaking down barriers, both physical and legal, to enable blind and partially sighted people to get around on their own terms.

In this response to the Committee, we argue that the proposed removal of Design and Access Statements (DAS), means that there are "unintended consequences arising from the Bill".

The Explanatory Memorandum states -

- 1.4 The purpose of the provisions is to remove the specific requirement that a development order makes provision for a DAS to be submitted as part of planning and listed building consent applications. They do this by repealing Section 62 (5) and (6) of the TCPA 1990 and equivalent provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 1.5 This will not mean that DAS will no longer need to be submitted with an application but instead give greater flexibility for a future review to consider

as wide a range of options as possible. The existing general powers in Section 62 of the TCPA 1990 and Sections 10 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 will continue to provide the legislative basis for DAS while consideration of the options takes place.

Intended effect

- 1.6 The intended effect of the provisions is to remove the specific legal requirement for a development order to provide for DAS to accompany applications for planning or listed building consent.

In response, we repeat the point we made in the “Positive Planning, Proposals to reform the planning system in Wales” consultation:

We acknowledge that DAS are not always completed to a satisfactory standard but they can ensure that access for everyone is taken into account. For blind and partially sighted people in particular, the design of a building, colour contrast, appropriate warning for steps and flights of stairs, good lighting, and helpful location of reception areas, toilets and other vital public facilities are all very important.

The consultation document we commented on then stated that there will be alternative measures to promote good design and access for all, but we still see nothing to reassure us. So, without any detail as to these alternatives, we cannot support the proposal to remove DAS.

Guide Dogs Cymru would also strongly support points made by another respondent to that consultation, Michael Riddulph, Cardiff University School of Geography and Planning:

“This statement contradicts the conclusions and recommendations of Welsh Government commissioned research which recommended that Design and Access Statements should remain mandatory for significant schemes. The consultation claims that the Welsh Government remains committed to achieving good design. It has a robust policy and guidance but gives no support to actual mechanisms for delivering design quality, with the exception of its support to the Design Commission for Wales, and in particular the design review process for some schemes. Consequently the issue of design is dismissed at the local authority level, apart from in the small number of locations where officers have some design training and can employ it in all important pre-application negotiations (Swansea is a good example of where design officers are senior staff).

Unpublished research for the Design Commission from about 5-8 years ago highlighted inconsistent commitment to design quality within planning authorities. This research was not published because the findings were considered too negative. If the Welsh Government is committed to design quality it might be timely to invest in new research to explore the extent to

which their policy objectives are being realised, if not with the use of DAS, then via other mechanisms. The commissioned research on DAS found that when asked to comment on whether DAS are a useful tool in the design and planning process, 107 respondents to a questionnaire answered yes and 13 said no. That is a resounding endorsement of the tool generally.

When asked whether DAS help people judge the merits of a design in its context, 92 people said yes and 27 people said no. When asked if DAS had helped designers explain the difficult decisions involved in their work, 91 said yes and 24 said no (pg. 29). The research found that the main benefits relating to a DAS were for significant schemes where the DAS helps people navigate the proposal and understand what is being proposed and why. Significant schemes include large developments within a relative context, or smaller schemes in a sensitive location. Removing the DAS requirement will mean that anyone interested in a proposal will have no explanation or justification, and will instead need to look at a plethora of technical plans which, for most people, will be meaningless. As a communication device the DAS remains a key tool, as endorsed by the research, for significant schemes for which their adoption remains uncontroversial. In removing DAS, the Welsh Government are either suggesting that Welsh people have excellent plan reading skills and real insight into design decision making, or they are dismissing the need to communicate properly, and disenfranchising many people from understanding significant schemes."

Guide Dogs Cymru has first-hand experience of when blind and partially sighted people are "disenfranchised" in the planning process through lack of accessible consultation. This has been the case in regeneration schemes that brought about significant change in Abertillery, Pontypridd, Newport Bus Station and Kings Street, Wrexham. The attached report gives detailed examples, and we believe that the removal of DAS will exacerbate this situation. Crucially, we would draw the committee's attention to the cost of retro fitting Aberystwyth Bus Station, which will now have to be met by Ceredigion County Council. The original layout is so dangerous that blind and partially sighted pedestrians were constantly at risk. The scheme did not comply with standard technical guidance; there was No DAS and no appropriate Equality Impact Assessment, (EIA).

Typically, urban designers and developers are charged by local authorities to "consult" with the public for new schemes. This consultation often takes the form of public notices or articles in newspapers. One recent example involving Guide Dogs Cymru came about when articles in the local press around Colwyn Bay mentioned plans to regenerate the town. These were reported to local blind and partially sighted people. It took six weeks and more than ten email messages, backed up with several phone calls, to find out what is proposed, and there is still no commitment from Conwy council to meet local people with sight loss. Guide Dogs Cymru supported the group in

their efforts to get this information; otherwise it is likely that they would have failed.

The planning system in Wales must clearly reflect the Welsh Government's commitment to the Social Model of Disability, the Equality Act 2010, the UN Convention on the Rights of Disabled People, and the Framework for Action on Independent Living.

In a nutshell, DAS express the intention of a scheme to provide an inclusive environment, and we are not convinced that they present an irrelevant layer of red tape. In our experience, safeguards are essential to educate and inform architects and designers who might be driven by financial incentives to lower the priority of inclusive measures such as colour contrasted tactile surfaces to assist way finding, hand rails on steps, segregated safe footways for pedestrians.

We have discussed our response with the Access Association for Wales. Below are comments from their members:

"As someone who regularly writes DAS's I choose to read them as appertaining to the whole of the works and I believe that this is how they should be undertaken and it should be enshrined in legislation. Wales now has its own Building Regulations and this would be a glorious opportunity to make a "real Part M".

I do find that I am continually surprised to see non-compliant new developments so something must be done and at the Planning Stage every Council has enforcement Officers who can demand that works are completed to comply with the Planning Submission which is why I believe it is so important for accessibility is a planning issue."

"From an Access Group's perspective I think it would be very harmful to lose Design & Access Statements but more importantly I think it would send a disastrously dangerous message to developers that no-one cares about inclusive design so they don't need to bother."

We would also refer to the specific engagement duties for Wales. Although this consultation concerns itself with DAS, the process of engagement as explained in the Equality Act must surely be taken into account: Below is an extract from "Assessing impact: A guide for listed public authorities in Wales" (Equality and Human Rights Commission, 2011).

Cymru

What the duty requires on assessing for impact

A listed body in Wales must:

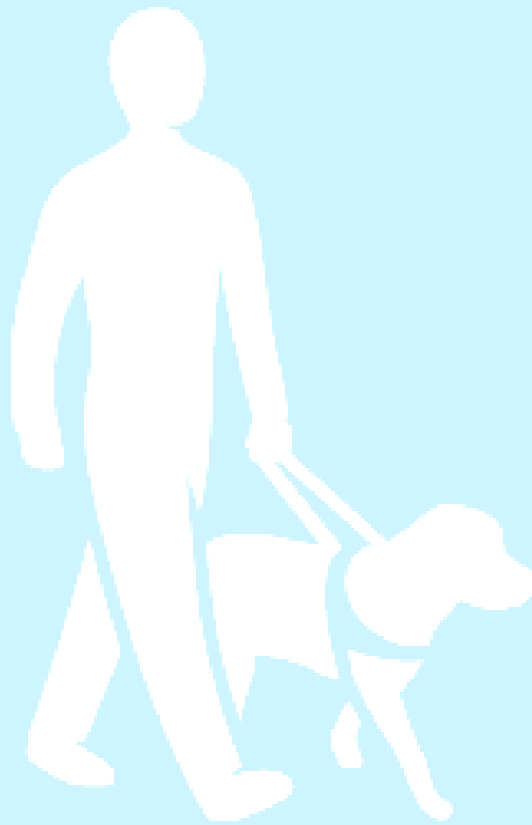
- Assess the likely impact of proposed policies and practices on its ability to comply with the general duty
- Assess the impact of any policy which is being reviewed and of any proposed revision
- Publish reports of the assessments where they show a substantial impact (or likely impact) on an authority's ability to meet the general duty
- Monitor the impact of policies and practices on its ability to meet that duty
- Reports on assessments must set out in particular
- The purpose of the policy or practice (or revision) that has been assessed
- A summary of the steps the authority has taken to carry out the assessment (including relevant engagement)
- A summary of the information the authority has taken into account in the assessment
- The results of the assessment
- Any decisions taken in relation to those

Guide Dogs Cymru would argue that DAS support the EIA process. The Cardiff council Access Focus Group is made up of representatives with protected characteristics and regularly responds to proposals from the local authority, which affects the public realm. The provision of a DAS ensures that the key elements of inclusive design are demonstrated in the scheme, so that the EIA starts from a foundation of sound design. This is an exemplary model,

but the point we are making is that good design, set out in a DAS and used as the basis for an EIA, is the best way to ensure an environment which supports social inclusion.

We accept that DAS might need to be amended, but the proposal to move them into secondary legislation gives an unacceptable message about the commitment of the Welsh Government to inclusive design, and therefore the wellbeing, safety and inclusion of all disabled people. If they are not as effective as they could be, this is surely a signal that they should be improved, a message which is clearly supported by many of the respondents to the consultation that closed in February 2014.

GUIDE
DOGS



Cymru

Cylch yr Iaith

Llywydd: Dr Meredydd Evans

I sylw Pwyllgor Amgylchedd a Chynaliadwyedd Cynulliad Cenedlaethol Cymru

Yr Ymgynghoriad ar y Bil Cynllunio

Argymhellion Cylch yr Iaith

- 1. Gwneud y Gymraeg yn Ystyriaeth Gynllunio Berthnasol fel bod grym statudol gan gynghorau sir i wrthod ceisiadau cynllunio ar sail eu heffaith ar y Gymraeg yn unig.**
- 2. Sefydlu trefn lle bo Cynlluniau Datblygu Lleol yn seiliedig ar anghenion cymunedol yn hytrach na gosod targedau tai cenedlaethol yn ôl amcanestyniadau poblogaeth sy'n seiliedig ar batrymau hanesyddol. Dylai Cynllun Datblygu Lleol fod yn fframwaith ar gyfer cynlluniau datblygu cymunedol yn seiliedig ar anghenion cymunedol.**
- 3. Sefydlu Tribiwnlys Cynllunio annibynnol i Gymru i ddisodli'r Arolygaeth Gynllunio bresennol.**
- 4. Sicrhau bod corff allanol Cymreig gyda'r wybodaeth arbenigol briodol yn gyfrifol am ddatblygu modelau asesiadau effaith ieithyddol newydd ac yn gyfrifol am gynnal yr asesiadau. Mae'r modelau presennol yn offerynnau diffygiol, a dylid creu modelau sydd wedi eu seilio ar dystiolaeth feintiol ac sy'n cynnwys astudiaethau achos cymharol.**

Ieuan Wyn
(ar ran Cylch yr Iaith)

7 Tachwedd, 2014

Talgarreg, Ffordd Carneddi, Bethesda, Gwynedd LL57 3SG

cylch@tiscali.co.uk 01248 600297

Cadeirydd: Elfed Roberts

Trysorydd: Helga Martin



Response to Consultation on the General Principles of the Planning (Wales) Bill

Spend a little
Live a lot

1. Introduction

- 1.1.1. Aldi welcomes this opportunity to provide its perspective to the Environment and Sustainability Committee on the general principles of the Planning (Wales) Bill.
- 1.1.2. Aldi has followed the development of the Planning (Wales) Bill closely and considered all of the general principles outlined in the call for evidence; however, this response seeks to highlight the key areas that Aldi feels would be of most significance to its future plans in Wales, namely:
 - The benefits of streamlining the development management system and how this might be achieved
 - The benefits of front-loading the development management system

1.2. *Aldi in Wales*

- 1.2.1. Aldi has an ambitious growth programme and is currently undertaking rapid expansion across the United Kingdom.
- 1.2.2. As part of this growth programme, Aldi is committed to greater expansion in Wales with plans to develop 20 new stores across the country by 2017, with subsequent proposals for a minimum of a further five stores to be delivered per year thereafter. Furthermore, Aldi's future operations in Wales will, hopefully, be supported through a new Regional Distribution Centre, which has recently received a resolution to see planning permission granted from the City of Cardiff Council.
- 1.2.3. A new Aldi store not only represents a multi-million pound investment in an area, but also brings associated benefits such as new employment opportunities, improved customer choice and increased local competition. The nature of Aldi's business model and in-store offer means that, unlike larger retailers, Aldi does not provide a 'one-stop-shop'. A visit to an Aldi store often forms part of a larger weekly shop and residents are encouraged to continue using existing local or independent businesses, thereby helping to deliver wider economic benefits through increased footfall and associated linked trips.
- 1.2.4. The desire to consolidate existing investment and plan its future expansion in Wales has come at a time when the normal barriers and hurdles to overcome as part of the existing Welsh planning system are being reviewed and addressed through this new policy. The direction in which the new Bill seeks to take the Welsh planning system is generally supported and will be promoted by Aldi and its consultancy team through all its dealings with the current system and during the transitional period.



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1.3. *'Culture change' in Welsh Planning*

- 1.3.1. Aldi applauds the general principles of the Bill and its use as a vehicle to deliver culture change within the Welsh planning system. From a commercial point of view, the desire to break down barriers between the developer and the local community and planning authority, the streamlining and sharing of resources, and the promotion of a more effective development management system, are all factors that can only help Wales to prosper economically. The principles set out in the Bill, and the prospect of a more coherent, streamlined planning process certainly makes Wales a country to target from Aldi's perspective.
- 1.3.2. Aldi is excited to be at the forefront of embracing these principles, and is grateful to have an opportunity to comment on the proposed changes to the operations of the Welsh planning system through this call for evidence.

2. Response to the call for evidence

- 2.1.1. Aldi is aware that productive and efficient engagement with local planning authorities (LPAs) at the outset of the process can improve the pre-application procedure and facilitate dialogue with relevant statutory bodies, key stakeholders, elected members and the local community.
- 2.1.2. Delays with provision of service and responses from statutory consultees can all have a detrimental effect on the planning process, cause unnecessary confusion and lack of certainty for local communities, and ultimately cost developers money that could otherwise have been invested into the local area.
- 2.1.3. As a result, Aldi welcomes proposals for the streamlining of the development management procedure and the enhanced emphasis on the frontloading of the application process through pre-application consultation and dialogue between the applicant and the local planning authority.

2.2. Streamlining the development management system

- 2.2.1. Reforming the development management system to streamline procedures and ensure that applications are dealt with promptly is an important principle of the bill and one that is very much welcomed by Aldi.



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2.3. Improvements to planning committees, delegation and the role of members

- 2.3.1. In Aldi's view, improvement to the current planning committee system and the role of members is central in achieving an effective decision making process. Aldi fully endorses community participation in the planning process and sees a democratically elected planning committee as a cornerstone of the planning system in Wales and the United Kingdom as a whole. However, an inconsistent decision making process, where there are vast differences in the size of planning committees, the level of resources, and the training available to planning committee members can all contribute to uncertainty and create an unnecessary delay that can sometimes affect how decisions are taken.
- 2.3.2. Aldi also wish to highlight the importance of seeing a consistent stance adopted among LPAs on direct applicant engagement with elected members. If beneficial working relationships are to be established, there should be a positive responsibility on each and every LPA to educate and, through this, encourage members to embrace opportunities to hold dialogue with applicants throughout the planning process.
- 2.3.3. Engagement with the local communities at the very outset of a planning application is central to Aldi's approach to its regional operations. Consistent dialogue with elected members throughout the pre-application and development process is beneficial to Aldi, as a developer, and the local authority and local community too. Increased understanding of planning procedures and wider planning issues would also provide more effective dialogue between local community representatives and the developer.
- 2.3.4. The move towards smaller, well trained committees with the necessary skills, knowledge and continuity of membership to make well informed decisions in a timely manner is of paramount importance to Aldi and its regional aspirations in Wales.
- 2.3.5. Aldi fully supports the proposed option of allowing Welsh Ministers to prescribe the size and the make-up of planning committees and strongly urges the adoption of this quorum for decision making in Wales.

2.4. Annual performance reports

- 2.4.1. The introduction of a common performance framework that sets out what a good local planning service should deliver and the requirement for each LPA to produce an annual report on service delivery will, in Aldi's view, be a fundamental driving force towards raising standards and assisting in the setting up of local processes and procedures that allow for efficient delivery of planning services. What must be made certain, however, is that these requirements do not allow a reduction in quality of service in order to meet the demands of the sheer quantity of applications to be processed.
- 2.4.2. Aldi would regard the incentivisation of LPA's with positive rewards for good service as a useful tool to help ensure standards are maintained. Any punitive measures taken for poorly performing LPA's should be constructive and not further hamper their ability to provide their planning services.



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2.4.3. Aldi would be keen to see the Welsh Government pledge to provide support for LPA's in this respect.

2.5. Requirement for Statutory Consultees to provide timely responses

2.5.1. Providing an efficient service with the necessary level of certainty and pragmatism at the pre-application stage is, at its heart, a question of time and resource management on behalf of the LPAs. Unfortunately, in this respect, LPA's are only as strong as their weakest – or slowest – link, and issues such as slow responses from statutory consultees can fundamentally affect the level of service that LPAs can provide to developers.

2.5.2. Aldi therefore welcomes the provision of a duty placed upon statutory consultees to provide substantive responses to consultation requests within a set time period, and for this to be recorded formally using performance reports. Furthermore, Aldi would recommend that in instances where statutory consultees do not respond, there should be a presumption of support.

2.6. Option for developers to submit 'major' applications directly to Ministers in poorly performing LPA's

2.6.1. Aldi supports the preferred option as set out in the Bill for allowing Welsh Ministers to designate poorly performing local authorities and to have applications submitted directly to Ministers for determination. This would help to streamline the planning system and allow Ministers to step in to areas where they feel that poorly performing authorities are undermining the potential to deliver growth and wider economic benefits.

2.7. Frontloading the development management process

2.7.1. In the same sense that streamlining the development management process aligns with Aldi's own aims of working with LPAs and elected members to bring about the most efficient and beneficial planning system in Wales, so too does the new proposed statutory requirements for frontloading the development management process.

2.7.2. Aldi has been a keen proponent of doing the 'leg work' up front and always aims to engage with local communities to ensure that current and future potential operations are working optimally for the local area. This requires early, open and honest engagement with local communities and elected members prior to the submission of a planning application and throughout its development.



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2.8. Statutory pre-application consultation requirement

- 2.8.1. Aldi therefore welcomes the proposed requirement for statutory pre-application consultation throughout Wales for 'major projects'. Although this new requirement will not change how Aldi prepares its planning applications, as this approach is already the company's adopted standard, it hopes that this new policy will encourage freer dialogue, especially with elected members within the its current or prospective operating areas.
- 2.8.2. It is Aldi's view that effective pre-application consultation and engagement with key community representatives is fundamental to a successful planning application. A local Aldi store can only achieve local support, patronage, and ongoing co-operation through an open and honest engagement and consultation programme right from the outset.
- 2.8.3. In fact, Aldi has taken its approach to local authority engagement one step further in an effort to aid understanding and to develop positive working relationships. In two particular LPAs where Aldi is seeking to develop new stores, early approaches have been made to senior representatives, both officers and members, seeking initial dialogue long before any potential applications are moved forward. This activity is based on a wish to understand LPA planning aspirations, potential target areas for future development and to ensure that there is clear understanding about Aldi as a business.
- 2.8.4. Aldi is hopeful that such an approach will help to foster positive working relationships and better understanding, which should ultimately deliver benefit when individual schemes enter the formal planning process.
- 2.8.5. It is in this area of pre application engagement in particular that Aldi hopes to see the required 'culture change' being taken fully to heart and the company will support, encourage and promote this aspect of the Bill in all its undertakings.

2.9. Pre-application advice from LPAs

- 2.9.1. Alongside the aspirations stated above, Aldi would also welcome the standardisation and review of the pre-application advice service from LPAs. The consolidation of a pre-application service in all LPAs will enable a coherent approach to planning right from the outset, with clear, defined rules and requirements for developers. The knowledge that consistent, informed dialogue would be achieved at this stage would be beneficial to Aldi when preparing its planning applications.
- 2.9.2. Aldi would hope that the fees to be charged for this service would be demonstrably re-invested within the planning departments that would be handling the applications. The capacity of and support for some LPAs at present is insufficient to allow them to provide the level of service required. Additional funding from this would help to address this lack of resources. In Aldi's view, this is a fundamental issue that needs to be addressed if the stated 'culture change' is to be achieved.



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3. The future – Potential barriers to the implementation of these provisions

3.1.1. Though Aldi is fundamentally supportive of the new direction for Welsh planning as outlined in the Planning Bill, the company would like to raise the point that the principles outlined are worthy but will not be deliverable unless they are fully supported by the Welsh Government and all component LPAs throughout Wales.

3.2. *Necessary funding and support for LPAs that often have to work to tight deadlines with reduced capacity*

3.2.1. In Aldi's experience, the key problem that arises when seeking to submit a planning application in Wales is that the LPAs have a real lack of resources. A dearth of experienced planners due to funding cuts and under capacity planning departments has been the root cause of the delays experienced by Aldi in Wales to date. The outsourcing of particular elements of work by LPAs to external consultants in order to help plug internal resource gaps can lead to delays.

3.2.2. Without the necessary financial support, LPAs will not be able to implement or achieve the majority of the principles outlined in the Bill as there simply will not be the manpower available to handle the number of applications in the manner now proposed. This problem is likely to worsen as Wales emerges from the recession and the economy and development continues to pick up pace.

3.2.3. Aldi's concern is that 'culture change' is very hard to promote when LPAs do not have the capacity or resources to respond to the amount of work it currently has, let alone manage change. Changing processes, systems, procedures and in some cases merging services will all cause an increase in workload in the short term.

3.2.4. Aldi therefore hopes that full recognition will be given by the Welsh Government to the imperative to see sufficient funding made available to support the delivery of the changes proposed. Coupled with funding is the need to ensure that attention is placed on ensuring that each and every LPA has the appropriate resources with the right skills base.

3.2.5. It is hoped that this new approach will make the future delivery of services more efficient and consistent but it is imperative that the transition phase is handled carefully, with full attention given to the needs of each LPA and the required support put in place to enable this culture change to happen.

4. Conclusion

4.1. Aldi's aspirations in line with the proposed changes

4.1.1. Aldi would like to conclude by highlighting that its regional and national aspirations are already in line with what the Bill aims to achieve. Aldi will support and promote the proposed policy through the continued application of its existing corporate policies and approach to expanding into Wales.



Y Bil Cynllunio - Ymgynghoriad y Pwyllgor Amgylchedd a Chynaliadwyedd Ymateb Cymdeithas yr Iaith Gymraeg

1. Cyflwyniad

Mae Cymdeithas yr Iaith Gymraeg wedi bod yn ymgyrchu am ymhell dros chwarter ganrif am drefn gynllunio a fyddai'n rhoi buddiannau'r Gymraeg, yr amgylchedd a chymunedau Cymru yn gyntaf.

Testun syndod mawr yw'r ffaith bod Bil Cynllunio Llywodraeth Cymru'n anwybyddu un o brif gasgliadau ymgynghoriad Llywodraeth Cymru – y Gynhadledd Fawr – sef:

"Roedd consensws mai symudoledd poblogaeth yw'r her gyfredol fwyaf i hyfywedd y Gymraeg a gwelwyd bod yr atebion i'r her honno ynghlwm â... [ph]olisïau tai a chynllunio..."

Nid yn unig hynny, ond mae'r Bil hefyd yn groes i addewid y Prif Weinidog yn y ddogfen a gyhoeddwyd ganddo fe ym mis Awst eleni, sef ei ddogfen polisi "Bwrw 'Mlaen" lle addawodd ystyried:

"pob cam ymarferol ar gyfer atgyfnerthu'r Gymraeg o fewn y system gynllunio".

Nid oes ymdrech yn y Bil i fynd i'r afael â'r materion sy'n niweidiol i'r Gymraeg, er bod digon o sôn am yr iaith yn y memorandwm esboniadol, nad oes iddo effaith statudol. Yn wir, pryderwn y byddai'r hyn sy'n cael ei gynnig yn y Bil yn gwaethygu a dwysáu'r patrymau presennol, yn hytrach na'u datrys a'u lliniaru.

Bellach, mae arweinwyr traean y cynghorau sir – sef arweinwyr Pen-y-bont ar Ogwr, Wrecsam, Conwy, Ynys Môn, Ceredigion, Sir Benfro a Sir Gâr – wedi ysgrifennu at Carl Sargeant gan alw ar i'r Llywodraeth newid cynnwys y Bil. Rydyn ni'n cytuno gyda'u casgliadau hwythau:

"...ar hyn o bryd, nid oes modd i gynghorwyr, o dan y fframwaith cynllunio statudol presennol, ganiatáu neu wrthod datblygiadau ar sail eu heffaith iaith yn unig. Mae angen newid y sefyllfa honno drwy'r Bil, gan ei fod yn fater nad oes modd ei ddatrys heb ddeddfwriaeth. Pe collir y cyfle hanesyddol hwn i sicrhau bod y drefn gynllunio yn adlewyrchu anghenion Cymru, byddai'n peryglu ein gallu i gryfhau'r Gymraeg yn ein cymunedau am nifer o flynyddoedd i ddod.

"Pryderwn yn ogystal am y nifer o ffyrdd mae'r Bil yn cynnig canoli grym yng Nghaerdydd, credwn yn gryf y dylai fod gan gynghorau'r rhyddid i allu pennu targedau tai yn seiliedig ar anghenion lleol yn annibynnol o'r Llywodraeth yn ganolog. Eto, mae rhaid i fframwaith y Bil ddatganoli'r grym hwnnw yn ogystal

â chreu proses newydd sy'n ein harwain a'n cynorthwyo i asesu'r angen lleol hynny mewn ffordd drwyadl.

"Rydyn ni hefyd yn cytuno gyda chynghor eich pwyllgor arbenigol bod angen pwrpas statudol i'r system gynllunio, sy'n rhoi cyfeiriad i'r system, ac sy'n egluro mai diogelu ein hamgylchedd, mynd i'r afael â thlodi, a chryfhau'r Gymraeg yw rhai o sylfeini'r drefn gynllunio drwyddi draw."

Anfonodd Comisiynydd y Gymraeg gyngor ysgrifenedig at y Llywodraeth ynghylch y Bil gan nodi mai dim ond hanner cynghorau sir Cymru sydd wedi cynnwys polisïau iaith Gymraeg yn eu cynlluniau datblygu lleol.

Rhai o brif gasgliadau'r adroddiad oedd:

"Nid yw'r Gymraeg yn cael ei hystyried yn gyson o dan y gyfundrefn gynllunio gyfredol."

"Nid yw pob awdurdod cynllunio wedi ystyried y Gymraeg wrth lunio ei gynllun datblygu. Mae hynny'n awgrymu nad yw pob awdurdod wedi gweithredu yn unol â Pholisi Cynllunio Cymru a Nodyn Cyngor Technegol 20 (2000)."

"Mae amrywiaeth ac anghysondeb yng nghynnwys a manylder y polisïau ar y Gymraeg mewn cynlluniau datblygu... Mae amrywiaeth ac anghysondeb yn y pynciau atodol mewn perthynas â'r Gymraeg a ystyrir mewn cynlluniau datblygu."

"Mae'r nifer o asesiadau effaith ieithyddol a gynhaliwyd ar geisiadau cynllunio unigol yn isel yn y mwyafrif o awdurdodau. Mae hynny'n awgrymu nad yw'r polisïau yn cael eu gweithredu'n llawn mewn rhai ardaloedd."

Fe ddaw Comisiynydd y Gymraeg i'r casgliad:

"Heb ddyletswydd gyfreithiol ar awdurdodau wedi ei gefnogi gan gyngor ac arweiniad priodol, bydd yr ansicrwydd a'r anghysondeb yn parhau. Gallai hynny yn ei dro gael effaith andwyol ar les y Gymraeg a chymunedau Cymraeg."

Ymhellach, mae dros saith cant o bobl wedi cyflwyno cardiau i'r Pwyllgor Amgylchedd gan alw ar i'r pwyllgor argymhell Bil Cynllunio sy'n:

1. Datgan mai pwrpas y system gynllunio yw rheoli tir mewn ffordd sy'n gynaliadwy'n amgylcheddol, yn taclo tlodi ac yn hybu'r Gymraeg
2. Asesu anghenion lleol fel man cychwyn a sylfaen pendant i gynlluniau datblygu, yn hytrach na thargedau tai sy'n seiliedig ar amcanestyniadau poblogaeth cenedlaethol
3. Sicrhau bod effaith datblygiadau ar y Gymraeg yn cael ei asesu.
4. Rhoi grym cyfreithiol i gynghorwyr ystyried y Gymraeg wrth dderbyn neu wrthod cynlluniau, drwy wneud y Gymraeg yn ystyriaeth berthnasol statudol
5. Sefydlu Tribiwnlys Cynllunio i Gymru, y mae cymunedau yn gallu apelio iddo.

2. Safbwynt Ideolegol Cymdeithas yr Iaith

Cred y Gymdeithas mai un o fethiannau'r farchnad yw'r problemau sy'n wynebu'r Gymraeg oherwydd y drefn gynllunio, yn yr un ffordd ac mae nifer o broblemau ynghylch anghyfartaledd incwm a'r amgylchedd yn deillio o ddibyniaeth ar y farchnad rydd.

Mae'r Bil Cynllunio yn gyfle i daclo'r problemau hyn, gan ddi-ddymu neu ailgydbwysu'r farchnad gynllunio fel y saif. Credwn hefyd fod angen gweld y Bil Cynllunio fel pecyn o newidiadau, a chredwn y dylid bod Deddf Eiddo er mwyn ymdrin â'r stoc tai bresennol a'i heffaith ar y Gymraeg.

Wrth graidd ein pwyntiau mae'r argyhoeddiad sylfaenol bod yn rhaid i'r Bil Cynllunio adlewyrchu anghenion arbennig ein gwlad yn hytrach na dim ond efelychu yr hyn sy'n digwydd yng ngwledydd eraill Prydain.

Credwn ymhellach fod yr iaith yn perthyn i bawb – o ba gefndir bynnag – sydd wedi dewis gwneud Cymru yn gartref iddyn nhw. Mae angen deddfu mewn ffordd sy'n cynorthwyo twf y Gymraeg a'i diogelu ym mhob rhan o Gymru.

3.Cyd-destun y Gymraeg ar lefel gymunedol

Nid oes amheuaeth bod canlyniadau Cyfrifiad 2011 yn amlygu'r argyfwng sy'n wynebu'r Gymraeg. Bu gostyngiad yn nifer y siaradwyr Cymraeg ym mron pob rhan o Gymru. Bu'r gostyngiad mwyaf yn yr ardaloedd lle mae'r Gymraeg ar ei chryfaf.

Cafwyd gostyngiad yn nifer yr adrannau etholiadol lle roedd dros 70 y cant o'r boblogaeth yn gallu siarad Cymraeg, o 92 yn 1991 i 54 yn 2001 i 39 yn 2011. Erbyn 2011, roedd pob un o'r adrannau etholiadol hyn (ac eithrio un yng Nghonwy) yng Ngwynedd neu ar Ynys Môn.

Dylid nodi mai targed strategaeth iaith Llywodraeth Cymru 2003, Iaith Pawb, oedd codi nifer y siaradwyr Cymraeg pum pwynt canran ledled Cymru (o 20.7% yn 2001 i 25.7% yn 2011) ac atal y dirywiad yn nifer y cymunedau Cymraeg:

“Erbyn 2011 - bod y ganran o bobl Cymru sy'n gallu siarad Cymraeg wedi cynyddu 5 pwynt canran o'r ffigwr a ddaw i'r amlwg o gyfrifiad 2001;

“bod y lleihad yn nifer y cymunedau lle mae'r Gymraeg yn cael ei siarad gan dros 70% o'r boblogaeth yn cael ei atal;” [tud.11, Iaith Pawb]

Ymatebodd [Comisiynydd y Gymraeg](#) i ganlyniadau Cyfrifiad 2011 gan ddweud:

“...mae'n wir dweud bod ystadegau a gyhoeddwyd heddiw yn ysgytwad. Efallai bod yna berygl wedi bod i bawb fynd i ryw gyfforddusrwydd artifisial 10 mlynedd yn ôl, gan gredu bod tro ar fyd, a bod twf mewn rhai ardaloedd yn gwneud yn iawn am y gostyngiad mewn ardaloedd eraill. Os mai felly oedd hi am y 10 mlynedd diwethaf, yna mae'r cloc larwm wedi canu'n uchel iawn ac mae yna heriau pendant i'w hateb yn y fan hyn, a hynny ar fyrder.”

Yn sicr, nid oes amheuaeth bod y system gynllunio yn dylanwadu, fel y cydnabyddir gan gasgliadau ymgynghoriad Llywodraeth Cymru i'r Gynhadledd Fawr.

Ymhellach, credwn fod y gwaith ymchwil a wnaed gan Fwrdd yr Iaith a Menter Iaith Conwy yn 2011/12 yn amlygu effeithiau iaith y gyfundrefn bresennol:

Gwaith Ymchwil Menter Iaith Conwy / Bwrdd yr Iaith (2012)

Comisiynwyd gwaith ymchwil gan Fwrdd yr Iaith Gymraeg yn 2011 a gynhaliwyd gan Fenter Iaith Conwy i fesur beth oedd tarddiad pobl oedd yn berchen ar anheddau newydd o fewn Sir Conwy rhwng 2006 a 2011. Yn ôl y gwaith ymchwil hwnnw, llenwyd 87% o'r tai a adeiladwyd gan bobl nad oedd yn gallu siarad Cymraeg. Amcangyfrifwyd y byddai Cynllun Datblygu Lleol drafft y cyngor yn golygu gostyngiad yng nghanran siaradwyr y Gymraeg o 2.24% oherwydd y 6,350 o dai yr argymhellwyd eu hadeiladu. Argymhelliad y

Fenter laith yn sgil y gwaith ymchwil oedd gostwng nifer y tai yn y cynllun drafft a newid y drefn fel bod nifer y tai yn adlewyrchu anghenion lleol.

Er gwaethaf yr argymhellion hyn, cafodd Cynllun Datblygu Lleol Conwy ei fabwysiadu ym mis Hydref 2013 gan osod targed nifer y tai ar gyfer y cyfnod hyd at 2022 fel a ganlyn: "6,520 o unedau tai newydd gyda lefel 10% wrth gefn o hyd at 7,170 o unedau tai newydd ..."

4. Gwendidau'r Drefn Bresennol

Mae Cymdeithas yr Iaith wedi bod yn galw am newidiadau i'r drefn gynllunio ers y 1980au gan arwain at gonsesiynau. Yn fwy diweddar, cyhoeddassom Fil Eiddo a Chynllunio amgen ym mis Mawrth 2014, ac yn dilyn hynny cynhaliwyd nifer o gyfarfodydd cyhoeddus o Ben Llŷn i Hwlfordd i Gaerdydd i drafod ein cynigion deddfwriaethol. Mae nifer o bwyntiau isod ac yn adran 8 yn rhestru penawdau gwelliannau i'r Bil sy'n adlewyrchu sylwadau gan aelodau'r cyhoedd yn y cyfarfodydd hynny.

4.1 Diffyg Cysondeb a Chyfeiriad i'r Drefn

Mae Comisiynydd y Gymraeg wedi nodi'r diffyg cysondeb yn y gyfundrefn, gan ddweud:

"Yn gyffredinol, roedd yr asesiad o bolisiau yn amlygu amrywiaeth eang ac anghysondeb yn yr ymdriniaeth a roddir i'r Gymraeg mewn gwahanol ardaloedd. Er bod rhywfaint o wahaniaethau lleol yn ddisgwyliedig, mae'n bosibl bod yr anghysondeb yn adlewyrchu diffyg eglurder yn y polisi cenedlaethol tuag at y Gymraeg." (Tud. 3, Astudiaeth o bolisiau cynllunio lleol a'r Gymraeg - Medi 2013)

Credwn y gellid lliniaru'r problemau hyn drwy sefydlu diben statudol i'r drefn gynllunio yn y Bil, a fyddai'n rhoi cyfeiriad i'r Fframwaith Cenedlaethol ynghyd â chynlluniau datblygu eraill wrth eu llunio a'u hadolygu. Cytunwn felly â'r pwyllgor arbenigol a roddodd gyngor i Weinidogion cyn iddynt lunio'r ddeddfwriaeth y dylid sefydlu diben statudol i'r drefn gynllunio.

4.2. Trefn nad yw'n seiliedig ar anghenion lleol

Wrth wraidd y broblem gyda'r drefn mae'r ffaith nad yw hi'n seiliedig ar anghenion lleol. Yn hytrach na system sy'n cael ei gyrru gan anghenion y farchnad, mae angen newid pwyslais y system fel ei bod yn gwbl glir mai awdurdodau lleol sy'n gyfrifol am osod targedau tai, a hynny ar sail anghenion lleol yn unig. Byddai hynny'n dileu effaith y targedau tai a osodir gan y Llywodraeth ganolog sy'n seiliedig ar yr amcanestyniadau poblogaeth cenedlaethol, a fyddai'n parhau â'r patrymau sydd wedi bod yn niweidiol i'r Gymraeg ers blynnyddoedd.

4.3. Diffyg Ystyriaeth i'r Gymraeg

Ceisiadau Unigol

Dim ond 0.03% o geisiadau cynllunio oedd wedi cael eu hasesu am eu heffaith ar yr iaith Gymraeg yn ôl cais rhyddid gwybodaeth a wnaed gennym. Tri awdurdod cynllunio lleol yn unig, o'r 25 yng Nghymru, a gynhaliodd asesiad effaith datblygiadau ar y Gymraeg rhwng 2010 a 2012 – cyfanswm o 16 asesiad allan o bron i 50,000 o geisiadau cynllunio a wnaed. Mae cwestiynau yn codi am wrthrychedd yr asesiadau effaith iaith a wnaed, gan iddynt, mewn nifer o achosion, gael eu comisiynu a'u hariannu gan y datblygwyr.

Mae nifer o enghreifftiau o benderfyniadau ar geisiadau unigol lle nad oedd eglurder neu rym gan gynghorwyr i wrthod neu ganiatáu ceisiadau ar sail eu heffaith iaith yn unig, megis datblygiad tai Penybanc yn Sir Gaerfyrddin a'r pentref gwyliau Land & Lakes yn Ynys Môn.

Cynlluniau Datblygu Lleol

Fel nodwyd uchod, yn ôl astudiaeth Comisiynydd y Gymraeg, dim ond hanner cynghorau sir Cymru sydd wedi cynnwys polisiâu am y Gymraeg yn eu cynlluniau datblygu lleol. Credwn y dylai effaith y drefn gynllunio fod yn ystyriaeth ym mhob rhan o Gymru, gan ei bod yn effeithio ar statws yr iaith, mynediad at addysg Gymraeg ynghyd â phatrymau mudo.

Yn ôl astudiaeth Comisiynydd y Gymraeg: *"adroddodd 6 awdurdod nad oeddynt wedi cynnal unrhyw asesiad o effaith eu cynllun datblygu ar y Gymraeg. Mae'r canfyddiad yma yn codi amheuan ynghylch y graddau yr ystyriwyd Polisi Cynllunio Cymru a Nodyn Cyngor Technegol 20 (2000) wrth i'r awdurdodau yma lunio eu cynlluniau datblygu. Mae'r canfyddiadau hefyd yn codi cwestiynau ynghylch rôl yr Arolygiaeth Gynllunio sy'n gyfrifol am arolygu cynlluniau datblygu a sicrhau eu bod yn cyd-fynd gyda pholisi cenedlaethol cyn iddynt gael eu mabwysiadu."*

4.4. Parchu Statws ac Etifeddiaeth y Gymraeg

Diogelu Enwau Llefydd, Strydoedd, Datblygiadau Newydd

Yn y cyfarfodydd cyhoeddus rydyn ni wedi eu cynnal ar hyd a lled Cymru, codwyd yn gyson y pryder am effaith datblygiadau ar statws y Gymraeg mewn materion megis enwau lleoedd, enwau strydoedd, enwau adeiladau newydd ac enwau tai. Mae Cymdeithas yr Iaith yn dadlau y dylid cael amddiffyniad statudol Cymru-gyfan i sicrhau bod statws swyddogol y Gymraeg yn cael ei hybu a'i ddiogelu yn yr holl enghreifftiau hyn.

Datblygiadau Tai a Mynediad at Addysg Gymraeg

Ceir cwynion mewn nifer o gyd-destunau nad yw mynediad at addysg Gymraeg yn cael ei ystyried wrth ganiatáu datblygiad stad o dai newydd – ceir sawl enghraifft o'r broblem yn y De Ddwyrain megis yn ardal Llantrisant, Caerdydd a Bro Morgannwg.

4.5 Gwneud Penderfyniadau'n Lleol

Eto, yn ein cyfarfodydd, codwyd yn gyson yr angen i sicrhau bod penderfyniadau cynllunio yn cael eu gwneud yn lleol mor aml â phosibl.

Codwyd nifer o bryderon am dargedau tai yn cael eu gosod ar lefel genedlaethol yn hytrach na gadael i gymunedau lleol wneud penderfyniadau ar sail eu hanghenion lleol.

Hefyd, codwyd y pwynt mai dim ond y tu allan i Gymru y mae nifer o dai ac adeiladau yn cael eu hysbysebu ac y dylai fod amod bod anheddau yn gorfod cael eu hysbysebu i'w rhentu neu eu prynu yn yr ardal leol.

4.6. Rôl yr Arolygiaeth Gynllunio

Mae nifer yn pryderu am yr Arolygiaeth Gynllunio a'r ffaith ei fod yn gorff Lloegr-Cymru. Codwyd pryder am y ffaith bod yr holl swyddogion yn derbyn eu hyfforddiant ym Mryste, yn hytrach na Chymru. Wrth i drefn gynllunio Cymru a Lloegr wahanu, teimlwn nad yw'r sefyllfa bresennol yn gynaliadwy. Hefyd, codwyd pryder am dryloywder a chostau'r broses apelio ac ymwybyddiaeth yr Arolygiaeth o'r Gymraeg.

5. Dadleuon y Llywodraeth

Ers i'r dadleuon dros y Bil Cynllunio gychwyn, rydym wedi gweld datblygiad yn esboniadau'r Llywodraeth am ei hagwedd tuag at gynnwys cymalau a fyddai'n llesol i'r Gymraeg yn y Bil. Cawsom gyfarfodydd diddorol gyda'r Gweinidog Cynllunio a'i swyddogion, sy'n mynd i barhau dros yr wythnosau nesaf.

Ysgrifenasom at y Llywodraeth ar nifer o achlysuron gan geisio cael eglurhad ynghylch eu dadleuon am le'r Gymraeg yn y Bil.

Ceir manylion y llythyrau hynny yma:

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-y-gweinidog-carl-sargeant>

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-swyddogion-cynllunio-llywodraeth-cymru>

Yn dilyn ein cyfarfod ar 27ain Chwefror 2014 gyda swyddogion adran gynllunio'r Llywodraeth, ysgrifenasom atynt gan ddweud:

"Yn ystod y sgysiau yn ystod ein cyfarfod roedd yn ddiddorol nodi bod:

(i) Cyfaddefiad gan Neil Hemington bod cynghorau bron a bod fel bod ganddynt obsesiwn ("too fixated" yn ei eiriau ef) ar seilio eu rhagamcaniadau weithredu ar amcanestyniadau poblogaeth;

(ii) Nodir ymhellach eich bod wedi datgan nad yw Bil Cenedlaethau'r Dyfodol yn berthnasol i'r adran gynllunio, gan eich bod fel Adran yn cyflawni popeth yn barod.

(iii) Roeddwn yn falch clywed eich parodrwydd i archwilio gyda'r gweinidog ynglŷn â gwneud y Gymraeg yn ystyriaeth berthnasol."

7. Sylwadau Manwl ar y cynigion yn y Bil

Adran 2 - Fframwaith Datblygu Cenedlaethol Cymru

Nid oes egwyddorion sy'n gyrru cyfeiriad y fframwaith. Nid oes dyletswydd ar y Llywodraeth i gynnwys polisi am y Gymraeg yn y fframwaith, nac wrth ei adolygu. Credwn fod yr absenoldeb hwn yn cryfhau'r achos dros sefydlu diben statudol i'r drefn yn ei chyfanrwydd.

Adran 3 - Ardaloedd Cynllunio Strategol a Phaneli Cynllunio Strategol

Rydym yn gwrthwynebu canoli grym a thynnu pwerau allan o ddwylo cynghorwyr etholedig. Dylid gwneud penderfyniadau ar y lefel fwyaf lleol bosibl.

Yn lle, gellid cynnwys pwerau i gynghorau cymunedau lleol, neu nifer ohonynt ar y cyd, sefydlu awdurdod cynllunio lleol er mwyn gwneud rhagor o benderfyniadau cynllunio yn agosach at y bobl.

Mae'r broses o greu ardaloedd cynllunio strategol yn broses o'r brig i lawr. Ni ddylai grym i gyfarwyddo awdurdodau lleol i'w sefydlu fod yn nwylo Gweinidogion. Er nad ydyn ni wedi cael ein hargyhoeddi am fanteision cynllunio ar lefel ardal strategol, mater arall fyddai cynghorau yn wirfoddol yn ffurfio ardal strategol.

Yn atodlen 1, sy'n amlinellu darpariaethau pellach am y paneli, gwrthwynebwn fodolaeth aelodau'r paneli cynllunio strategol nad ydynt yn etholedig, gan ein bod yn credu mewn dulliau cwbl ddemocrataidd o wneud penderfyniadau.

Adran 5 - Lluio ac adolygu cynlluniau datblygu strategol

Yn adran 60I(7), mae dyletswydd ar y panel i asesu cynaliadwyedd y cynllun datblygu strategol. Dylid diffinio cynaliadwyedd wrth gyfeirio at effaith y cynllun ar y Gymraeg. Fel arall, drwy sefydlu diben statudol i'r drefn gynllunio sy'n cyfeirio at y Gymraeg, gellid sicrhau bod y cynllun yn cael ei lunio yn unol â'r diben hwnnw.

Adran 12 - Pŵer Gweinidogion Cymru i gyfarwyddo bod cynllun datblygu lleol yn cael ei lunio ar y cyd

Nid ydym yn cytuno y dylid rhoi grymoedd i Weinidogion gyfarwyddo awdurdodau i lunio cynllun datblygu lleol ar y cyd. Credwn y dylai pwerau gael eu gweithredu mor agos â phosibl at gymunedau.

Adran 19 - adroddiadau effaith lleol

Dylai unrhyw adroddiad effaith lleol gynnwys asesiad effaith ar y Gymraeg o'r datblygiad dan sylw.

Adran 33 - Cyfnod para caniatâd cynllunio: cyffredinol

Credwn y dylid cynnwys darpariaethau yma fel yr amlinellir yn rhan 8 er mwyn diddymu yn syth unrhyw ganiatâd cynllunio a roddwyd sawl blynedd yn ôl nas gweithredwyd neu a weithredwyd yn rhannol yn unig wedi i'r Ddeddf hon ddod i rym.

Adran 35 - Ymgynghori etc mewn cysylltiad â cheisiadau penodol sy'n ymwneud â chaniatâd cynllunio

Credwn y dylid gwneud Comisiynydd y Gymraeg yn un o ymgynghoreion Statudol y drefn gynllunio.

Adran 37 - Arfer swyddogaethau awdurdod cynllunio lleol sy'n ymwneud â cheisiadau

Ni fyddwn yn cefnogi gwneud rhagor o benderfyniadau cynllunio gan swyddogion yn hytrach na chynghorwyr etholedig. Dylai'r broses fod yn un gwbl ddemocratiaidd gydag atebolrwydd ar lefel leol.

Adran 44 a 45 - Gweithdrefnau a chostau ar gyfer ceisiadau, apeliadau a chyfeiriadau

Credwn y dylid sefydlu Tribiwnlys Cynllunio i Gymru, yn lle'r Arolygiaeth Gynllunio, a fyddai'n ymdrin ag apeliadau gan reoli costau fel bod modd i bobl o ba gefndir bynnag allu ymdrin â'r drefn ar yr un lefel ag eraill.

8. Ein Cynigion Amgen

Dylid darllen y sylwadau isod ochr yn ochr â'n Bil Eiddo a Chynllunio a gyhoeddwyd ym mis Mawrth eleni - www.cymdeithas.org/cynllunio

Ers cyhoeddi ein Bil Eiddo a Chynllunio, rydym wedi cynnal nifer o ddiwyddiadau a chyfarfodydd er mwyn derbyn adborth ar y ddogfen. Byddwn yn cyhoeddi fersiwn diwygiedig o'n cynlluniau deddfwriaethol cyn diwedd y flwyddyn.

Credwn fod angen newid y Bil Cynllunio trwy gynnwys nifer o elfennau gan gynnwys y saith pwynt canlynol:

1. Sefydlu diben statudol i'r system gynllunio sy'n cyfeirio at nodau datblygu cynaliadwy Cymru

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau Cymdeithas yr Iaith Gymraeg, adran 1. Diben Statudol y Drefn Gynllunio)

Datganwyd yn glir iawn gan y Llywodraeth bod y Bil yn seiliedig ar adroddiad y grŵp cynghorol annibynnol a gyhoeddodd ei adroddiad ym mis Mehefin 2012. Nodwn nad yw'r Bil na'r ddogfen ymgynghori yn cyfeirio at yr argymhelliad canlynol yn yr adroddiad:

"We recommend that a statutory purpose for planning along these lines is included in the Planning Bill:

"The purpose of the town and country planning system is the regulation and management of the development and use of land in a way that contributes to the achievement of sustainable development." [Saesneg yn unig, gan nad oes copi Cymraeg o'r adroddiad ar gael]

Rydym yn cytuno â'r grŵp y dylai fod pwrpas statudol i'r system gynllunio yn y Bil, er nad ydym yn cytuno â nifer fawr o argymhellion yr adroddiad. Ymddengys fod gwrthod yr argymhelliad hefyd yn groes i ysbryd yr ymrwymiad ym Maniffesto Llafur Cymru yn etholiad 2011, sef:

"Deddfwriaethu i greu cymunedau mwy cynaliadwy trwy'r system gynllunio"

"Sicrhau bod cynlluniau datblygu yn adlewyrchu'r cyfrifoldeb i gyflwyno cymunedau cynaliadwy ar draws Cymru."

Yn y cyhoeddiad "Cymru'n Un: Cenedl Un Blaned" a gyhoeddwyd yn 2009 gan Lywodraeth Cymru pwysleisiwyd pwysigrwydd y Gymraeg fel rhan o'r diffiniad o ddatblygu cynaliadwy a lles yng Nghymru.

Ymhellach, credwn y gellid seilio'r pwrpas ar y nodau llesiant ym Mil Llesiant Cenedlaethau'r Dyfodol. Mae ein Mesur Eiddo a Chynllunio er budd ein Cymunedau yn addasu'r nodau llesiant hynny, er mwyn adeiladu arnynt, yn ogystal â'u cryfhau a'u gwella.

Credwn fod sefydlu pwrpas statudol i'r system gynllunio yn y Bil yn cynnig cyfle i osod cyfeiriad clir i'r system gynllunio ac un a fyddai er lles y Gymraeg, yn hytrach na'r un presennol sy'n ei thanseilio.

2. Sicrhau ar wyneb y Bil bod y Gymraeg yn cael ei gwneud yn ystyriaeth gynllunio berthnasol statudol ym mhob rhan o Gymru

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau Cymdeithas yr Iaith Gymraeg, adran 2. Ystyriaethau Perthnasol ym mhob rhan o Gymru)

Rydym yn falch ein bod wedi cael cadarnhad gan Rosemary Thomas, pennaeth adran gynllunio Llywodraeth Cymru, yn ein cyfarfod ar ddechrau mis Rhagfyr 2013, nad yw'r system bresennol yn caniatáu i bwyllgorau cynllunio neu awdurdodau cynllunio wrthod, neu ganiatáu, cais cynllunio ar sail eu heffaith iaith, gan fod cymaint o ystyriaethau i'w cydbwysu.

Mae hynny'n cadarnhau'r hyn mae'n haelodau ni, yn ogystal â chynghorwyr, yn ei ddweud wrthym, sef nad oes amddiffyniad statudol i awdurdodau cynllunio nac awdurdodau pwyllgorau cynllunio os ydyn nhw am wrthod cais, neu ei ganiatáu, ar sail ei effaith iaith. Credwn fod hynny'n cryfhau'r achos a amlinellir yn ein papur i wneud y Gymraeg yn ystyriaeth berthnasol (material consideration) statudol a fyddai'n rheswm digonol ynddo ei hun er mwyn gwrthod, neu gymeradwyo, cais cynllunio ar sail ei effaith iaith. Dylai'r Llywodraeth ystyried polisi o'r fath.

Bellach, mae llawer iawn o gynghorwyr sir wedi ysgrifennu atoch chi gan nodi'r un pryder. Rydym yn gobeithio'n fawr y byddwch yn sicrhau bod y Bil Cynllunio yn ymateb i'r pryderon hyn.

3. Gwneud asesiadau effaith datblygiadau ar y Gymraeg yn hanfodol ar gyfer pob datblygiad sydd yn 10 uned o dai neu'n fwy

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau Cymdeithas yr Iaith Gymraeg, adran 6. Aseidiadau effaith datblygiadau sylweddol ar ffyniant y Gymraeg)

Ceir nifer o enghreifftiau yn y Bil o aseidiadau sy'n ofyniad statudol megis arfarniad cynaliadwyedd o'r Cynlluniau Datblygu Lleol ac aseidiadau amgylcheddol.

Mae'r Arolygiaeth Gynllunio ac eraill yn dweud bod yn rhaid iddyn nhw dderbyn tystiolaeth gadarn wrth iddyn nhw edrych ar effaith unrhyw gynlluniau unigol neu gynlluniau datblygu lleol.

Credwn fod y Bil yn creu cyfle amlwg, gan ei fod yn gwahaniaethu rhwng gwahanol feintiau o ddatblygiad, i wneud Aseiad Effaith Iaith (AEI) yn ofynnol ar 'ddatblygiadau sylweddol' fel y'u diffinnir yn y Bil, sef 10 uned o dai neu fwy.

Ffordd arall o gyflawni'r un nod fyddai dilyn cynsail aseidiadau effaith amgylcheddol sy'n gosod dyletswydd ar awdurdodau cynllunio i ystyried cynnal aseiad gan ddibynnu ar eu barn o ran yr hyn fyddai'n debygol o gael effaith ar yr iaith o dan yr amgylchiadau.

Credwn fod angen y sail dystiolaeth a gynigir gan AEI annibynnol, er mwyn galluogi cynghorwyr i wrthod, neu i ganiatáu cais cynllunio ar sail ei effaith iaith. Mae hynny'n golygu y byddai gwneud AEI yn ofyniad statudol ar ddatblygiadau 'sylweddol' yn mynd law yn llaw â sefydlu'r Gymraeg fel ystyriaeth berthnasol (material consideration) statudol.

Credwn y gellid ystyried cynnwys AEI o fewn aseiad ehangach ar gynaliadwyedd, yr amgylchedd neu aseiad effaith gymdeithasol. Mae cynsail Ewropeaidd dros wneud aseidiadau effaith amgylcheddol/gymdeithasol a fyddai'n cynnwys effeithiau datblygiadau ar yr iaith Gymraeg. Dylai hynny gael ei atgyfnerthu mewn deddfwriaeth fel y gellir sicrhau bod prosesau a strwythurau ar gyfer cynnal aseidiadau iaith yn cael eu gosod ar sail statudol. Oni bai bod hyn yn digwydd, bydd Awdurdodau Lleol ac eraill yn anwybyddu'r Nodiadau Cyngor Technegol perthnasol.

4. Datganoli grymoedd ystyrion dros geisiadau cynllunio i gymunedau, yn hytrach na chanoli grym yn nwylo gweinidogion

Rydym yn gwrthod y duedd beryglus yn y Bil i ganoli grym yn nwylo Gweinidogion yng Nghaerdydd, yn ogystal â bygwth diddymu neu uno awdurdodau cynllunio lleol. Yn lle, dylai'r Bil ddatganoli grymoedd i gynghorau cymuned er mwyn grymuso pobl ar lawr gwlad.

Credwn fod nifer o elfennau o'r Bil yn codi pryderon mawrion am ddiffyg democratiaeth yn y system gynllunio. Credwn fod y cynlluniau ar gyfer cynlluniau Datblygu Strategol yn annemocrataidd, a'u bod yn rhoi grym dros gynlluniau datblygu yn nwylo unigolion anetholedig.

Ymhellach, pryderwn yn fawr am y syniad y byddai modd cosbi neu dynnu pwerau oddi ar awdurdodau cynllunio nad ydynt yn dilyn cyfarwyddiadau gweinidogol. Mae'n codi'r cwestiwn: beth yw diben democratiaeth os nad oes hawl gan y rhai etholedig i wneud penderfyniadau sy'n groes i farn swyddogion anetholedig?

Ymhellach, credwn fod yr argymhellion ynghylch grymoedd cynghorau cymuned yn wan. Dylai cynghorau cymuned fod yn gwbl ganolog i'r broses o greu, caniatáu neu wrthod cynlluniau datblygu lleol a cheisiadau ar gyfer datblygiadau unigol.

Rydym wedi cynnwys nifer o ffyrdd y gellid gwneud hynny yn ein Bil Eiddo a Chynllunio drafft. Un ohonyn nhw yw cysyniad "Datblygiadau o fudd sylweddol i'r gymuned ac i ffyniant y Gymraeg", sef creu llwybr tarw i gynghorau cymuned roi caniatâd ar gyfer dosbarth o geisiadau sy'n bodloni meini prawf sy'n eu gwneud yn llesol i'r Gymraeg a'r gymuned yn ehangach.

5. Gosod ar wyneb y Bil gymal a fyddai'n sicrhau mai anghenion lleol fydd sail y drefn gynllunio, fel mai dyna yw'r dechreubwynt wrth i awdurdodau lleol bennu eu targedau tai yn hytrach nag amcanestyniadau poblogaeth

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau, adran 10. Asesiadau Angen Lleol)

Cafwyd eglurhad mai 'anghenion lleol' ddylai fod yn brif ystyriaeth wrth i awdurdodau lleol lunio Cynlluniau Datblygu Lleol yn ein cyfarfod gyda'r Gweinidog ar ddechrau mis Rhagfyr 2013. Credwn fod y Bil felly yn gyfle i gadarnhau bwriad y Llywodraeth mewn statud.

Yn y cyfarfod hwnnw, cyfeiriodd prif swyddog adran cynllunio'r Llywodraeth at yr angen i awdurdodau cynllunio gynnal "asesiad o'r farchnad dai leol" a'r "cynlluniau tai fforddiadwy", ac mai hynny yw dechreubwynt awdurdodau cynllunio wrth iddynt lunio Cynlluniau Datblygu Lleol. Fodd bynnag, mae'r hyn a ddywedodd yn groes i'r hyn a ddywedwyd gan Richard Poppleton, Cyfarwyddwr yr Arolygiaeth Gynllunio yng Nghymru ar y pryd, gerbron y Cynulliad:

"The Welsh Government informs the local authorities of the [population] projections, which is the starting point. If there is no starting point, everybody would be thrashing around asking where to start. The Welsh Government's housing projections are the starting point, with a certain variance. Local authorities take that as a starting point and the way in which Planning Policy Wales's manual is phrased means that the projections are regarded as being robust and should not be deviated from unless there are justifiable reasons."

Ymhellach, nodwn gasgliad canlynol Pwyllgor Amgylchedd a Chynaliadwyedd y Cynulliad mewn llythyr at y Gweinidog:

"Os bydd Awdurdodau Cynllunio Lleol eisiau defnyddio amcanestyniadau sy'n gwyro oddi wrth amcanestyniadau Llywodraeth Cymru, rhaid iddynt profi bod y gwyriad yn cael ei wneud ar sail 'tystiolaeth gadarn a chredadwy', fel y nodir ym Mholisi Cynllunio Cymru. Pan gafodd ei holi ar y pwynt hwn, cydnabu'r Gweinidog ar y pryd gymhlethdod y mater hwn a bod awdurdodau lleol a Llywodraeth Cymru yn anghytuno ambell waith. Fodd bynnag, dywedodd y gallai'r rhain gael eu datrys drwy drafodaeth."

Carem bwysleisio bod y Gymraeg yn dioddef ar hyn o bryd oherwydd y patrymau mudo presennol. Mae'r system gynllunio nid yn unig yn adlewyrchu'r patrymau hyn, ond hefyd yn dylanwadu arnynt, oherwydd fel mae pob economegydd da yn ei ddeall, mae cyflenwad yn arwain y galw yn ogystal ag i'r gwrthwyneb. Mae'n rhaid bod modd i awdurdodau cynllunio ddewis sut maen nhw am ddylanwadu ar y ffactorau hynny.

Yr hyn sy'n glir i ni am y broses yw'r canlynol:

- ✦ nid oes eglurder statudol ynghylch o ba ddechreubwynt y dylid llunio cynllun datblygu lleol, gan i swyddogion y Llywodraeth gynnig dadleuon gwahanol i'r Arolygiaeth Gynllunio ac i eraill;
- ✦ mae'r aneglurder yn arwain at wrthdaro rhwng barn awdurdodau lleol a Llywodraeth Cymru yn ogystal â gorddibyniaeth ar farn Arolygwyr Cynllunio nad ydynt yn cael eu hyfforddi yng Nghymru;
- ✦ bod baich ar gynghorau sir i brofi rheswm dros wyro oddi ar amcanestyniadau poblogaeth Llywodraeth Cymru;
- ✦ nid oes mewnbwn na thystiolaeth sy'n ofynnol, megis asesiad effaith iaith neu farn Comisiynydd y Gymraeg, fel rhan o'r broses statudol wrth lunio cynlluniau datblygu lleol ac ystyried ceisiadau unigol.

Credwn felly, y dylid ystyried y cynigion canlynol:

- ✦ gosod ar wyneb y Bil yr hawl i gynghorau sir osod targedau tai yn annibynnol o Lywodraeth Cymru, gan seilio eu hamcanestyniadau ar anghenion lleol a thwf naturiol y boblogaeth;
- ✦ gwneud Comisiynydd y Gymraeg yn ymgynghorai statudol ynglŷn â chynlluniau datblygu lleol a datblygiadau sylweddol, sef 10 uned o dai neu fwy;

Ymhellach, credwn fod nifer o wendidau eraill yn y system bresennol sef bod:

- ✦ rhagdybiaeth y bydd y rhan fwyaf o'r stoc tai yn anfforddiadwy i bobl ar gyflogau lleol;
- ✦ tai fforddiadwy yn ychwanegiad at system sydd yn ei hanfod yn un anfforddiadwy i bobl leol;
- ✦ diffyg cydnabyddiaeth o effaith bodolaeth tai anfforddiadwy ar y Gymraeg a chynaliadwyedd cymunedau;
- ✦ diffyg gofyniad statudol i ddefnyddio'r stoc bresennol, cyn adeiladu datblygiadau 'sylweddol' fel y'u diffinnir yn y Mesur drafft;
- ✦ amcanestyniadau poblogaeth sy'n cynnal a dwysáu problemau'r patrymau mudo presennol;
- ✦ diffyg grym statudol y tu ôl i ganllawiau Nodyn Cyngor Technegol 20

Mae'n Bil Eiddo a Chynllunio drafft yn ymdrechu i ddatrys nifer o'r problemau hyn, yn bennaf, drwy osod dyletswydd statudol ar awdurdodau lleol i gynnal asesiad o'r angen lleol am dai. Yr asesiad hwnnw fyddai'r dechreubwynt ar gyfer pennu'r targedau tai, yn hytrach na'r amcanestyniadau poblogaeth. Felly, byddai'n ffordd o ddileu'r ansicrwydd o ran (i) pwy sy'n gyfrifol am bennu'r targedau tai, sef yr awdurdodau lleol a (ii) beth yw'r ystyriaethau wrth ffurfio'r targedau hynny.

6. Sefydlu Tribiwnlys Cynllunio Cymru, gyda hawl i bobl a chymunedau apelio iddo, yn lle'r Arolygiaeth Gynllunio bresennol

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau, adran 21. Sefydlu Tribiwnlys Cynllunio Cymru & adran 22. Yr Hawl i Apelio i'r Tribiwnlys)

Credwn y dylid sefydlu Tribiwnlys ar wahân i Gymru yn lle'r Arolygiaeth Gynllunio yng Nghymru. Byddai hwn yn gorff a fyddai'n hyfforddi pobl yng Nghymru, gyda chanran uchel ohonynt wedi eu hyfforddi trwy gyfrwng y Gymraeg, gan sicrhau bod

gan y rhai sy'n gweithio i'r corff yng Nghymru ddealltwriaeth ddofn a thrwyadl o bolisiau cynllunio Cymru ac anghenion ieithyddol ac amgylcheddol Cymru.

Wrth i'r drefn gynllunio Gymreig wahanu o'r sefyllfa yng ngwledydd eraill Prydain, credwn fod creu sefydliad annibynnol yng Nghymru'n anochel.

Wrth sefydlu Tribiwnlys ar wahân, dylid edrych ar geisio datrys nifer o broblemau gyda'r sefyllfa bresennol, gan gynnwys y canlynol:

(i) Diffyg hawliau gan bobl ar lawr gwlad a'n cymunedau i apelio yn erbyn penderfyniadau – rydym yn ymwybodol o grwpiau gwyrdd a chymunedau sydd eisiau hawl i apelio ar lefel gyfartal â datblygwyr mawrion. Ymhellach, mae datblygwyr bychain yn mynegi pryder nad oes modd iddyn nhw ymwneud â'r broses apêl.

(ii) Anghyfartaledd mynediad at y broses gynllunio – mae nifer o gynghorwyr a chynghorau yn dweud eu bod nhw'n gwneud penderfyniadau oherwydd eu bod yn pryderu y byddai penderfyniad yr hoffon nhw ei wneud yn cael ei wrthdroi ar apêl. Datgenir hefyd nad oes modd i gynghorau, ac i raddau helaethach, cymunedau a phobl eraill, fforddio mynd i apêl yn wyneb grym datblygwyr mawrion. Yn wir, dyna oedd y profiad mewn achosion megis Penybanc yn Sir Gaerfyrddin a Land & Lakes yn Ynys Môn, lle gwelwyd cynghorwyr yn newid eu meddyliau o'u penderfyniadau cyntaf oherwydd pwysau gan swyddogion a datblygwyr.

7. Sicrhau nad yw awdurdodau cynllunio yn cael caniatáu datblygiadau pan fo modd diwallu'r anghenion o'r stoc tai presennol

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau, adran 12. Diwallu'r angen lleol cyn datblygu)

Hanfod y pwynt polisi hwn yw y dylai fod yn anghyfreithlon rhoi caniatâd cynllunio ar gyfer tai newydd oni bai eu bod yn diwallu angen lleol na ellir ei ddiwallu o'r stoc bresennol. Golyga hyn na chaniateir datblygiadau hapfasnachol na thai unigol yn groes i gynlluniau lleol lle mae tai ar gael o'r stoc bresennol.

Byddai nifer o fanteision economaidd ac amgylcheddol i bolisi o'r fath gan y byddai'n rhoi hwb enfawr i'r gwaith o uwchraddio'r stoc dai bresennol a lleihau allyriadau a gwastraff o'r stoc bresennol yn ogystal â rheoli nifer y datblygiadau tai newydd yn well.

8. Rhestr Gwelliannau Arfaethedig - Cynigion Eraill

Amlinellir nifer o gynigion eraill yn ein Bil Eiddo a Chynllunio, ond yn dilyn ymgynghoriad ar y Bil, byddwn yn diwygio'n Bil gan adlewyrchu'r strwythur diwygiedig a'r elfennau ychwanegol canlynol:

1) Diben Statudol y Drefn Gynllunio:

- ◆ Diben Statudol y Drefn Gynllunio yw rheoli tir mewn ffordd sy'n gynaliadwy'n amgylcheddol, yn taclo tlodi ac yn hybu'r Gymraeg.

2) Ystyriaethau Perthnasol:

- ◆ Mae'r iaith Gymraeg yn ystyriaeth berthnasol ar gyfer ceisiadau cynllunio ym mhob rhan o Gymru;
- ◆ Gellir gwrthod neu ganiatáu cais cynllunio ar sail ei effaith ar y Gymraeg yn unig.

3) Continwwm Datblygu'r Gymraeg:

- ◆ Rhaid i awdurdod cynllunio gyhoeddi cynllun gweithredu Cymraeg fel rhan o'r Cynllun Datblygu Lleol ynghylch sut y bwriada gyrraedd sefyllfa lle'r Gymraeg fydd y brif iaith gymunedol ym mhob rhan o Gymru gan fabwysiadu un neu ragor o'r blaenoriaethau canlynol:
 - diogelu'r Gymraeg
 - cryfhau'r Gymraeg
 - hyrwyddo'r Gymraeg.

4) Asesu'r Effaith ar y Gymraeg:

- ◆ Rhaid i awdurdod cynllunio asesu effaith datblygiadau unigol ar y Gymraeg;
- ◆ Mae'r Comisiynydd Iaith yn ymgynghorai statudol;
- ◆ Rhaid i awdurdod cynllunio asesu effaith ei gynllun datblygu lleol ar y Gymraeg.

5) Parchu etifeddiaeth y Gymraeg ac enwau lleoedd:

- ◆ Ni chaniateir datblygiad oni bai bod unrhyw enwau llefydd neu enwau tai a ddefnyddir fel rhan o'r datblygiad yn Gymraeg ac y darperir arwyddion yn Gymraeg;
- ◆ Ni chaniateir newid neu ddileu enw Cymraeg ar roddir ar ddatblygiad, rhan o ddatblygiad, annedd neu nodwedd ddaearyddol heb gydsyniad Comisiynydd y Gymraeg;
- ◆ Lle bo datblygiad yn un ar gyfer tai, rhaid iddo wella darpariaeth a mynediad at addysg cyfrwng Cymraeg.

6) Anghenion Lleol fel Sail i'r Drefn Gynllunio:

- ◆ Rhaid i awdurdod cynllunio lleol gynnal asesiad angen lleol am dai cyn llunio neu adolygu Cynllun Datblygu Lleol a dylid pennu targedau tai yn seiliedig ar yr asesiad hwn.

7) Cynllunio i'r Gymuned:

- ◆ Ni chaniateir i awdurdod cynllunio roi caniatâd ar gyfer tai newydd oni bai eu bod yn diwallu angen lleol na ellir ei ddiwallu o'r stoc tai presennol;
- ◆ Gellir gwneud cais am ganiatâd cynllunio ar gyfer datblygiadau o fudd sylweddol i'r Gymraeg i'r cyngor cymuned perthnasol, neu os nad oes cyngor cymuned, i'r awdurdod cynllunio lleol.

8) Blaenoriaeth i Bobl Leol:

- ◆ Mewn ardaloedd lle mae diogelu'r Gymraeg yn flaenoriaeth, rhaid i'r awdurdod cynllunio lleol osod amodau ar ddatblygiadau newydd sy'n sicrhau'r cyfle prynu cyntaf i bobl leol a dod â phrisiau tai o fewn cyrraedd y boblogaeth leol.
- ◆ Sicrhau y caiff tai ar werth neu ar rent eu hysbysebu yn lleol

9) Sicrhau Tai Fforddiadwy

- ◆ Ni chaiff awdurdod cynllunio lleol ganiatáu cais cynllunio i dai sy'n anfforddiadwy i bobl leol.

10) Ailasesu Caniatâd Cynllunio Blaenorol:

- ✦ Rhaid diddymu yn syth unrhyw ganiatâd cynllunio a roddwyd bum mlynedd neu fwy yn ôl nas gweithredwyd neu a weithredwyd yn rhannol yn unig wedi i'r Ddeddf ddod i rym.

11) Ail Gartrefi

- ✦ Rhaid i berchnogion ail gartrefi yn gofrestredig gan yr awdurdod tai lleol;
- ✦ Rhaid i berchnogion hysbysu'r awdurdod lleol os yw'r eiddo heb ei feddiannau am gyfnod hwy na thri mis yn olynol neu gyfanswm o dri mis mewn unrhyw gyfnod o 12 mis;
- ✦ Ni chaiff perchennog eiddo nad yw'n brif eiddo iddi/o osod yr eiddo hwnnw ar rent am ran o'r flwyddyn yn unig.

12) Datganoli a Democrateiddio Trefn Gynllunio Cymru:

- ✦ Tribiwnlys Cynllunio Cymru - rhaid i weinidogion Cymru benodi Tribiwnlys Cynllunio Cymru fel y corff sy'n ymdrin ag apeliadau cynllunio;
- ✦ Caiff cyngor cymuned, Comisiynydd y Gymraeg, Comisiynydd Cenedlaethau'r Dyfodol neu unrhyw un a wrthwynebodd y cais gwreiddiol apelio i'r Tribiwnlys yn erbyn penderfyniad i ganiatáu cais cynllunio
- ✦ Mae achosion gerbron y Tribiwnlys i'w cynnal yn gyhoeddus

13) Dileu'r Hawl i Brynu:

- ✦ Dileu'r hawl i brynu tai cymdeithasol

14) Awdurdodau Cynllunio Lleol:

- ✦ Mae gan gymunedau'r hawl i greu Awdurdodau Cynllunio Lleol sy'n gyfrifol am geisiadau cynllunio o fewn eu ffiniau.

9. Casgliadau

Mae Bil Cynllunio Llywodraeth Cymru yn bell iawn o weledigaeth Cymdeithas yr Iaith Gymraeg ar gyfer trefn gynllunio a fyddai'n llesol i'r Gymraeg a holl gymunedau Cymru. Fodd bynnag, mae'n galonogol bod cymaint o gefnogaeth ar lawr gwlad i'n gweledigaeth ar gyfer trefn newydd a fyddai'n cryfhau'r iaith, yn taclio tloedi ac yn diogelu ein hamgylchedd.

Rydym yn erfyn ar i'r pwyllgor argymhell newid y Bil fel ei fod yn datganoli grym i'n cymunedau, yn rhoi lle canolog i'r Gymraeg yn y system ac yn seilio'r drefn ar anghenion lleol.

Grŵp Cymunedau Cynaliadwy, Cymdeithas yr Iaith Gymraeg

Tachwedd, 2014

Atodlen 1 - Bil Eiddo a Chynllunio Cymdeithas yr Iaith Gymraeg (2014)

<http://cymdeithas.org/cynllunio>

Nodyn Esboniadol: <http://cymdeithas.org/sites/default/files/NodynBriffio-YBilCynllunio.pdf>

Bil Amgen: <http://cymdeithas.org/sites/default/files/bil%20cynllunio%202014%20Cymraeg%20-%20CMYK%281%29.pdf>

Atodlen 2 - Gohebiaeth gyda Llywodraeth Cymru

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-y-gweinidog-carl-sargeant>

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-swyddogion-cynllunio-llywodraeth-cymru>

Atodlen 3 - Cyngor Comisiynydd y Gymraeg

<http://www.comisiynyddygyymraeg.org/Cymraeg/Rhestr>

<http://www.comisiynyddygyymraeg.org/Cymraeg/Rhestr%20Cyhoeddiadau/20140225%20LI%20C%20Ymateb%20i'r%20Bil%20Cynllunio.pdf>

By virtue of paragraph(s) ix of Standing Order 17.42

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November 2014
The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

Dear Sir,

Call for evidence

Thank you for the opportunity to respond to the call for evidence:

RICS Wales is the principal body representing professionals employed in the land, property and construction sector and represents some 4000 members divided into 17 professional groups. As part of our Royal Charter we have a commitment to provide advice to the Government of the day and in doing so we have an obligation to bear in mind the public interest as well as the interest of our members

In response we would like to make the following observations:

There needs to be a time limit of 5 years for Local Development Plans. If they are longer then they will be rigid and inflexible to changing economic and social circumstances. Applications should be allowed to make greater use of off-site contributions to encourage the viability of schemes

There needs to be an appreciation that for every extra requirement asked of developers consideration needs to be given to incentives to balance them,

RICS Wales strongly advocates close co-ordination of LDPs and planning policy by Local Authorities in Wales. This not only pools resources for the Authorities themselves in the current budgetary system, it also would provide greater clarity for developers encouraging projects and crucially it would recognize the reality of economic units on the ground.

If you have any queries in respect of this response please do not hesitate to contact me. Attached for further consideration is the full RICS Wales Planning Policy paper.

Yours sincerely,

David Morgan
Policy Manager

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RICS Wales Planning Document

Summary

RICS Wales believes the following principles are vital to a successful system and need to be embedded in planning in Wales namely, flexibility according to each individual case, viability, and the provision of appropriate training for elected officials and planning officers.

Current Position

With the passage of the Referendum on increased powers for the National Assembly in March 2011 the Welsh Government was given the opportunity to promote sustainable Development in Wales by the introduction of a Planning Act specific to Wales. This short document is intended to support the development of this legislation and any secondary regulations, and to assist in their effective implementation moving forward.

RICS Recommendations

Flexibility

- Change of use Flexibility – RICS believes this principle needs to be embedded at the core of the Planning Act in Wales in order to provide the necessary responsiveness in the planning system to changes in the Welsh economy and society
- Development Corporations – RICS Wales feels that Wales would benefit from organisations that can operate across Council boundaries to piece together to make more schemes viable. This would support and enhance the City Regions concept

There exists a great opportunity to embed flexibility into the Planning System as a core concept for Planners in Wales. This applies to both having the system respond automatically to prevailing economic conditions so for instance adjusting s106 conditions in response to economic performance and also in making change of use for Buildings easier wherever possible. To highlight one particular example we continue to feel strongly that planners should where there is clear evidence of excess retail capacity promote their conversion to residential. This brings both the possibility of hitting three social goals at once, namely increasing land availability for

housing supply, removing excess retail capacity and regeneration. Areas like Swansea High Street would be precisely the sort of environment that we would view this as a potential remedy for.

Viability and Sustainable Development in Planning

- There needs to be a time limit of 5 years for Local Development Plans. If they are longer then they will be rigid and inflexible to changing economic and social circumstances
- Applications should be allowed to make greater use of off-site contributions to encourage the viability of schemes
- There needs to be an appreciation that for every extra requirement asked of developers consideration needs to be given to incentives to balance them,
- We believe reform of the SLAB element of SDLT would send a powerful statement of intent to smooth out blockages and rigidity in the Welsh Housing Market
- The creation of an Infrastructure category of development is to be strongly welcomed.

Flexibility is inextricably linked to what we view as the next key principle namely viability. What is viable for developers will clearly fluctuate according to economic circumstances and accordingly we would like to highlight the RICS work on Financial Viability in Planning to policymakers at all levels. Although developed in response to planning and development conditions in England the key principles to achieve viable and sustainable development are equally applicable to conditions in Wales. RICS Wales feels it is extremely important that the objective of sustainable development is followed in its entirety. This means not just in relation to environmental goals, but economic and social ones also.

To this end it is important that incentives to encourage higher environmental standards are offered in addition to regulations requiring them. One option may present itself with Stamp Duty Land Tax devolution. So if for instance a developer went further than regulations require in environmental standards required by the Planning system this could then be reflected in terms of how much and at what point stamp duty land tax might be levied on buildings. Above all though there is the opportunity by tying the tax system to standards required by the Planning system we would hope that positive incentivisation rather than compulsion can be embedded into the development process.

Training

- Joint Planning Boards should be required to undertake regular refresher training in consultation with independent professional practitioners
- Training must emphasise the principle of a continually evolving planning system
- It is vital that the act and all subsequent training ensures a starting point culture of positivity towards development.

It is of great importance we feel that officials and Councillors are supported in the most comprehensive way through regular refresher training. Such training should be developed and refined in consultation and where possible co-operation with professional organisations.

Training is important not only to refresh technical knowledge but also thinking by stimulating internal debate. As economic circumstances change it is important that planners are continually weighing the proportionality of planning demands and requirements to the condition of the wider economy.

The culture of planning has been changing from one of control to one of enabling. The changed context requires a variety of different skills which are capable of responding to the changing economic, social and environmental conditions. These changes require a general capability to adapt to new conditions, whether encountered as flooding, abandoned High Streets or social housing.

Regional Planning

- City regions. To make this a reality Local Authorities must be required to form joint planning teams. To co-ordinate with each other
- Planning officials must be required to take secondments with other planning authorities not just in Wales but throughout the UK to avoid siloing of planning approaches and encourage the spread of best practices.
- Welsh Government must be the lead partner in fostering co-operation and spread of best planning practice throughout Wales
- The National Land use plan should be developed first by consultation with the private sector and secondly, thereafter in full public consultation ensure the participation of all relevant social partners

RICS Wales supports the policy of City Regions and strongly advocates close co-ordination of LDPs and planning policy by Local Authorities in Wales. This not only pools resources for the Authorities themselves in the current budgetary system, it also would provide greater clarity for developers encouraging projects and crucially it would recognize the reality of economic units on the ground. As an example the fortunes and economy of the Vale of Glamorgan and Cardiff are inextricably bound together. It is therefore vital that regular dialogue and co-ordination take place. In our view Welsh Government is best placed to facilitate this throughout Wales. To support this RICS Wales proposes regular secondments of planning officials to neighboring authorities to strengthen ties and mutual understanding. Finally just as the NPPF in England requires Local Authorities to co-ordinate with each other. RICS Wales believes a similar binding requirement should be enacted in Wales.

RICS Wales welcomes the Wales specific Planning Act and stands ready to engage with all stakeholders to ensure that it delivers essential sustainable development for Wales.



Thank you for your invitation to submit written evidence to the Environment & Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill.

The Planning Officers Society Wales represents the Heads of Planning from the 25 LPAs in Wales. We have considered the questions in the terms of reference and provide our comments below:

The requirement to produce a national land use plan, to be known as the National Development Framework;

POSW welcomes the production of a national land use plan. However, POSW disagrees with the proposed 12 week consultation and 60 day consideration by the National Assembly. As the NDF will have Development Plan status along with Strategic Development Plans and Local Development Plans, POSW would like to see all plans being treated equally and therefore the NDF should be subject to a Examination in Public. Without robust scrutiny, the plan will be open to challenge with a resulting loss of credibility and influence. As the NDF will have Development Plan status, further clarification would be welcome on whether the TANs would apply including TAN 20 on the Welsh Language. Clarification is also sought on the links between other plans such as the National Transport Plan, Marine Plan and the Wales Infrastructure Investment Plan and the hierarchy of these plans in relation to the NDF.

Again, for consistency with other development plan proposals, the NDF should have an end date after which it expires and WG should be required to prepare an Annual Monitoring Report or similar.

POSW members have first hand experience of the challenges of engaging with the public during plan preparation. With the introduction of new plans, it is vital that clear, consistent messages are communicated with stakeholders regarding the new plan hierarchy to avoid confusion regarding how, when and at what level to engage. Welsh Government should lead on this message.

The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues;

POSW agrees with the proposals for Strategic Development Plans but has concerns regarding the potential timescale and implications on LDP preparation. The Bill suggests that SDP is to be in conformity with the NDF, implying that the NDF would be the priority in terms of the plan preparation. Likewise the LDPs are to be in conformity with the SDP.

However, Welsh Government has made it clear that there cannot be any delay in the achieving complete LDP coverage for Wales. However we have concern that in some LPAs, a situation could arise where the adoption of an SDP would trigger a LDP rewrite when the LDP may have only recently been adopted. Given that a LDP is a costly plan to prepare, it will be difficult in a time of austerity to embark on a 'light-touch' LDP soon after the LDP adoption. This is a significant undertaking for LPAs and could be perceived by stakeholders as a questionable use of scarce resources.

Changes to Local Development Plan procedures;

POSW would be interested to understand the basis on which the Welsh Ministers would direct two or more LPAs to produce a joint LDP. Would a detailed business case be required setting out the reasons why a joint LDP is preferable to sole LDPs? The Explanatory Memorandum, merely states that "this decision would be based on evidence of the issues that need to be addressed".

Front-loading the development management process by making provision for pre-application services;

Many LPAs already offer a pre-application service and would want to see local discretion for LPAs in shaping the service to be provided and the fees to be charged. WG should provide good practice guidance rather than prescribing a mandatory pre-application service and associated national fees. POSW welcomes further guidance on member involvement in pre-application advice. We understand that this should be part of the Planning Committee Protocol being co-ordinated by the WLGA with POSW involvement.

POSW welcomes the requirement for the applicant of a major application to undertake pre-application consultation.

Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;

POSW would welcome clarity through the scrutiny process on the definitions of Developments of National Significance as the Explanatory Memorandum is not specific on this issue. We note that it is predicted that there will only be about 10 applications per year but there is uncertainty regarding the exact scope given that the number of DNS will be dependent on the NDF.

If numbers are low, the introduction of a new tier of application could add confusion. A more proportional approach could be the upskilling of LPAs (via the new Planning Advisory & Improvement Service) to deal with the larger applications together with changes to ensure timely responses from statutory consultees on these large applications.

POSW would not want to see the scope of DNS extended and would welcome clarity on whether Welsh Government can foresee any circumstances when that this new category would be widened to include application types currently determined by LPAs.

LPAs still have a significant workload associated with DNS proposals including the preparation of a Local Impact Report and discharge of conditions. As the WG is currently consulting on Planning Fees we would have expected to see in this consultation a separate category for a fee for the discharge of conditions for DNS and for the preparation of a Local Impact Report. The proposal is for developers to pay the LPAs direct, however further clarity is required on this. Would there be a maximum threshold for the fee charged or is full cost recovery? Potentially, the preparation of a Local Impact Report could involve commissioning additional evidence, would this cost be borne by the developers or LPA or would it be the responsibility of WG to commission additional evidence if the LPA flagged up a potential impact in the Local Impact Report? A mechanism for recovering costs should be on the face of the Bill or in the Planning Fees consultation.

POSW welcomes the proposal for Ministerial targets for the administration of the DNS process. POSW will be interested to understand how these targets will be set given that historical information will be based on LPA performance.

Streamlining the development management system;

Many of the provisions in the Bill regarding minor changes to the DM system are appropriate.

We do not agree with the proposed national scheme of delegation. There should be a minimum level of delegation (not a uniformity of approach as in consultation draft) – otherwise it will go too far for some Authorities but not far enough for others. Once a minimum standard has been set, Authorities can then use discretion as to what meets their own needs. The current proposals do not allow for local variation and the differences of scale of development in rural and urban areas. The Chief Planning Officer should retain the discretion to call an application to committee.

We are disappointed that the Bill has not adequately addressed the issues that the Minister has termed 'Planning Plus'. This is where the planning system has become overly complex with issues other than land use issues. Planning should focus on planning issues and not get dragged into other things considered to be outside the remit and control of planning.

Changes to enforcement and appeal procedures; and

POSW welcomes the proposed changes to enforcement and appeal procedures, temporary stop notices are well overdue.

Changes in relation to applications to register town and village greens.

POSW welcomes the proposed changes

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;

There are a number of proposals in the Planning Bill which require additional resources. It is not appropriate or realistic to expect LPAs to find additional resources. Planning as a non-protected service is facing severe cuts across all LPAs in Wales; for example Flintshire LPA has to find savings of 30% over 3 years, Swansea 40% over 3 years. Also other service areas that Planning rely on e.g. Highways, Ecology are also facing cuts impacting on their ability to support the planning function.

Whether there are any unintended consequences arising from the Bill;

The introduction of additional tiers of plans and additional tiers of application categories could be confusing for the public and thereby have the unintended consequence of disengaging the public from the planning system.

The penalising of poor performing local planning authorities may not drive up performance if it is not accompanied by an agreed plan of action to positively address the issues which contribute to the poor performance. Without this positive intervention, the power for the Minister to designate LPAs as poorly performing will be viewed negatively and is unwelcome. The removal of the fee income if major development applications are determined by WG will only exacerbate the issues possibly leading to job losses and greater resourcing challenges for the LPA. It is vital that there is a process for addressing poor performance otherwise it is hard to see how the LPA can then find itself 'improved' and in a position to be receiving major applications again.

A number of changes proposed take the issues away from local residents. This push for centralisation is in stark contrast to the localism agenda. POSW considers that elements of the Bill are unnecessary micro-management and could have unintended consequences for performance. For example, a national scheme of delegation may result in more applications being determined by committee as an LPA will have to adhere to a 'one size fits all' scheme rather than continuing with a successful local scheme which achieves high levels of delegation.

The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill);

POSW appreciates the difficulty for WG in costing many of the proposals and has tried where possible to pass information to WG to assist them in the preparation of the RIA. However, we remain concerned over many of the assumptions made due to a lack of robust evidence. We expressed our concerns in a letter to WG in July 2014 during the preparation of the RIA.

Of concern is that the reductions in budgets and resources is likely to result in the "buying in" of services in the future which will alter the historic costings that have been relied on in the preparation of the RIA. In this respect, there is concern that the reliance on historic data was fundamentally flawed and that an assessment of the actual costs of the new regime should be used instead. Furthermore there is an assumption in the RIA that authorities will continue to give the same priority to planning as they have historically; this is a flawed assumption.

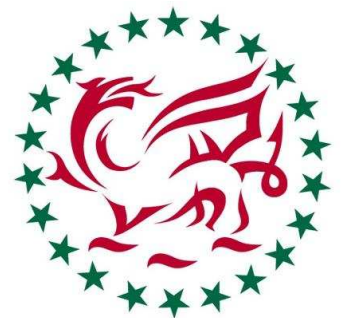
Also due to differences between the areas covered by the 25 LPAs the cost of delivering a service varies considerably. As a result the RIA can only be a 'best-guess' of the impacts not a definitive view.



General Principles of the Planning
(Wales) Bill

Evidence to the Environment &
Sustainability Committee

November 2014



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. We welcome the opportunity to submit evidence to the Environment & Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill. We have set out our comments in line with the published terms of reference

The requirement to produce a national land use plan, to be known as the National Development Framework (NDF);

4. The WLGA welcomes the production of a national land use plan to replace the Wales Spatial Plan. However, we disagree with the proposed 12 week consultation and 60 day consideration by the National Assembly proposed in Section 2 of the Bill. The NDF will have Development Plan status along with Strategic Development Plan (SDPs) and Local Development Plans (LDPs) and therefore all should be treated equally requiring the NDF to be subject to an Examination in Public (EiP). This is where there is an examination by an independent Planning Inspector to consider the 'soundness' of the plan, with hearings held in public. Without robust scrutiny, the plan will be open to challenge with a resulting loss of credibility and influence. Section 2 should be amended to reflect the requirement for the NDF to be subject to an EiP. The Welsh Government does not offer any reasons as to why they have adopted a different approach for the NDF.
5. The Bill is proposing a number of changes to LDP preparation including an end date after which the plan expires under the new Section 60C. Local Planning Authorities are also required to prepare a Local Development Plan Annual Monitoring Report. To ensure consistency with other development plans, proposals regarding the LDPs should apply to the NDF. The NDF should have an end date after which it expires and WG should be required to prepare an Annual Monitoring Report or similar and Section 60C(2) should be amended to reflect this rather than the current provision which allows the Minister to choose when to revise the NDF.
6. Further clarification should be given on the hierarchy of national plans and the relationship between the NDF and other national plans such as the National Transport Plan and Wales Infrastructure Investment Plan. Also there is little reference in the Bill and Explanatory Memorandum as to how the preparation of the NDF, SDP and LDP will be impacted by the Wellbeing of Future Generations Bill and the statutory duty to prepare a Wellbeing Plan. We would welcome a statement by the Minister or an explanation in the Explanatory Memorandum.

The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues;

7. The WLGA agrees with the proposals for Strategic Development Plans but has concerns regarding the potential timescale and implications on LDP preparation. The Bill in Section 5 suggests that the SDP is to be in conformity with the NDF, implying that the NDF would be the priority in terms of plan preparation. Likewise the LDPs are to be in conformity with the SDP.
8. New Section 60I states that the SDP must be in 'general conformity' with the NDF. This need to be clarified or amended, does this mean that some parts of the SDP are not required to conform?
9. However, Welsh Government has made it clear that there cannot be any delay in the achieving complete LDP coverage for Wales. However we have concern that in some LPAs, a situation could arise where the adoption of an SDP would trigger a LDP rewrite when the LDP may have only recently been adopted. Preparation of an LDP is a significant financial undertaking for LPAs and this scenario will impact on LPAs resources and could be perceived by stakeholders as a questionable use of scarce resources. We would request that a provision is inserted in the Bill to enable WG and a LPA to suspend the LDP process in light of the preparation of an SDP for the region.
10. Section 60E(5)(b) directs Local Planning Authorities to consult "any other persons specified in, or of a description specified in, the direction" before submitting the strategic development plan proposal. The Explanatory Memorandum should give examples of who these persons could be. Section 60G has a provision that a local planning authority must provide the Welsh Ministers with any information that the Welsh Ministers request for the purpose of exercising their functions under sections 60D to 60F. This should be amended to read "available information" to avoid a direction to LPAs that would result in the commissioning of additional information. Section 60I(6) contains a list of plans/policies that the Strategic Planning Panel must have regard to when preparing a SDP, (f) however is a catch all "any other matters" and it would be helpful to have examples in the Explanatory Memorandum on what these could be.
11. With the formation of the Strategic Planning Panel and the preparation of SDPs, there is potential for duplication and confusion with other boards such as the City Region Board. The WLGA would welcome a statement by Welsh Government on the framework/hierarchy for strategic planning given DEST responsibilities for City Regions and the National Transport Plan.
12. The WLGA remains concerned about the proposed composition of Strategic Planning Panels (SPP) set out in Schedule 2A which will undermine local democracy and may result in businesses or communities raising concerns about accountability and transparency. The WLGA notes that such proposals are being introduced at a time when the Welsh Government is proposing an enhanced role for non-executive councillors in advance of the forthcoming second White Paper on Local Government

Reform. The proposals to create a Panel with a third of members being representatives from nominated organisations creates a planning regime which is arguably more susceptible to legal challenge around allegations of bias or predetermination.

13. During the Positive Planning consultation in February we questioned whether it was appropriate for non-LA representatives on the SPP to have voting rights given that they do not have a democratic mandate. We would have expected to see a section explicitly setting out voting arrangements in the Bill. We would like to see the appointed members having an advisory capacity not a voting capacity. Schedule 2A should be amended accordingly. The WLGA argues that as a minimum, a backstop safeguard for local democracy should be built into the decision-making process requiring at least a majority of elected members to vote on a decision (as well as an overall majority of the Panel).
14. The selection, by the Minister, of the nominated organisations from which one-third of SPP members will be selected could confer unfair advantage and undue influence on these organisations. It is not clear who these nominated organisations will be, the criteria for their selection by the Minister nor the criteria on how these organisations would determine their nominees. We would want this selection process to be open and transparent and subject to consultation. Schedule 2A paragraph 4(2) should be amended to ensure that the process is transparent. Also we would question how WG will ensure that these appointed members will be suitably trained and operate and, critically, be seen to operate without vested interest and within the letter and the spirit of the Code of Conduct which will apply to the elected members of the Panels. Local authority councillors adhere to a Code of Conduct in discharging their duties and therefore a similar Code of Conduct should be part of the standard terms of appointment referred to in Schedule 2A paragraph 5. These appointed Panels members should receive general planning training in addition to training to enable them to fulfil their role in the preparation of the SDP.
15. The Bill gives the Minister a number of default powers. Schedule 2A paragraph 23 gives the Minister power to take such steps as appropriate if the Minister considers that a Strategic Planning Panel is failing or omitting anything that is necessary and the Strategic Planning Panel must comply. The criteria for how the Minister will decide whether a SPP is failing should be on the face of the Bill; setting out clear criteria will ensure that such a decision is open and transparent.
16. The Bill (Schedule 2A, paragraph 24) also gives power to require that a constituent LPA provides the panel with staff or other services for the “purpose of enabling the panel to exercise its functions in its first financial year and specifying terms on which the services are to be provided if the authority and the panel cannot agree the terms”. Given the dire financial pressures facing non-protected services such as planning, the WLGA has considerable reservations on the use of a power which requires a constituent LPA to provide a SPP panel with staff or other services. As a result of these exceptional financial circumstances, we would suggest that the Bill is amended to insert a provision which requires the WG and LPA to enter into negotiation and seek

an agreed outcome to enable to the LPA to engage regionally rather than the current drafting which is a direction.

Changes to Local Development Plan procedures;

17. The WLGA would be interested to understand the basis on which the Welsh Ministers would direct two or more LPAs to produce a joint LDP. Would a detailed business case be required setting out the reasons why a joint LDP is preferable to sole LDPs? The Explanatory Memorandum, merely states that "this decision would be based on evidence of the issues that need to be addressed". The circumstances for a direction for a joint LDP needs to be on the face of the Bill and Section 12(2) should be amended to reflect this.

Front-loading the development management process by making provision for pre-application services;

18. Many LPAs already offer a pre-application service and it is essential that this is on a full cost recovery basis as LPAs cannot subsidise this service as is currently the case with the planning application fee. The requirement for the applicant of a major application to undertake pre-application consultation is supported.

Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;

19. We note that it is predicted that there will only be about 10 applications per year but there is uncertainty regarding the exact scope given that the number of DNS will be dependent on the NDF. We do not consider it appropriate to set up another tier of application for so few applications and would recommend that Section 17 is removed. We would support putting in place changes and support that can assist LPAs to determine the applications in a more timely manner. Local authorities are well placed to determine these applications ensuring public involvement in the process. If the DNS category is introduced, the WLGA is concerned that over time the Welsh Government may seek to increase the numbers in this category by removing more types of applications from LPA determination to justify introducing DNS. The Bill at a minimum should be amended to require that the Welsh Government consults on proposals to widen the scope of the category.
20. If the Development of National Significance remains in the Bill, the WLGA would welcome clarity through the scrutiny process on the definitions of Development of National Significance as the Explanatory Memorandum is not specific on this issue. We would want the types of development or at the very least the criteria on the face of the Bill and the new Section 62(D)(3) should be amended to reflect this.
21. LPAs still have a significant workload associated with DNS proposals including the preparation of a Local Impact Report and discharge of conditions. The proposal is for developers to pay the LPAs direct, however further clarity is required on this. The fee payable should be based on full cost recovery. Potentially, the preparation of a Local Impact Report could involve commissioning additional evidence. Local authorities

should not bear the cost of this. This should be borne by the developers or should be the responsibility of WG to commission additional evidence if the LPA flagged up a potential impact in the Local Impact Report. The Bill should be amended to this effect.

22. New Section 62H introduced by Section 18 gives the WG power to prescribe the description of what constitutes a secondary consent. The criteria for what is a secondary consent should be on the face of the Bill and therefore the Bill should be amended.
23. An explanation is required regarding the meaning of Section 62H (2) in relation to developments which are of a private nature.

Streamlining the development management system;

24. The rationale to seek greater consistency in the decision making process is broadly accepted. However, we do not understand the desire to legislate on the size of planning committees or for a national scheme of delegation. Only 3 LPAs (Neath Port Talbot are reducing their committee size imminently) do not have planning committees within the proposed banding (Planning Committees, delegation and joint planning boards consultation) so it should not be an onerous task to work with these LPAs to bring the size of the committee in line with the proposals. Section 3191ZB introduced by Section 37 should therefore be removed.
25. The WLGA is preparing (at the request of Welsh Government) a voluntary planning committee protocol to achieve consistency on matters such as right to speak, committee running order, member voting etc so we would question why WG isn't advocating a voluntary national scheme of delegation with some local variation. The RTPi research on planning committees and the responses to the consultation Positive Planning supported an element of local variation to the national scheme of delegation. WG has disagreed with this and is not advocating any local variation although it acknowledges that it is difficult to draft a national scheme of delegation due to difference in the scale of development across Wales. We would seek amendments to section 319ZA to reflect a national scheme of delegation (i.e a minimum threshold) which enables LPAs to amend to suit local circumstances.
26. We see no reason why it is acceptable to leave many of the 'consistency issues' to a voluntary protocol but it is not acceptable to achieve size of committee and a national scheme of delegation voluntarily.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;

27. There are a number of proposals in this Bill which potentially require additional local resources. However as much of the detail is subject to secondary legislation it is difficult to quantify future changes and future costs. As a principle, it is not appropriate or realistic to expect LPAs to find additional resources. Many LPAs have suffered budget cuts resulting in loss of staff and have limited capacity to implement

new initiatives and ways of working. Their focus is on delivering an acceptable service within current parameters.

Whether there are any unintended consequences arising from the Bill;

28. The Bill will give the Minister power to publish conditions by which major applications can be made to Welsh Ministers instead of a LPA. One of the proposals is when the LPA is designated as a poorly performing LPA. The criteria to be used by Welsh Ministers to define poor performance are not yet established, although it is anticipated that they will include timeliness and quality of decision making. A provision should be inserted in new Section 62L(8) which requires the Minister to consult with LPAs before criteria is published.
29. The penalising of poor performing local planning authorities may not drive up performance if it is not accompanied by an agreed plan of action to positively address the issues which contribute to the poor performance. Without this positive intervention, the power for the Minister to designate LPAs as poorly performing will be viewed negatively and is unwelcome. The removal of the fee income if major development applications are determined by WG will only exacerbate the issues possibly leading to further job losses and greater resourcing challenges for the LPA. It is vital that there is a process for addressing poor performance inserted in the Bill otherwise it is hard to see how the LPA can then find itself 'improved' and in a position to be receiving major applications again.
30. The drive for consistency in approach and delivery across the 25 LPAs in Wales could be counterproductive to performance. For example some LPAs are already achieving a high delegation rate. The proposed national scheme of delegation will result in changes to the current delegation scheme in these LPAs resulting in more applications being considered by committee and as a result the delegation rate in these LPAs will fall.

The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill);

31. The consultation document Positive Planning contained numerous proposals to reform the planning system. Many of these proposals do not require primary legislation so are not on the face of the Bill. As a result their potential financial impact is not incorporated into the Regulatory Impact Assessment and therefore not subject to scrutiny.
32. The WLGA appreciates the difficulty for WG in costing many of the proposals as the financial evidence is not available and WG has therefore made assumptions based on a sample of costs from LPAs. In response to local circumstances, the 25 LPAs have in place different delivery models and associated costs and therefore it is difficult to draw conclusions based on a small varied sample. In addition to the lack of robust evidence we also have concerns on the assumptions made. For example, the cost of introducing SDPs is estimated at £3.5m. WG has assumed savings from the LDP preparation but in

some areas where LDP preparation is ongoing and SDP preparation is to commence, these LPAs will incur the cost of both LDP and SDP preparation. For example, SDP work could start in earnest in 2017 for the A55 corridor whereas the LDP for Flintshire is timetabled for adoption in 2018.

33. The preparation of the initial SDP will require evidence gathering as it is not appropriate to use the LDP evidence base if the area is to be planned as a strategic whole. In the past the WG has made funding available to LPAs via the Planning Improvement Fund but from 2014/15 this funding was no longer available. The WLGA would welcome clarity on what the £120,000 (which WG have stated may be available to SDP areas, Explanatory Memorandum Page 92 paragraph 7.38) can be spent on.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation); and

34. Generally this is a well drafted Bill but we do not consider that the balance is right regarding the face of the Bill and secondary legislation and our response suggests amendments accordingly. In terms of drafting we prefer the drafting style Section 360D(5) rather than 60G(2).
35. In Section 9 there are a lot of minor amendments which might be better in a Schedule.
36. The power contained in new Section 62D(3) introduced by Section 17 should be subject to super affirmative resolution procedure due to its importance and to give an opportunity for it to be amended.
37. In new Section 62H(1) introduced by Section 18 – the criteria for secondary consents need should be on the face of the Bill and not left to subordinate legislation.
38. The regulations introduced in the New Section 62M(3)(b) should be subject to consultation before they are made.
39. Section 53(2) provides for a blanket Henry the 8th power. Generally, powers to amend primary legislation should be limited and remain exceptional. The Constitutional and Legislative Affairs Committee might like to comment on this in particular.
40. New paragraph 14(2) of Schedule 2A should be amended so that the list of qualifying expenditure should be on the face of the bill. A power to amend the list by SI in the future could be envisaged.
41. In Schedule 4 paragraph 18 inserting new 303(1B), the setting of fees is a substantial power which should be on the face of the Bill. At a minimum it should be subject to super-affirmative resolution procedure.

42. This Bill provides an opportunity to ensure that the planning system reflects the needs of Wales. Currently there is no means for councillors, under the present statutory framework, to permit or refuse developments on the basis of their impact on the Welsh language alone and the WLGA would have welcomed powers in the Bill to strengthen the Welsh language in our communities.

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Cymdeithas y Cyfreithwyr
The Law Society

General principles of the Planning (Wales) Bill
The Law Society submission
November 2014



Introduction

1. The Law Society is the representative body of over 141,000 registered legal practitioners in England and Wales. The Law Society negotiates on behalf of the profession and lobbies regulators, governments and others.
2. This submission has been prepared by the Law Society's Planning & Environmental Law Committee ('the PEL Committee'). The PEL Committee comprises 19 practitioners specialising in planning and environmental law, drawn from a cross-section of the profession, public and private sectors and covering both England and Wales.
3. The PEL Committee was pleased to have the opportunity to contribute to the development of the evidence base for the Planning (Wales) Bill ('the Bill') and to be represented on the Independent Advisory Group ('IAG'), whose recommendations have in large measure been adopted by the Welsh Government.
4. In February 2014, the Law Society responded to the consultation on the Welsh Government's White Paper, *Positive Planning: Proposals to Reform the Planning System in Wales and the draft Planning (Wales) Bill* and the Environment and Sustainability Committee ('the Committee') is referred to that response in the report on consultation.¹ The Law Society also gave evidence to the Committee's pre-legislative scrutiny inquiry.
5. The Law Society welcomes this further opportunity to contribute to the debate by responding to the Committee's inquiry on the general principles of the Bill.
6. The Law Society notes that the Welsh Government has issued, in parallel with the introduction of the Bill, a series of consultations on proposals to exercise the powers proposed in the Bill and the Law Society will be responding to those consultations in due course. As a result, this submission has sought to confine itself to the provisions of the Bill and the underlying principles, but on occasion some discussion of future secondary legislation has proved unavoidable.

Part 2 - Development planning

National Development Framework ('NDF')

7. Consideration of the NDF by the National Assembly for Wales ('the National Assembly') is a vital element of giving legitimacy and standing to the NDF. The National Assembly will presumably wish to conduct its own scrutiny of the NDF which may involve the taking of evidence from the Welsh Government and interested parties prior to recommendations being formulated, as well as taking its own expert advice on the soundness of the plan laid before them. The Law Society considers that 60 days is likely to be the minimum period for such an exercise to be conducted in a way that would usefully contribute to the making of the NDF. The Law Society would wish to be assured that the Committee is satisfied that proper scrutiny and formulation of recommendations can be conducted within this period.

¹ A copy of that submission accompanies this submission for ease of reference.

Strategic Planning

8. The Law Society notes that the Committee's pre-legislative scrutiny recommendations expressed concern about the "democratic deficit" in the proposals for Strategic Development Plans ('SDP') in designated areas, referring to uncertainty as to how the planning competence framework would apply and the need to ensure that the local voice was heard.
9. The Law Society considers that there are governance concerns about the strategic development plan panels ('SDP panels'). The argument for the introduction of a significant nominated element at this level of the development plan hierarchy does not appear to be fully developed. The Explanatory Memorandum at paragraph 3.31 refers to one third of an SDP panel comprising "representation from social, economic and environmental organisations". The Bill² provides for nominated members of an SDP Panel to be appointed by the SDP Panel after they have been nominated by a "nominating body". It is not clear whether the nominating bodies are to be other public bodies (for example, Health Boards) or non-governmental bodies. In the latter case, what assurance will the ministers be seeking with regard to their internal governance before adding them to the list of nominating bodies?
10. Paragraph 3.29 of the Explanatory Memorandum envisages that SDPs will enable "larger than local" issues which cut across several local planning authorities (such as housing demand) to be considered in an integrated and comprehensive way. SDP Panels will therefore be of great importance in addressing those "larger than local" issues that have, to date, proved to be intractable under the current arrangements (as shown by the evidence base). The Law Society questions whether the nomination arrangements as currently proposed are sufficiently robust and transparent to contribute to the standing of SDP Panels in the eyes of the public.
11. The only comparable situation within the current planning system is the appointment of independent members to National Park Authorities by the Welsh Ministers. These appointments are made under well-established arrangements for public appointments. Those arrangements ensure that the independent members bring a range of backgrounds, skills and local knowledge, which complement the knowledge and skills of the elected members. Given that three SDP Panels are envisaged, the number of nominated members will not be large. The Law Society would invite the Committee to consider whether adopting the model of ministerial appointment using the public appointments process would be more transparent and thereby command greater confidence.
12. The Law Society considers that the Committee's concern about the application of the competence framework to the nominated members is well made. However, this is another aspect of a problem identified by the IAG³, which pointed out that the member training has hitherto been focussed on the training of members to sit on development control committees and that, under the local authority cabinet system of government, the LDP is the responsibility of the cabinet. The development of a training and competence framework for members of the SDP Panels - whether elected or nominated - should be an early priority for the Planning Advisory and Improvement Service.

² See Schedule 1, paragraph 4 and the new schedule 2A, paragraph 4 to the Planning and Compulsory Purchase Act 2004.

³ See IAG recommendation 64 and the preceding discussion.

Community and Local Councils

13. The Law Society notes the Welsh Government's support for the idea of town and community place plans. Such plans can be important to the credibility of the planning system when local councils prove they have the capacity to produce a credible, good quality plan. However, while the Law Society supports the Committee's pre-legislative view that a panoply of neighbourhood plans should not be introduced in Wales, it is unclear as to how the Welsh Government envisages place plans acquiring status in the plan hierarchy. The Committee may wish to explore this question further with the Government.

Part 3 - pre-application procedures

14. While welcoming the proposed statutory framework for pre-application consultations, the Law Society would make two points:
 - i. The Law Society recognises the designation of the types of development that will be subject to pre-application consultation, but questions whether basing the requirement on the existing definition of "major development"⁴ alone is sufficient. There are categories of development which, while not constituting "major development", can nevertheless bring about significant change to their surroundings. Proposals for wind turbines are a case in point; the present publicity requirements for notifying neighbours of applications bear no relationship to the wide areas over which such vertical structures can be viewed. A more appropriate trigger might be the need for a screening under the Environmental Impact Assessment Regulations.
 - ii. Bearing in mind the emphasis that has been placed by the Welsh Government on creating a planning system that operates consistently across the local planning authorities, the Committee may wish to enquire further into the reasons why the Bill does not address the question of charging for pre-application advice. Paragraph 3.64 of the Explanatory Memorandum mentions that some local authorities make a charge under powers to charge for discretionary services, although this power will no longer be available if pre-application advice becomes a mandatory service.

Part 4 - applications to Welsh Ministers and developments of national significance

15. The Law Society is generally supportive of the principles of the proposed system for determining applications for developments of national significance ('DNS') similar to that created by the Planning Act 2008 for Nationally Significant Infrastructure Projects (NSIPs), (albeit with some significant difference referred to further below). The projects covered by Part 4 of the Bill are of a size that would be considered 'nationally

⁴ Town and Country Planning (Development Management Procedure) (Wales) Order 2012, Part 1, paragraph 2 defines "major development" as: a) the winning and working of minerals or the use of land for mineral-working deposits(4); (b) waste development; (c) the provision of dwelling houses where— (i) the number of dwelling houses to be provided is 10 or more; or (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i); (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or (e) development carried out on a site having an area of 1 hectare or more;

significant' (in the UK sense) and ought to benefit from a similar streamlined regime; although as the Law Society noted in its submission on the White Paper, the provisional list of schemes does not include significant highway schemes.

16. However, care must be taken that, when introducing a lower threshold for projects that already come under the Planning Act 2008 regime in Wales (principally electricity generation), this does not result in small projects having to go through an unduly onerous process for their size. Paragraph 3.71 of the Explanatory Memorandum states that energy generation projects in the range of 25-50 MW are proposed to be categorised as DNS in Wales. The Law Society is unclear as to the basis for this range; it is not explained in the Explanatory Memorandum or the White Paper for the Bill. The Law Society would suggest that this is a matter the Committee could usefully explore further.
17. Where DNS applications are made directly to the Welsh Government, there will need to be appropriate resources in place to handle them. The Bill makes provision for the Welsh Ministers to appoint persons to exercise functions in relation to DNS, including processing and deciding planning applications for DNS. The Explanatory Notes state that it is anticipated that such persons would be appointed from the Planning Inspectorate Wales. The Law Society welcomes the Welsh Government's intention to maintain the Planning Inspectorate as a joint Wales and England agency. The Inspectorate now has experience of running over 50 applications in both Wales and England under the Planning Act 2008, supported by the extensive use of IT systems capable of handling large documents. This experience is of direct relevance to the proposed Welsh DNS system.
18. The Law Society welcomes the inclusion of machinery for dealing with "secondary consents", but it is noteworthy that the Bill does not seek to replicate the Planning Act 2008 system through the creation of a separate category of "development consent orders" granting planning permission and other consents. The Law Society suggests that there should be powers for the Welsh Ministers to adopt a single permission or consent covering both planning permission and the secondary consents, and for this to be a "live" document like the proposed new form of planning permission.
19. The Law Society would remind the Committee that the IAG recommended that non-devolved ancillary consents for nationally significant infrastructure schemes in Wales under the Planning Act 2008 (mainly large electricity generation schemes) should be determined by the Welsh Ministers rather than by local planning authorities (IAG Recommendation 25). As the Law Society understands the position, the clauses in the Bill relating to secondary consents do not extend to ancillary consents for schemes under the Planning Act 2008. The Law Society believes that three questions merit further examination by the Committee:
 - a. Would determining ancillary consent issues at national level within Wales facilitate greater co-ordination of decision-making?
 - b. If separate statutory provision is not made, would the Welsh Ministers consider calling-in ancillary consent applications under existing powers and, if so, is policy guidance on calling-in in such circumstances required or envisaged?
 - c. If call-in powers are to be used what might be the parameters? A potential example of a "greater than local" ancillary scheme meriting call-in could be the very large sub-station schemes connected with the export of wind energy from the TAN 8 strategic search areas. On the other hand, should applications for

workers' housing required for a scheme remain with the local planning authority as a matter best determined locally?

20. The Law Society notes that the consideration of DNS can be by a combination of methods and the Explanatory Memorandum states that written representations and hearings are envisaged for these applications. This should enable the examination system used under the Planning Act 2008 to be largely replicated. However, there is no indication that there is an intention to replicate the use of a panel of "examiners" covering various disciplines, as under the Planning Act 2008, as opposed to a single inspector. The Law Society would suggest that the Committee could usefully seek further explanation of the Government's thinking on this. It may be that the use of assistant planning inspectors is envisaged, but the Law Society thinks there is merit in providing for the appointment of a panel in appropriate cases.
21. Clause 24 of the Bill would allow both DNS and applications made directly to the Welsh Ministers to be determined by an appointed person. However, the Law Society considers that decisions on nationally significant developments should always be reserved to the Welsh Ministers and not delegated to planning inspectors. This would be in line with the changes to the Planning Act 2008 system made by the Localism Act 2011, which requires decisions on development consent orders to be taken by the Secretary of State.
22. The Planning Act 2008 process is currently being amended to deal with issues around the amendment of development consent orders to take account of the changes that are inevitable in any complex project. The Law Society would suggest that further consideration should be given to this in relation to the Bill's proposals - for example, is it envisaged that the Welsh Ministers will handle variation applications?

Part 5 - Development Management

23. The Law Society generally welcomes the provisions on development management in Part 5 of the Bill.
24. However, the Law Society is disappointed that the package of reforms to section 106 of the Town and County Planning Act recommended by the IAG, and supported by the Committee in its pre-legislative comments, have not been adopted. We will not repeat what is said in our response to the White Paper save to mention recent evidence of the need for reform. Members of our Committee have seen a number of cases in recent months where Welsh local authorities, as landowners, have been hampered in trying to dispose of surplus land by the inability to sell the land with planning permission and subject to obligations secured under section 106. These issues seem to have arisen as local authorities have been accelerating their programmes of asset realisation.
25. There is also some concern that there may be unintended consequences from the prohibition on amendments to planning applications once an appeal against refusal has been made. This prohibition may mean that some applications which have been refused but subsequently rendered acceptable to the local planning authority by the negotiation of amendments with the applicant, would have to start again afresh if they had already entered the appeal system after being refused. This could be avoided by allowing the Inspectorate, with the agreement of the parties, to return an application that has been refused for amendment, re-consultation and re-determination by the local planning authority.

Part 6 - Enforcement and appeals

26. The Law Society welcomes the proposed changes to enforcement legislation set out in Part 6 of the Bill. These changes bring greater clarity and certainty to areas where there were some anomalies and omissions, and overcome some of the emerging differences between Welsh and English legislation where circumstances and objectives are similar.
27. Section 38 (inserting a new section 173ZA into the Town and Country Planning Act 1990) is welcomed. This provision should help to avoid unnecessary enforcement action where development is acceptable provided it has necessary controls imposed on it by way of conditions or limitations applied to a planning permission for development already carried out. It benefits those who have carried out development without permission, local planning authorities ('LPAs') and interested persons who could be affected by it in bringing forward an open and fair consideration of the acceptability of the development.
28. Sections 39 to 41 are supported as they prevent the anomaly whereby a deemed planning application was held to be made even where no appeal under ground (a) was made or argued. Moreover, they (together with section 30) provide a single avenue for seeking a planning permission and avoid the present duplication of process which leads to delay and uncertainty.
29. Section 42 has benefits for the decision-maker, LPA and interested persons in that it avoids legal pitfalls and simplifies the evidence gathering and presentation at appeal. However, it could delay what may, in the end, be an acceptable proposal by having it go through the process afresh.
30. Section 43 is welcomed and supported as it places appeals under section 215 of the Town and Country Planning Act 1990 in the most appropriate place for determination by those familiar with the issues that they involve.
31. Section 44 is welcomed in respect of the inclusion of the written representation format of appeal in the costs regime. This will undoubtedly assist in ensuring that the most appropriate format for determination of appeals is chosen. The Law Society also supports the ability of the Planning Inspectorate/Welsh Ministers to initiate and recover costs in appropriate circumstances, subject to the acceptability of the particular circumstances to be set out in secondary legislation. However, the Law Society would suggest that the Welsh Ministers should only be able to initiate an award of costs if there is unreasonable behaviour by one of the parties: they should not be able charge their costs to the parties on every appeal, whether or not there is unreasonable behaviour. As currently drafted, section 44 does not limit the Welsh Ministers' ability to initiate costs to cases of unreasonable behaviour.

Part 7 - Town and Village Greens

32. As stated in the Law Society's response to the *Positive Planning* consultation in February, applications for registration of a town or village green are frequently pursued in order to frustrate development that has been found acceptable in planning terms. Applications can be made at virtually no cost to the applicants and the non-statutory procedures for determining applications do not carry any costs sanctions against unreasonable behaviour. However, the costs to a landowner of challenging such an

application can be very considerable and frequently have to be borne in order to protect an already significant investment in obtaining planning permission.

33. The Law Society welcomes the provisions made in the Bill to restrict the right to make an application where land has already entered the planning system and the inclusion of a provision that will enable landowners to submit declarations that their land is not being used "as of right". The Law Society supported similar proposals in England and maintaining consistency between England and Wales is helpful to practitioners and their clients.

The Welsh Language

34. The Law Society notes that there has been comment on the role that the Bill should play in promoting the use of Welsh and it has been suggested that the impact of a development on the Welsh language should be made a material consideration that would be sufficient, alone, to justify refusing planning permission. The Law Society is broadly content that the current policy guidance on the Welsh Language and LDP preparation, and the revised TAN 20, sit comfortably within the overarching purpose of the planning system suggested by the IAG and supported by the Committee in its pre-legislative scrutiny report. The Law Society does not have a settled view on the desirability of further provision in the Bill but should the National Assembly be minded to go beyond the present position, the Law Society would pose a number of questions that it considers ought to be answered as part of the debate:

- i. Should a fundamental tenet of the existing system - that decisions are reached by correctly identifying the material considerations and then conducting a balancing exercise in which decisions are to be taken in accordance with the development plan unless the material considerations indicate otherwise - be overridden?
- ii. If the Welsh language is to become an overriding material consideration, has the discipline of land use planning developed sufficiently robust and objective methods to assess the effect of development on use of Welsh, so that developers can be confident that planning decisions based on Welsh language considerations are robust and evidence-based?
- iii. Is the degree of primacy to be afforded to Welsh in planning decisions compatible with other rights entrenching respect for family life and freedom of movement of individuals under human rights and European law?

Compulsory Purchase

35. The Law Society welcomes the Committee's support for the IAG's proposals in relation to bringing together compulsory purchase order ('CPO') powers applying in Wales.
36. There is also an aspect of the relationship between CPO powers and the proposed Welsh DNS system as it now appears in the Bill that merits further comment from the Law Society. Under the Planning Act 2008, a development consent order ('DCO') can contain CPO powers. The Welsh Government's approach of keeping the Welsh DNS process squarely within the planning system precludes a similar approach to associated CPOs. In several of the categories of development proposed to be designated as nationally significant, there are existing CPO powers under other legislation. The normal approach to CPO is to satisfy Ministers that there are no

obvious planning impediments to implementing CPO powers if granted. The result of this is a sequential approach where planning permission is in place before the examination of a CPO begins. The DCO approach of bringing CPO powers within the DCO examination process resolves this issue for schemes subject to the Planning Act 2008 system. The requirement to resolve potential planning impediments for other CPOs derives from circular guidance rather than being a statutory rule. The Law Society would suggest that the Welsh Government should examine how to enable NSP applications for planning permission and secondary consents to be considered in parallel with the granting of CPO powers where the applicant has such powers available and believes they are required for the scheme in question.

EVIDENCE OF WELSH PLANNING CONSULTANTS FORUM AS PRESENTED TO WELSH GOVERNMENT ENVIRONMENT and SUSTAINABILITY COMMITTEE

3rd DECEMBER 2014

General

The reforms set out within the Bill are generally supported by WPCF although it remains to be seen what effect these measures have on the delivery of new development on the ground and also the time lag which will inevitably occur in implementing these proposals.

The Welsh Government's objective to create a positive planning system which facilitates rather than regulates development is supported by WPCF, which we recognise will be achieved via legislative and policy / procedural reforms.

The WPCF accept that it is very difficult to enforce cultural change within the existing system, which will require strong and continued leadership from and within the Welsh Government if this objective is to be met.

One of the main recommendations of the Independent Advisory Group related to the balance of penalties and incentives for promoting good performance. WPCF notes, however, the absence of any meaningful incentives within the Bill with a preference for penalties for non-delivery which it considers to be a missed opportunity.

Detail

The WPCF welcomes the opportunity to contribute to the reform process and commits to continuing this role throughout the subsequent stages of the Bill preparation. In terms of the detail of the Bill WPCF comments as follows:

1. WPCF is generally supportive of the provisions of the Bill. However, it will need convincing that the Welsh Government is sufficiently resourced (both in terms of having sufficient capacity and appropriate skills / expertise), or aware of the resource requirements necessary to undertake, the roles that it has potentially created for itself via the Bill.
2. Also, WPCF is concerned that too many of the provisions of the Bill are to rely on voluntary agreements and collaboration; if it is to be effective there is a need for more statutory requirement.
3. (Q1) WPCF supports the proposed role of the PAIS provided the requirement of LPAs to respond is set within a statutory framework, not an advisory or optional framework. Also, the membership of the PAIS should be dominated by members who use the planning system on a daily basis.
4. (Q3) WPCF supports Competency Frameworks provided they are applicable to all practitioners and members who will have a role in determining applications. Such a framework should apply equally to the Welsh Government.
5. (Q4) The concept of a National Development Framework is supported provided it is land-use focussed, unambiguous, and contains policies that are required by statute to be then reflected within LDPs (as proposed to be revised) and Strategic Plans. The NDF

should also have a level of detail which provides a clearer context to that contained within the existing Wales Spatial Plan with quantum of development set at the national level for SDPs and LDPs to follow.

6. (Q5) WPCF fully supports the proposed amalgamation of PPW and MPPW as any proposal to simplify the planning process must be good for the service.
7. (Q6) WPCF absolutely supports the concept that a core set of development management policies should be prepared which are then adopted by every LPA in Wales. Clearly, however, no two areas are alike and there will obviously, therefore, be an additional need for bespoke policies of particular relevance to the areas that they are to be applied to. With the proposed reduction in the number of LPAs in Wales, however, the number of those bespoke policies should be far less than would be the case under the current local government structure.
8. (Q7) WPCF agrees with the Government on its proposal in respect of the appeals process provided that the Welsh Government is adequately resourced; the Welsh Government is required to meet the same statutory determination periods as LPAs; and a system of appeal is introduced that allows applicants to effectively challenge Welsh Government failure to meet statutory determination deadlines (with no special discretion for the relevant Minister).
9. (Q8/9) WPCF agrees in essence with the proposed categories and thresholds for DNSs although is surprised that the categories do not include NSIPs as defined by the Planning Act 2008. It is therefore wrong of the Bill to suggest that all nationally significant applications in Wales will be determined by the new framework.
10. (Q10) It is agreed that DNSs should be subject to mandatory pre-application notification and consultation. However, it is essential that the level of the consultation is proportionate to the scale of the project and the determining body involved.
11. (Q11) WPCF has no problem in principle with the charging of a fee for pre-application advice for prospective DNSs. However, if WG is to implement such a proposal it must be set within some form of relevant Performance Agreement and WG must also accept that it will then have to work to the protocols, provisions and programme laid down in that Agreement.
12. (Q12) WPCF has no argument with the proposal that the Planning Inspectorate is the most appropriate body to process DNS applications. However, if it is to do so it must be adequately resourced for that function.
13. (Q13) The principle that only one round of amendments to DNS applications should be allowed is supported. However, that will require a commitment from consultees, particularly statutory consultees, that they must participate fully with applicants at the pre-application stage in an attempt to minimise the need for subsequent amendment.
14. (Q14) The proposal to deal with connected consents is fully supported.
15. (Q15) Call-ins and appeals have historically taken far too long to process and determine and the lack of an obvious statutory deadline for determination has been a significant

deterrent to investment. Future call-ins and appeals should therefore follow the same rigid process, timescales, and commitments as NSIP examinations. There should be no discretion to Welsh Ministers to grant themselves additional determination time beyond the pre-set statutory periods.

16. (Q17) WPCF does not support the submission of Draft Statements of Common Ground at the appeal submission stage largely because it is nigh impossible to secure commitments from LPAs to their participation in producing SoCGs until effectively the eleventh hour. In reality, therefore, any SoCG submitted with the appeal documentation will be no more than a first draft produced by the appellant. A requirement to submit a bi-lateral SoCG at the submission date will lead to unacceptable delays and to the LPA and/or statutory consultee having control over the appeal submission date. That will be unacceptable to WPCF.
17. (Q18) WPCF considers that the method of handling an appeal should be set by statute, not by PINS.
18. (Q19) WPCF does not support the suggestion that no changes should be made to a proposal once an appeal is submitted. The appeal process can bring out matters that are germane to the proposal, yet are not of such significance to change the nature of the proposal. In such circumstances, and provided that no third parties are prejudiced by the changes, such changes should be allowed so as to avoid having to repeat the exercise at significant cost to both parties.
19. (Q20) WPCF fully supports the proposal for Welsh Ministers to initiate an award of costs if it determines that there has been unreasonable behaviour on behalf of one of the parties such that an appeal should have been avoided.
20. (Q21) WPCF does not support the introduction of costs for appeals lodged on the basis of the failure of the relevant authority to determine the application within the statutory determination period. However, WPCF would have no objection to Welsh Ministers recovering their costs if they conclude that an appeal could have been avoided had the LPA or appellant acted reasonably in the first place such that an appeal could have been avoided.
21. (Q22) WPCF supports the introduction of a Commercial Appeals Service provided it is affordable and not laden with additional bureaucracy.
22. (Q23) WPCF considers that the merger of LPAs to create a smaller number of larger units is long overdue. WPCF also considers, however, that collaboration is not the way to introduce such efficiencies. Merger should be statutorily required within a prescribed time-frame even though, in the meantime, collaboration should be promoted in order to make early progress.
23. (Q24) There is no particular justification in planning terms for National Park Authorities to retain their planning functions. The priority should be to reduce the number of LPAs overall irrespective of whether there is a NP involved or not.

24. (Q25) WPCF accepts that Strategic Development Plans should only be prepared in identified areas.
25. (Q26) WPCF agrees with the proposed scope of the proposed SDPs other than they should also cover retailing provision.
26. (Q27) WPCF supports the proposed partnership approach to the production of SDPs provided the relevant Panels are truly representative of all of the interests of the area covered and it is capable of meeting strict deadlines.
27. (Q28) WPCF does not consider the proposed approach for the production of LDPs will be “light touch”. LDPs should be clear, succinct, documents that add detail to and reflect the policies and aspirations of the SDP if there is one.
28. (Q28) WPCF is concerned to learn more about what is proposed for LDPs in locations where no SDP is proposed.
29. (Q30) WPCF considers that all authorities involved in development management, and especially the Welsh Government which will arguably be involved in the more significant proposals, should produce annual performance reports. However, WPCF is concerned that those reports should then be scrutinised by an independent body that is not itself involved on a day to day basis in development management.
30. (Q31) WPCF supports the option of submitting applications for major development in areas with poorly performing planning authorities to Welsh Ministers provided the Welsh Ministers are adequately resourced and accept that they will be required to meet the performance expectations of the LPAs. WPCF also makes the point, however, that this mechanism should not be necessary if local government is reorganised such that the number of LPAs is reduced but their individual performances is improved as a result.
31. (Q32/33) WPCF fully supports the production of Joint Local Development Plans and that LDPs should have statutorily set end-dates beyond which they cease to have effect.
32. (Q34) WPCF is ambivalent in respect of Place Plans. Provided they have a clear purpose and are reflective of higher-tier plans they are supported. If they are merely another layer of bureaucracy, however, they are not supported.
33. (Q35) WPCF is fully supportive of any reasonable measure that simplifies and speeds up the planning process. It fully supports the proposal, therefore, that matters of principle should not be considered if an application fully accords with an allocation in the Development Plan. For that to work, however, the status of an LDP or SDP allocation will need to be statutorily firmed up such that it is tantamount to an outline permission.
34. (Q36) An applicant should definitely be able to appeal in the event that an LPA fails to register an application within a reasonable and statutory period of time, which is similar to the system operative in England.
35. (Q37) WPCF supports the removal of the mandatory requirement for DASs.
36. (Q39) WPCF does not support local variation within a national scheme of delegation for decision making on applications.

37. (Q41) WPCF is firmly of the view that the ability of objectors to rely on village green applications should be restricted such that they cannot be made when a site has been allocated in an adopted Plan.
38. WPCF considers that, depending on size, local authorities who are designated as local Planning authorities should be allocated a minimum budget to provide them with the chance of delivering the service in the manner expected.
39. WPCF also considers that any fee increases (15% is proposed at present it is understood) should not be levied by those authorities deemed to be “non-performing”. A base date should also be set for the identification of non-performing authorities which should be sooner (e.g. 2014) rather than later.

14th November 2014