

Elin Jones AM

Llywydd

National Assembly for Wales

21 January 2020

Scrutiny of the draft National Development Framework

Dear Llywydd

The Climate Change, Environment and Rural Affairs Committee ('the Committee') has recently undertaken scrutiny of an initial draft of the National Development Framework ('NDF') for Wales. As part of that work, the Committee agreed that I should write to the Business Committee to ask it to "bring forward proposals to facilitate scrutiny of the draft NDF in accordance with the Planning (Wales) Act 2015."

The Planning (Wales) Act 2015 ('the Act') established the process for developing a NDF. The Welsh Government is due to publish the draft of the first NDF in April 2020.

The Act sets out a framework for Assembly scrutiny of the draft NDF. The provisions are included in full in the Annexe of this letter and are explained below. The Committee has agreed to request that Assembly procedures are introduced to underpin the framework scrutiny process described in the Act. The Committee has not made any recommendations to the Welsh Government on this matter, given that its proposals largely reflect provisions already enshrined in law.

Provisions of the Planning (Wales) Act 2015 that relate to the NDF

- Section 3 (3) requires Welsh Ministers to lay before the Assembly a draft NDF and a report which summarises responses to its public consultation on the draft and which explains how the responses have been taken into account.



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- Once the draft NDF has been laid, the statutory “Assembly consideration period” begins. This is defined in the Act as the period of 60 days beginning with the day on which a draft of the NDF is laid, disregarding any time when the Assembly is dissolved or is in recess for more than four days.
- Section 3 provides for the Assembly to consider the draft NDF during the 60 day period. Section 3 (4) requires Welsh Ministers to have regard to any resolution passed by the Assembly in Plenary and any recommendation made by an Assembly committee during the 60 day period.
- After the 60 day Assembly consideration period, the Welsh Ministers may publish a final, unamended version of the NDF. However, if the Welsh Ministers decide to amend the draft NDF, they may lay before the Assembly an amended draft of the NDF and publish it.
- If the Assembly or any of its committees has agreed any resolution or made any recommendations during the Assembly consideration period, the Welsh Ministers must, not later than the day on which the NDF is published, lay a statement explaining how they have had regard to each resolution or recommendation.

Issues

Plenary debate

Unlike equivalent legislation elsewhere, such as the Scottish Planning Act, there is no requirement for the draft NDF to be approved by a resolution of the Assembly. Although the Act refers to resolutions of the Assembly, there is no requirement for a Plenary debate to take place or for the Assembly to agree the NDF. The provisions of the Act do not prevent any individual or group bringing forward motions in relation to the draft NDF.

Committee consideration

Although the Act refers to recommendations that might be made by Assembly Committees, the Act does not require the NDF to be considered by Assembly Committees, neither does it prescribe how Committee consideration should take place. This is to be welcomed and will enable the Assembly to determine its procedures.



Accompanying documents

The Act requires the Welsh Government to lay, alongside the draft NDF, a report which summarises the representations it received during the public consultation on the draft. There is no requirement to lay any other document.

Committee Request

The Committee has agreed to request that the Business Committee brings forward Assembly procedures for the consideration of the draft NDF, in accordance with the Planning Act 2015.

The Committee believes that the introduction of a temporary Standing Order would be an appropriate approach, given that Assembly scrutiny of a draft NDF will take place every five years. This would allow the next Assembly to develop and agree an approach it believes to be appropriate, subject to the framework set out in the Act, but informed by the experience of scrutinising the first draft NDF. This would also ensure transparency, given that the framework scrutiny procedure is contained in an Act that was agreed in 2015, during a previous Assembly.

The temporary Standing Order should reflect the provisions of the Act, and should:

- Require the Welsh Government to lay the draft NDF and other relevant documents, such as impact assessments;
- Provide for the Business Committee to refer the draft NDF to any Assembly Committee or Committees to consider and report on it and for the Business Committee to set a timetable for that work; and
- Require the Welsh Government to make time available in Plenary to consider the draft NDF, based on an amendable Government motion. This would not be a motion for the Assembly to approve the draft NDF, but a formal opportunity for the Assembly to express its views.

The Committee agreed that the Business Committee should consult the Welsh Government, external stakeholders and Assembly Committees on its proposals. However, I recognise that there is unlikely to be sufficient time for a consultation to take place on this occasion, given the pressing need for appropriate procedures to be in place by the time the NDF is introduced in April. I also note that the Business Committee will consult Welsh Government as part of its consideration of these proposals. It may be appropriate for the



CCERA Committee or its successor to consider the effectiveness of the scrutiny process in due course and to do so in consultation with others.

I would be grateful if you would draw these matters to the attention of the Business Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive, flowing style.

Mike Hedges AM
Chair of Climate Change, Environment and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Annex

Procedure for preparation and publication of Framework

- (1) Before publishing the National Development Framework for Wales, the Welsh Ministers must—
 - (a) prepare a draft of the Framework,
 - (b) carry out an appraisal of the sustainability of the policies set out in the draft, and
 - (c) carry out consultation in accordance with the statement of public participation.
- (2) The appraisal under subsection (1)(b) must include an assessment of the likely effects of the policies in the draft Framework on the use of the Welsh language.
- (3) If, after complying with subsection (1), the Welsh Ministers wish to proceed with the draft of the Framework (with or without changes), they must lay before the National Assembly for Wales—
 - (a) the draft, and
 - (b) a report which—
 - (i) summarises the representations they received during the consultation carried out under subsection (1)(c), and
 - (ii) explains how they have taken the representations into account.
- (4) The Welsh Ministers must have regard to—
 - (a) any resolution passed by the National Assembly for Wales with regard to the draft Framework during the Assembly consideration period, and
 - (b) any recommendation made by a committee of the National Assembly with regard to the draft during that period.
- (5) After the expiry of the Assembly consideration period, the Welsh Ministers—



- (a) may publish the National Development Framework for Wales in the terms of the draft laid under subsection (3), or
- (b) if they propose to make changes to that draft, may—
 - (i) lay before the National Assembly for Wales an amended draft of the Framework, and
 - (ii) publish the National Development Framework for Wales in the terms of the amended draft.

(6) If any resolution was passed or any recommendation was made as mentioned in subsection (4), the Welsh Ministers must also, not later than the day on which the Framework is published, lay before the National Assembly for Wales a statement explaining how they have had regard to the resolution or recommendation.

(7) In this section, “the Assembly consideration period” means the period of 60 days beginning with the day on which a draft of the Framework is laid before the National Assembly for Wales under subsection (3), disregarding any time when the National Assembly is dissolved or is in recess for more than four days.

