

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