Infrastructure 17, Llanarthne and Area Community Pylon Group

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | **Climate Change, Environment, and Infrastructure Committee**

Bil Seilwaith (Cymru) | Infrastructure (Wales) Bill

Ymateb gan Grŵp Cymunedol Llanarthne a'r Cylch yn erbyn Peilonau | Evidence from Llanarthne and Area Community Pylon Group

Observations relevant to the Infrastructure (Wales) Bill 2023 (“the Bill”).

These observations are provided by and for the Llanarthne and Area Community Pylon Group.

To place in context, our Community Group was initially formed, in response to a specific proposal to erect overhead lines and pylons within our Community, and in addition, to place overhead lines and steel lattice pylons over an extensive route within Wales. The Community Group has evolved. We have progressively become involved in the consideration of National and Governmental policy relevant to associated infrastructure. One of the primary objectives of our Community Group is “to promote understanding and discussion of policy and information relevant to the infrastructure required to convey clean energy”. Further our Community Group has the purpose of encouraging Government, with appropriate community engagement, to ensure that the infrastructure required to convey clean energy in pursuit of net zero is planned and identified in order to satisfy community and national demand, balancing benefit with minimised impact, taking into account sustainability and future wellbeing, in order that any proposal for any new electricity lines and infrastructure can be evaluated in the context of a carefully considered and appropriately planned holistic network.

As a Community Group with recent involvement in community engagement relating to a major infrastructure proposal, we would hope to provide relevant and pertinent observations in respect of the Bill, in particular, touching on the important balance between an improved and streamlined planning process whilst ensuring adequate and effective community engagement, the promotion of community consensus, and the important protection of the environment.

Our experience, has led to involvement in, and consideration of, separate processes, for linked infrastructure. The need for a single unified consenting process, a one stop shop for infrastructure which has a national significance, is therefore recognised and welcome, but subject to some important safeguards and provisos.

These observations, will reflect the need to ensure that community and individual engagement, and environmental protection, are afforded sufficient prominence in the mix.

The focus of our Community Group, is associated infrastructure, rather than energy generation. We appreciate that the Bill has an implication extending beyond energy infrastructure. The observations we can offer, are rooted in our own experience as an active Community Group, with a defined focus, but just as the Bill

is intended to link different features of a larger scheme, these observations may necessarily have a relevance beyond our immediate focus and may have a wider meaning or application, particularly as to community involvement.

There is an obvious practical/procedural concern. The current process is such, that a separate application would be made, for a generating station, and a separate application would be likely for the infrastructure required to convey the electricity generated, with a separate application likely for the sub-station required for the purpose of connecting the electricity conveyed to the National Energy Transmission System. It makes sense, that there is one consolidated application, to one decision maker, for an enterprise of this nature, which is intrinsically linked. But what if the decision maker wished to approve the energy park, but did not approve the route proposed for the infrastructure, or to mirror a current national debate, preferred that the new electricity lines be placed underground, rather than approve new overhead lines supported by steel pylons. Would the process, should it now be an integrated single process, separate components of a larger scheme, to permit the decision maker to approve part only, or to reject part, or even to consent but on the basis of modifying part or all of the proposal for which consent is required. Sec 57 touches on this, but refers to secondary regulations which have not yet been published, and which should properly be considered simultaneously with the Bill. Under the present system, it seems an application can only be approved or declined, with no opportunity for the decision maker to cherry pick or modify. This would become even more relevant, if a one stop shop for different components is to be adopted.

What would be the procedure, if one Company (or more than one), is engaged in the proposed generating station, and another separate company is involved in the system for conveying the electricity, and yet another is responsible for constructing the necessary sub-station. Which of those involved, in each of the separate but linked components, would be responsible for the conduct of the one stop application; which would be responsible for the management and operation of the consequent community engagement

The issues outlined above, do not seem to have been addressed within the Bill.

Sec 1(a) confirms that a SIP means a development specified in Part 1 of the Bill.

Section 2 of the Bill is intended to provide that specification, but the phrasing of Sec 2 is imprecise. The terminology “The following kinds of development are Significant Infrastructure Projects,” should be tightened and better defined. The

wording does not appear to amount to a specification as such. It may be better expressed that the developments identified in Section 2 are Significant Infrastructure Projects, as are those specified in regulations to be issued by the Welsh Ministers pursuant to this Act. The omission in Sec 1, to permit for the criteria for SIPs to be extended and defined in regulations, leaves the designation pursuant to the absolute discretion afforded by Sec 22,or by way of amendment of Future Wales, as the only mechanisms for enlarging the criteria. Sec 22 is the subject of comment later within these observations. The flexibility of using regulations, which are easier to amend than Primary legislation, but which can provide a defined criteria nonetheless, is also the subject of comment later.

There are obvious omissions from the list of examples or projects listed within Section 2, but without any explanation within the explanatory notes to account for or justify the omissions.

Subsection 2(e) includes the installation of an electric line above ground expected to have a nominal voltage of 132KV. Therefore WG could not determine, and therefore include as a SIP, a new electricity line of greater voltage. This omission seems to permit, or even require, separate consent applications for a new on-shore energy park, served by electricity lies of more than 132KV , with a new substation, which defeats the objective of the Bill to simplify the process into a one stop shop. Would the discretion afforded by Sec 22 allow the Welsh Ministers to call in lines exceeding 132KV as a SIP. It would seem better to include them in the criteria in the first place, as the purpose is to create a sense of certainty and clarity, but is this precluded by Sec 108A of the GoWA, which confirms that any provision of an Act of the Senedd which is outside the Senedd's competence, cannot be law, and confirms that matters reserved, as defined in Schedule A of GoWA, (which includes at Para 184 of Section M3 the reservation of new electricity lines which have not been devolved), are outside of the Senedd's competence. Alternatively, could the Bill, as Primary legislation, amend the definition of devolved overhead lines, within the Planning Act 2008, to include lines which exceed 132KV, which are currently in the domain of the Secretary of State, rather than WG, by virtue of Sec 37 of the Electricity Act and Sec 14 and Sec 16 as amended of the Planning Act 2008.

Section 2 excludes reference to overhead lines which are less than 132KV. Yet it is conceivable that an improvement of Grid structure, to improve distribution, could be conceived as a SIP, and whilst the discretion in Sec 22 could be exercised, it would seem better to promote certainty, if lines under 132KV, in the circumstances which could be defined in regulations, are included in the criteria for identifying SIPs.

Section 2 does not make any reference to the installation of an electric line underground, or specify inclusion of an underground line as a SIP. At present, the status of underground lines, which are not referred to within Sec 14 or 16 of the Planning Act 2008 or the TCPA 1990 as amended, and are omitted from the subordinate legislation containing the criteria for DNS categorisation, and are seemingly not referred to within the relevant planning legislation, for UK, or devolved to the Welsh Ministers, is such that underground cabling could be considered as "permitted development". It seems remarkable that significant distances of underground cabling could potentially be installed without determination, subject only to land owners consent. Our Community Group would suggest that new electricity lines which are entirely or in part to be laid underground should be identified and catered for within the SIP designation. The omission within the Bill to designate underground cable as a SIP may correlate with the carry forward and reliance on the existing criteria for a DNS, or there may be some hidden purpose, but it would seem important to explore this.

It seems significant that a wind generating system in Wales will be an SIP if it has a generating capacity of 50MW or more, irrespective of the maximum capacity, but any form of generating station in Wales (other than a wind generating station) or in Welsh Marine waters, will only be an SIP if it has an installed generating capacity not exceeding 350MW. It would seem expedient for the Welsh Ministers to be the consenting authority for any generating station, situate in Wales or the Welsh marine area, subject only to a minimum prescribed capacity.

The Bill does appear to be effective in rectifying an evident anomaly relating to devolved powers for new electricity lines of 132KV, and the descriptor of such infrastructure within the DNS criteria. Without enlarging on this, the rectification is welcome.

Section 20(1) of the Bill makes clear that to the extent the consent of the Welsh Ministers is required for development (that is, if a development amounts to or is part of a SIP) then consent under Section 36 or Section 37 of the Electricity Act 1989 (appertaining to generation stations and installation of overhead lines) is not required and neither is planning permission required. This clarification is welcome.

Section 22(1) permits the Welsh Ministers, in respect of a development within Wales or the Welsh Marine Area, which Welsh Ministers consider to be of national significance to Wales, to direct that the development is a Significant Infrastructure Project. It is noted that this reflects the 2018 consultation responses. However, one of the objectives, is to enable developers, to know their prospects of success in

advance, and if Welsh Ministers, by virtue of Sec 22, are to be permitted to call in an application or proposal, which does not match with the definitions/criteria for a SIP, it would not seem to promote certainty. The certainty of an extensive criteria may be preferred, within regulations, which can be revised as circumstances require. As a catch all, if Welsh Ministers are to have an absolute discretion, irrespective of the published criteria, to identify and determine what constitutes a SIP, there should be a process whereby a developer can obtain clarification (and WG can determine) as to whether a proposed development not falling within the defined criteria will be determined as a SIP, and there should be some time constraint on the calling in of an application, using the discretion afforded by Section 22, to preclude a developer expending considerably by engaging in an alternative process. Likewise, Section 24, which affords Welsh Ministers an absolute discretion to direct that a qualifying project should be determined other than as a SIP, is such to undermine the security and certainty of carefully considered and defined criteria and there should be constraints as to the timing and application of such a wide discretion. Also, a possible consequence of Section 24 would be to allow a decision to which could have an adverse political ramification, to be deflected elsewhere should it be convenient to the Government of the time to do so.

Part 3 of the Bill is relevant to the process for obtaining Infrastructure Consent and community involvement process.

Section 28 permits the Welsh Ministers (seemingly in the exercise of an absolute discretion) to authorise the applicant to serve notice on any person with an interest in land requiring that person to furnish information on land ownership. That process is sensible for so long as tracts of land are not yet registered at Land Registry, or indeed to verify the accuracy of information held by Land Registry, identifying contact details for property owners, especially if a recent transaction remains as a pending application at Land Registry. However, the issue in respect of Section 28, is around the timing of any request by the Applicant for land owner information, the information to be provided by the Applicant to the recipient, prior to or simultaneous with the request for information, and the method of the approach. These aspects can be regulated by the Welsh Ministers, when exercising a discretion to authorise, but it would help if the Primary legislation will confirm that secondary legislation, will specify the criteria as to timing, format of notice and information to be provided. Sub- section 28 (5) indicated that regulations may make provision about the form and content of a notice, how a notice may be given, and the time scale for responding to a notice, but it should be a must that such

matters are dealt with within secondary legislation, and that the secondary legislation is in place by the time of implementation of the Bill, and further that the regulations prescribe the timing of such a notice and the nature of public as well as individual engagement and information which should accompany the notice; preferably to pre date, as it would be reasonable to expect that a company or entity should not be entitled, with the authority of Welsh Ministers, to demand disclosure of private information or to override individual rights, unless a proposal has been sufficiently advanced and explored and has been determined to have a reasonable prospect of obtaining infrastructure consent. There is a possible civil liberties/human rights issue here.

Sub-section 28 (6) creates a criminal offence of failing to comply with such a notice, without reasonable excuse. There is a potential for contested proceedings without better definition or guideline as to what may constitute reasonable excuse. Sub Section (8) omits to define the level of the fine to follow on summary conviction.

Importantly, Section 24 should also be used to define a criteria to be followed by a developer or their agent, relevant to making a direct approach to a person interested in land, whether in pursuit of confirmation of ownership/contact details and/or seeking entry onto land. Our community group has direct experience of the anxiety and distress caused to individual property owners/occupants by way of the process of company representatives cold calling. Those that are elderly, or in any way vulnerable, can be intimidated and fearful in consequence of cold calling, as confirmed by anecdotal evidence we have received, particularly as individual properties/holdings may be remote. It would help if the Bill can regulate this, to ensure that developers act responsibly, and to ensure that any approach is in the context of, and subsequent to, the issue of general community information and relevant and appropriate correspondence. Section 24 could prescribe, a criteria/code to be defined in the accompanying regulations.

Section 29 requires that an applicant proposing to make an application for infrastructure consent must notify the Welsh Ministers, the relevant planning authority and “other persons specified in regulations”. It is important that the regulations, which will determine the persons to be notified, are considered in the first instance together with the Bill. Likewise the regulations as to the form and context of notice, the information documents or other material that is to

accompany a notice and how and when a notice is to be given. Any individual or organisation, such as Community group, engaging by way of response to a preliminary pre application consultation, before notice of intended application is filed, should receive a copy of the notice of the proposed application filed with the Welsh Ministers and the regulations should provide for this. Section 29 should stipulate, that regulations as to the form of notice, accompanying documents, and procedure for notice, 'will' rather than 'may' be provided.

Section 30 requires a person who proposes to make an application, to carry out consultation on the proposed application (which therefore would be pre-application consultation).It is preferable if the noticed of proposed application is filed prior to the Applicant engaging in the public consultation and that PEDW should have a role in monitoring, and requiring refinement when appropriate, of the material which the Applicant will intend to circulate as part of the consultation process, and the programme for consultation. Our experience as a Community Group, is an indicator that a consultation can be flawed and inappropriate, in the absence of well-defined criteria, and without effective monitoring. Therefore, PEDW or an independent evaluator, to have a role in reviewing the material and ensuring any appropriate revision of the information/material. We suggest a real advantage in ensuring that regulations control: a)The information; b)To whom; c)How provided; d)the timing; e)the facility for feedback.

'Consulted', in line 1 of Sub-section 30(2)(e), should seemingly read as 'consulting'.

Section 30(2) states regulations may make provision for the methods of consultation. Use of the word "may" is not satisfactory. The Bill should provide that such regulations will be made. The distinction between primary and secondary legislation is understood, but as the nature and method of pre application consultation and publicity is such an important feature, and effective consultation towards community consensus, is such an important part of any consenting process of national significance, it is preferred that the regulations providing the detail of the nature and method of consultation are considered and published in tandem with the primary legislation. As with any primary legislation, there are absolutes, in terms of framework, which can be incorporated within the primary legislation. The absence of any detail within the draft Bill, and the omission to make the publication of relevant regulations mandatory, are important omissions.

Our Community group has direct and recent experiance of a pre- application consultation, and the publicity surrounding a major infrastructure project. The lessons learned from that experience, from a largely negative exercise, can be shared by way of direct input to WG Ministers and Officials, and if required, by way of direct evidence to the Committee for Climate Change, Environment and Infrastructure. We welcome, that when providing evidence to the Committee in July, the Minister for Climate Change, expressed the wish for contribution to the detail and invited engagement on this. For brevity, in the context of this submission, the important features of any public or community consultation include, appropriate timing/ informing elected Councillors, elected Senedd members, elected MPs, Community Councils, prior to or at the outset of publicity, so that community representatives are able to feed down to their constituents, and are not left embarrassed by a lack of awareness/ transparency and openness/ clarity and succinct and digestible information/ providing a link or reference to enable those wishing to read the detail or background to be able to do so/ addressing and informing on key issues/ statements as facts which should be evidence based to be properly supported/ avoiding glossy presentation designed to shape opinion by way of presentation rather than facts and information/ inclusion of carbon footprint comparisons/ avoiding rhetoric, innuendo, inference or inaccuracy/ to avoid ambiguities/to provide consistent information/ any suggestion of steering the direction of response, both within the presentation material (by limiting the discussion or the information or guiding the comments invited) and by way of a feedback questionnaire which channels the responses which the Applicant prefers and excludes or steers away from feedback of a nature which could be unhelpful for the Applicant. We would welcome the opportunity to share more fully the information which could help shape the provisions as to effective consultation and publicity and the errors to be avoided.

It is so important to embody in the Bill and to deliver through the secondary regulations, the positive messages on pre application consultation encouraged by WG/PEDW within guidance issued relevant to the present consenting regime. To consult widely and clearly to capture a balanced and informed response. That well designed and drafted consultation materials can encourage a greater number of people to engage within the process and to gain in turn a better and more balanced response. That effective consultation and publicity can avoid the need for Community groups to expend resources and time in seeking clear, full and unambiguous information from the developer, and the risk of alienation in the process. The last thing we want, in the attempt to deliver net zero on time, is a reluctance on the part of developers to provide and share accurate and reliable information, and for Communities to be alienated. We welcome that the Climate Minister has recognised as much. It is important that this is embodied in the Bill.

There is an important distinction between engagement, and people getting the results which they want. Importantly, obtaining the results required is different to obtaining the answers requested, and relevant and accurate information by way of initial presentation, and answers to subsequent questions which allows the fullest and best educated responses, are essential features as part of any pre- application consultation. The emphasis in the Bill, on pre application consultation, and to make this process mandatory, is very welcome. On a common sense basis, if a proposal can be shaped at an early stage, there is likely to be far less resistance or objection once the application is formally submitted, and the consent process can be accelerated in this way. An important consideration in terms of community engagement, both at the pre –application stage, and within the consent process, is to ensure, not only that the process allows for full representation, but also gives the assurance, irrespective of the outcome, that representations are respected, properly considered and evaluated. There is a need for transparency, in the process and as to what is published, so that there is an accurate record of the representations made, the Applicant's response, the Applicant's evaluation of consultation responses, but also of the assessment and reasons for determination, and evaluation of responses, by those determining the application.

The issue of making resources available to Community groups, to facilitate a full and effective engagement in the pre application process, could be explored. Community groups can invest considerably in time and energy and some Community Groups may be fortunate, to access within the Community group or via contacts, the requisite level of expertise and experience. However, sometimes, Community groups will lack the specialist qualifications or experience in order to assess and comment on specialist areas, including legal, planning, enviromental to name a few. Either consideration should be given as to how communities engaged in a process can acess that information and expertise in order to make a fullest contribution and/or there is a need for assurance, that within the planning process, those considering and determining the application will ensure that such information and expertise is sought, independently of information provided by the Applicant, in order that the decision makers are fully informed, and can properly and fairly evaluate the application. For example, if a developer should argue, in the context of whether to underground new electricity lines, that it is not feasible to do so, the system should be such, that the Welsh Ministers, as the decision makers, take the lead to obtain the information required, to properly evaluate any evidence presented, and to hold the information necessary to make a determination which is properly informed. So for example, If feasibility falls to be examined, it should include consideration of all issues relevant to feasibility, including comparative

costs reflecting construction and lifespan/ maintenance, comparative energy loss/value, decommissioning costs, recycling issues, funding sources and availability, whether the option of undergrounding would be feasible for a better resourced or bigger player (so that feasibility is an objective assessment and not subjective to the particular applicant), examination of the costs, feasibility and techniques of comparative projects, including those elsewhere in the UK and in countries such as Denmark and the Netherlands, evaluation of costings in the context of the projected returns for the funders and the projected net profits for the applicant, the financial help available from Ofgem, the potential for absorption of costs spread over millions of consumer bills and the reduction of costs should an alternative shorter underground route be available. If Community Groups are not funded to obtain relevant information, and in any event for the Welsh Ministers to discharge their statutory duties, there is a need for the decision maker to assure that factors relevant to an application will be properly investigated; it would be beneficial, if the Bill can incorporate and specify this function, to provide an additional layer of protection over and above or consistent with the remedy of judicial review. There is a need for a streamlined process but balanced to ensure that the examination of a proposal is conducted with the fullest information. It is no one's interest, whether the Applicant, the Decision maker or the Communities, should there be an omission to fact check and evaluate, or a lack of transparency as to information presented and scrutinised within the evaluation process, which will result in the delay, cost and potential alienation of court proceedings for judicial review.

The Bill is about process not policy, and yet relevant to community engagement and community consensus, there is an interlinking between policy and process. To achieve community consensus on infrastructure there should not only be a process to allow for community engagement but a policy which better enables both communities and developers to assess with some measure of certainty. The existing national policy on new electricity lines in contained in paragraph 5.79 of PPW. The preferred position of Welsh Government, that all new lines should be underground, is clearly stated, and welcomed. The policy introduces a caveat. That caveat can only be applied to an otherwise acceptable project. There is no definition of what may constitute an otherwise acceptable project; presumably sufficient weight, in this context, to be afforded to factors such as visual landscape, heritage, historical landscape, economy (tourism/visitor revenue/property devaluation/agricultural), ecology, biodiversity future well-being, protection of the Welsh language, sustainability and health. If the question of viability is to be decided there is no guidance or direction as to the relevant factors, although many of these will be self-evident, as recited earlier. In view of the technique of cable plough, combined with

drilling where required, and the evidence which can be collected by the Senedd to verify our understanding, that there is no longer any significant differential, if any differential at all, between the costs of undergrounding, using the modern techniques available, and the costs of overhead lines and pylons, the Bill may be a useful vehicle, to simplify the consent process for associated infrastructure, by combining policy and process on this issue, by way of a simplification and clarification of Para 5.79 of PPW to require undergrounding in all circumstances. We would welcome the opportunity, to share our proposal in the context of evidence to the Committee, and separately by way of discussion with the Minister for Climate Change. The recent publication of the letter to the Secretary of State from Mr Nick Winser, and the accompanying report, has in terms of the proposed cash for pylons, made national news, but in reality, the proposal is unsatisfactory, and fraught with difficulties, as we can demonstrate, and a simplified policy on infrastructure policy, which can carry community consensus, would be an extremely effective way of streamlining and significantly shortening, the consent process for energy infrastructure. Our Community Group has had extensive contact and liaison, with property owners requested by a developer, wishing to erect pylons, to permit voluntary access onto land. Our experience, is a consistent objection to entry onto land, in opposition of the scheme, but we can share, the solutions available to encourage the consensus from land owners which is imperative for timely progress. The Minister for Climate Change has highlighted the intention to provide written evidence to the Committee relevant to compulsory powers, and this would be welcomed. We would simply highlight, that Community resistance, despite compulsory powers, to entry onto land, which on the information available to us can be expected on a wide scale basis,, and complete alienation in the process, is to be avoided, and there are solutions available, which are expected to generate support and consensus, and which it would be opportune to explore and include in the context of this Bill.

Section 31 should specify that regulations will, not may, make provision about the matters specified in sub-section (4), and as the inclusion with an application, of all relevant documents and evidence in support of the application, to ensure that any statement or assertion is evidence backed, is imperative, Sec 31 should provide for this expressly.

Sec 33 relates to publicity and notification of a formal application for consent, to include Local and Community Councils. Sec 33 confirms it is mandatory for the Welsh Ministers to specify a deadline, by which Welsh Ministers must receive

representations. Sec 33 should also prescribe, that in giving notice of the application, Welsh Ministers must copy the application and supporting documents filed, as this is a necessary process to allow those notified the opportunity to make full representations. A failure to attach with the notice, the relevant supporting papers, would likely leave the Welsh Ministers exposed to an application for judicial review, but it is preferable to add the extra layer of protection, by specifying the required circulation of information, within Sec 33, or Sec 34-the latter should confirm that regulations will, rather than may, prescribe the material to be made available.

There is the risk, that the Bill is considered no more than a framework Bill. There is a need to balance the need, for flexibility within primary legislation, to help it to endure, despite changes over time, with the certainty of minimum safeguards and protection. There is a need to balance the flexibility which secondary legislation can provide, including the evolution of criteria and the ongoing shaping of processes, with the base line of making sure that key components will be present. The Bill must be more than a framework Bill in terms of the method and nature of community engagement, and it is important, that the detail of the relevant secondary legislation, is brought forward to be considered in conjunction with the Bill.

Sec 33(9) permits the Welsh Ministers to direct the Applicant to notify a person specified by the Welsh Ministers, but it is preferred if the Section confirms an obligation, that the Applicant notify any Community Group or individual, which has participated within the pre-application consultation process, and prescribes the material to be made available for examination relevant to the application.

Sec 35-does not clarify the time period to be allowed to the Local Authority for submission of a local impact report. It is imperative that this period is sufficient, for the Local Authority to carry out all relevant investigations and collect evidence in order to submit a complete and meaningful report. This is one of the most important stages in the process, and must be afforded sufficient time.

Sec 38(2) and Sec33(3)-'may' should read as 'shall'.

Sec 39- it is important that the examining authority does not have a stake in the game, and is not only independent and impartial, but seen to be such. There is the concern, with any application of national significance, that the decision maker, or the authority appointed by the decision maker, is reflective of the policies or politics of the Government of the day, and therefore the preference for a process of appointment, which is cross party, and seen with transparency as being wholly objective as to the selection of the personnel to act as the examining authority, ensuring the authority has both the requisite expertise and objectivity.

Sec 42-regulations should be mandatory, not discretionary, in order to specify the nature of the evidence to be gathered, in order to properly evaluate merits or otherwise of the application, and there is a need for care in drafting the regulations to ensure a complete and thorough examination is conducted.

The provisions for appointment of specialist counsel to provide advice, and to pursue enquiries, should extend to the appointment by the examining authority, of any suitable expert, and should apply to the process of considering the application as a paper exercise, in equal measure as to an application assessed by way of a hearing.

Sec 51-allows the Welsh Ministers, by way of regulations, to allow for an order for costs to be made against an objector. This is of concern, and could discourage an individual or Community Group, from pursuing an otherwise valid objection, for fear that it could be rejected, and adjudged as a basis for a substantial costs order. It is a provision, which seems has the potential to be undemocratic.

Sec 52 permits for regulations, to determine, which applications can be determined by the examining authority, rather than the Welsh Ministers; this is an important provision, and the regulations should be considered alongside the draft bill. Sec 52(4), permits the Welsh Ministers to exercise an absolute discretion, to direct that any given application for infrastructure consent, can be delegated; to safeguard against a rogue decision, if this function is to be delegated away from the Welsh Ministers, there should be a process for review, appeal, and reversal.

Sec 55 permits for regulations to specify matters that an examining authority can discard, in assessing an application. As Sec 54 provides for regard to any material consideration, it may be inappropriate to allow this to be watered down. If this section is to remain, the regulation proposed should be considered alongside the draft bill.

Sec 59-does not make clear to whom the Welsh Ministers shall provide a copy of their determination, and does not safeguard that the decision will contain reference to any objection received with reasoning as to why, if applicable, that objection has been unsuccessful. It is preferred if these aspects can be addressed in the body of the Bill. It is important that any objector is notified directly, as elsewhere in the Bill, the period for filing an application by way of judicial review, is limited to just 6 weeks from determination of the application.

Sec 62-it is essential, relevant to the conditions for the exercise of compulsory purchase, that the regulations referred to in sub-section 4 are considered simultaneously with the Bill. Section 62(1)(b)-should specify that two, not one, of the conditions in (2), (3),(4), must be satisfied as a pre-requisite for the consent order to include provision for compulsory purchase.

Sec 122(2)- what is meant by a 'project of real substance.' This requires proper definition. Further, the assessment of whether the criteria for entry is substantiated, should be objective, and not to be applied subjectively by the Welsh Ministers; the test of reasonableness to be factored in, and authority should not be issued until the pre- application consultation report has been issued, which should be reviewed by Ministers as a relevant consideration in determining the application.

The Bill, relevant to consent to infrastructure, does not address the need for a planned and holistic system as a pre-requisite to determination of any application for new electricity lines. It should be factored into the Bill that any determination of an application for new infrastructure, should have sufficient regard, to any material which exists as to a holistic plan. We would urge, that building on the publication of FEW and the open letter and report utilised by Mr Nick Winser, that best efforts are made, to work with the main players, including Ofgem, UK Government, and the private utility companies, to ensure that a planned system for the delivery of net

zero is made available, without further delay. On a common sense basis, how can a decision maker be expected to make an informed determination on an application for consent, for new electricity lines, without reliable information as to whether the proposal is required, or consistent, in the context of the greater scheme, and similarly, those affected by a proposal would benefit from the availability of a planned network in order to evaluate the proposal. There is the risk of a dash for cash, whereby a private developer proposing a new line, which will bring it a profit, but without sitting consistently within a planned network, will involve in construction which might seal off available capacity, or which is ill timed or ill planned when viewed in a wider context.

When providing evidence to the Committee in July, the Minister for Climate Change confirmed, in response to a question from the Chair, the importance of the Minister and her officials, consulting with Community groups that are active and which have relevant experience. This can add perspective and direct evidence. This Community Group would wish to assist and share information and the experience we have accumulated, and we remain available both to the Minister and the Committee.
