



# **Cynulliad Cenedlaethol Cymru** **The National Assembly for Wales**

## **Y Pwyllgor Amgylchedd a Chynaliadwyedd** **The Environment and Sustainability Committee**

**Dydd Mercher, 14 Ionawr 2015**  
**Wednesday, 14 January 2015**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,  
cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee.  
In addition, a transcription of the simultaneous interpretation is included.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Mick Antoniw	Llafur Labour
Jeff Cuthbert	Llafur Labour
Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Llyr Gruffydd	Plaid Cymru The Party of Wales
Alun Ffred Jones	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Julie Morgan	Llafur Labour
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Jenny Rathbone	Llafur Labour
Antoinette Sandbach	Ceidwadwyr Cymreig Welsh Conservatives
Joyce Watson	Llafur Labour

**Eraill yn bresennol**  
**Others in attendance**

Sarah Dawson	Uwch-gyfreithiwr, Gwasanaethau Cyfreithiol, Llywodraeth Cymru Senior Lawyer, Legal Services, Welsh Government
Neil Hemington	Prif Gynllunydd, Llywodraeth Cymru Chief Planner, Welsh Government
Carl Sargeant	Aelod Cynulliad, Llafur (y Gweinidog Cyfoeth Naturiol) Assembly Member, Labour (the Minister for Natural Resources)
Dion Thomas	Uwch-reolwr y Bil Cynllunio, Llywodraeth Cymru Senior Planning Bill Manager, Welsh Government

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Alun Davidson	Clerc Clerk
Peter Hill	Dirprwy Glerc Deputy Clerk
Rachel Jones	Dirprwy Glerc Deputy Clerk
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser
Graham Winter	Y Gwasanaeth Ymchwil Research Service

*Dechreuodd y cyfarfod am 09:32.*  
*The meeting began at 09:32.*

## Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

- [1] **Alun Ffred Jones:** A gaf i ddechrau'r pwyllgor a chroesawu'r Aelodau i'r pwyllgor? Os fydd yna larwm tân, yna dilynwch y tywyswyr a'r staff. Ffonau symudol wedi eu diffodd, os gwelwch chi i fod yn dda. Rydym yn gweithredu'n ddwyieithog, felly mae—. A gaf i groesawu'r Gweinidog, a'i dîm? Mae cyfieithiad ar gael ar sianel 1. Peidiwch â chyffwrdd â'r botymau—fel y gwyddom ni'n dda. A oes rhywun eisiau datgan buddiant, o dan Reol Sefydlog 2.6? Nid oes neb wedi ymddiheuro.
- Alun Ffred Jones:** May I start the committee, and welcome Members to the committee? If there is a fire alarm, please follow the ushers and the staff. Mobile phones: please turn them off. We operate bilingually, so—. I welcome the Minister, and his team. There is translation available on channel 1. Please don't touch the buttons on the mikes—as we all know. Does anyone want to make a declaration of interest, under Standing Order 2.6? Nobody has made any apologies.

09:33

### Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 14 Planning (Wales) Bill: Stage 1—Evidence Session 14

- [2] **Alun Ffred Jones:** Felly, a gaf i groesawu'r Gweinidog? Dyma'r sesiwn dystiolaeth olaf ar Fil Cynllunio (Cymru), ac, fel rydych chi'n ei wybod, mae yna bapur briffio ichi. A gaf i ofyn i'r Gweinidog ei gyflwyno'i hun, er mwyn y record, a chyflwyno'r tîm sydd efo fo?
- Alun Ffred Jones:** So, I welcome the Minister. This is the final evidence session on the Planning (Wales) Bill, and, as you know, there is a briefing paper. Could I ask the Minister to introduce himself, for the record, and the team that has come with him?

- [3] **The Minister for Natural Resources (Carl Sargeant):** Bore da; good morning, Chair, committee. Carl Sargeant, Minister for Natural Resources. I'll ask Neil, and the other team, to introduce themselves.

- [4] **Mr Hemington:** I'm Neil Hemington. I'm the chief planner.

- [5] **Ms Dawson:** Sarah Dawson. I'm a lawyer with Welsh Government Legal Services, the planning team.

- [6] **Mr Thomas:** Dion Thomas, planning Bill manager.

- [7] **Alun Ffred Jones:** Diolch yn fawr iawn ichi. Iawn. Diolch yn fawr ichi, Weinidog. A ydych chi isio dweud rhywbeth i ddechrau?
- Alun Ffred Jones:** Thank you very much. Okay. Thank you very much, Minister. Do you want to say anything at the outset?

- [8] **Carl Sargeant:** No, I just welcome the opportunity to clarify any further concerns the committee may have from scrutiny sessions with other organisations.

- [9] **Alun Ffred Jones:** Diolch yn fawr. Fel rydych yn ei wybod, Weinidog, mae hwn yn Fil pwysig iawn—mae o'n Fil cymhleth iawn, hefyd, ar lawer ystyr—felly mae gennym ni lawer iawn o feysydd y byddem ni'n dymuno eich holi chi yn bellach arnynt,
- Alun Ffred Jones:** Thank you very much. As you know, Minister, this is a very important Bill—it's a very complex Bill, as well, in many sense—so we have many areas that we would want to ask you further questions about, in order to have some

er mwyn eglurder, cyn ein bod ni'n llunio ein hadroddiad.

clarity, before we draw up our report.

[10] A gaf i ddechrau, felly, a jyst gofyn cwestiwn? Yn ôl tystiolaeth rhai tystion, mae yna awgrym bod y trefniadau newydd yma rydych chi'n eu cynnig yn gymhleth iawn—ac, efallai, yn or-gymhleth—i genedl, ac i wlad, fechan fel Cymru. Beth ydy'ch ymateb chi i hynny?

Could I start, therefore, and ask you a question? According to the evidence of some witnesses, there is a suggestion that the new arrangements that you're proposing are very complex—and maybe too complex—for a small nation, or country, like Wales. What is your response to that?

[11] **Carl Sargeant:** Thank you, Chair. That's a really important question, and it's good to be able to clarify this for you. I'd like to work with committee just to give some clarity around this. I think what is very clear to us, as Government, is that there's nothing complex about this; it is just new. I think that what organisations are, perhaps, concerned about is understanding different things. Change is always a challenge for organisations to move forward through, but I'd just like to clarify that there is only one element, effectively, that is new and it is only partial and, potentially, an aspect that may or may not be introduced depending on the local authorities. If we look at the NDF, or the national development framework, that is, effectively, the spatial plan, and the spatial plan will be going—it will be just a rebrand and refresh of what the spatial plan is. It is already in place; therefore, it is not new and, therefore, why would that be complex? The local authority—the local planning authority—still will be deemed to be a planning authority; therefore, that isn't new and that is something that will be used. In the interim, the other element of that is a decision made by PINS, the Planning Inspectorate, or myself, as Minister for planning; that is not new, either, and that is another function that we would continue.

[12] The only small element, as I said, is around the element of strategic planning authorities, which is, again, only partial and will not be a case of a new organisation, as such, doing new things; it will be an organisation made up of local planning authorities, which will redistribute the work that was already in place in local planning authorities. So, this isn't complex, I don't believe; actually, it is redefining the areas of work and where it will be placed, and it will be very clear for people on both sides of the organisation, whether they be developers or customers, as in communities, working within the system. So, I don't accept that this is overly complex in any way.

[13] **Alun Ffred Jones:** Mae yna feirniadaeth hefyd fod y Bil yma yn rhoi pwerau eang iawn i'r Gweinidog, ac, yn wir, mae ein hymchwilyr ni'n awgrymu y bydd angen 65 o ddarnau o ddeddfwriaeth ymhellach er mwyn gweithredu'r Bil. Mae hynny yn awgrymu, yn sicr, rhyw elfen o gymhlethdod, ac, hefyd, yn sicr yn awgrymu bod yna ganoli grym o fewn y Llywodraeth. Beth ydy'ch ymateb chi i hynny, hefyd?

**Alun Ffred Jones:** There has also been criticism that this Bill gives very broad powers to the Minister, and, indeed, our researchers suggest that we will need 65 pieces of further legislation in order to implement this Bill. That does suggest, certainly, an element of complexity, and also suggests that there is a centralisation of power within the Government. What is your response to that?

[14] **Carl Sargeant:** Well, I know the Member is very familiar with planning and the system, as he used to be, I think, the chair of planning in Gwynedd. It's a very complex process. We, very early on, understood the fact that the planning Bill and the planning system were huge, and we decided at that point to split the planning system in two. We've got the planning Bill, as we've drafted it, and we are delivering it through the Assembly currently, but we also recognised that the complexity of associated legislation around that, such as other Acts involving planning that need to be consolidated, was just too big for this Bill, and that is why we've split the planning system in two, effectively. We are bringing this Bill, and

another Government, I would suggest, whatever colour it would be, would be wise to pursue a secondary planning Bill to consolidate all of the activity around planning.

[15] Given your specific point around the 65 pieces of additional work within this Bill, we are confident, as an organisation, that we can manage that. We don't think that it's overly burdensome, but the planning system is complex. I don't think that the system we're implementing is, but I think that the detail underneath that is something that we have to do because that is what the planning system is, and we believe we can fully manage that.

[16] **Alun Ffred Jones:** Cyn gofyn i Antoinette Sandbach ddod i mewn, rwyf eisiau gofyn un cwestiwn arall. Rydych chi'n ceisio, trwy'r Bil yma, gael rhyw fath o gysondeb ar draws Cymru. Mae yna un tyst—wel, na, mwy nag un tyst—wedi awgrymu bod hynny yn llesteirio democratiaeth leol. Nid yw'n amlwg iawn sut y bydd pobl a chymunedau yn gallu dylanwadu o fewn y system yma, os bydd y Bil yma'n pasio fel y mae. Beth ydy'ch ymateb chi i hynny?

**Alun Ffred Jones:** Before bringing Antoinette Sandbach in, I just want to ask you one more question. You're trying, through this Bill, to have some kind of consistency across Wales. One witness—or, actually, more than one witness—has suggested that that would impede local democracy. It is not evident how people and communities will be able to have influence within this system if this Bill is passed as it is. What is your response to that?

[17] **Carl Sargeant:** Without understanding the detail of what the witness was seeking to point out in terms of the consistency and what particular element of this, my view, in terms of consistency is: why shouldn't we, in a small country, as the Member indicated earlier, have the capacity to do things collectively, where we have a decision-making process that goes through committee processes the same in Wales? We've got currently 25 planning authorities across Wales. There is a huge variety or variability in the way they operate. I'm really pleased that only last week, I think—it was this week or last week—the final council of the 25 planning authorities decided, on their own, to move down to a more structured approach to committee membership. That was Swansea council, where they used to have every member of the council on the planning activity. Now they have agreed, as in the Bill, to draw down to a more structured approach, as we've presented in the Bill, through their own doing. They recognise, through advice from external consultants, that this makes sense. This makes sense to have consistency wherever you are, again, for the customer and for developers. So, I don't think that we're removing any element of democracy. The community can still have their say; elected members will still have their say. This is, as I said earlier on, Chair, just new.

[18] **Alun Ffred Jones:** Yn ôl y Bil yma, ac yn ôl tystiolaeth rhai o'r tystion a oedd yn gweithio mewn llywodraeth leol, os bydd y rheolau yn aros fel ag y maen nhw, mewn rhai achosion bydd yna fawr ddim ceisiadau cynllunio yn mynd gerbron aelodau. Yn wir, mi oedd yna ffigwr isel iawn, iawn yn cael ei gynnig gan un awdurdod cynllunio os bydd hyn yn digwydd, a fydd yn golygu wrth gwrs na fydd gan yr aelodau hynny fawr ddim arbenigedd na'r cyfle i ddatblygu arbenigedd. A ydych yn derbyn bod hynny'n bryder?

**Alun Ffred Jones:** According to this Bill, and the evidence of some witnesses that worked in local government, if the rules stay as they are, in some cases there won't be much of anything in terms of planning applications going before members. Indeed, there was a very low figure being proposed by one planning authority if this happens, which will mean of course that those members won't have much expertise or opportunity to develop expertise. Do you accept that that is a concern?

[19] **Carl Sargeant:** Yes, of course. I am aware of that evidence. I think that it was RCT that brought that evidence to you. I think that it's a little bit premature, although I have a lot of time for RCT as a planning authority, but the evidence is a little bit premature perhaps because the national scheme of delegation is under consultation and therefore that is yet to be

defined. I certainly wouldn't want myself or PINS to be doing the majority of any planning decisions. I believe fully, and I am happy to place on the record, that this should be a democratic process placed as close to the ground as possible. Therefore, the current situation is that around 25,000 applications come through the planning system. I probably deal with about a dozen of them. I don't see many more or the need for any significant increase in that; it's just around the delegation details, and that's out for consultation currently.

[20] **Alun Ffred Jones:** Diolch. **Alun Ffred Jones:** Thank you. Antoinette Antoinette ac wedyn Llyr. and then Llyr.

[21] **Antoinette Sandbach:** Minister, one of the criticisms that has been is that, really, what is required is a culture change at that low level, and that you can't legislate for culture change. I take, for example, TAN 6, which was meant to provide a boost for rural businesses and the rural economy. Now, obviously, that's been ignored or applied more in a breach than in the reality. So, what do you say to the criticism that, really, you can put all of this legislation in place, but unless there is a proper culture change at the bottom, it's not actually going to change delivery on the ground for those that are trying to wade through planning?

[22] **Carl Sargeant:** The Member raises a really important point. I have been around all of Wales. I have spoken to hundreds of people within the planning system; that is, planners, elected members, developers, and consultants. We did a bit of a tour around earlier in the year. I said to everybody, 'I can create legislation; that's what we are doing. We can simplify the process as what we believe to be happening in the planning system, but I can't legislate for culture change'. What I did say to them was that if we want to have that clever Wales, they have to come on that journey with us and be the ability to make those changes.

[23] What I have put in place—and it's in the Bill—is about measurement of performance. We are looking at how local planning authorities will deliver and can deliver, and we will monitor that very carefully. If I may just finish with this point, I think that we've got some incredibly good planners in Wales, and they're delivering really well in many areas, but we have to get consistency. We have to get resilience in the service. I think, as I said earlier, 25 planning authorities across Wales probably isn't sustainable because we have to have the quality of infrastructure—and I mean development planning—within the system that gives us quality wherever we are in Wales. I don't think that we will be able to continue to have 25 very good planning authorities in Wales, and that is what we need to have: a consolidated planning system that works well for—

09:45

[24] **Antoinette Sandbach:** Well, the reality is that we are looking at the Williams commission at the moment and, I mean, I think I would be concerned if you are legislating because there are 25 planning authorities when the reality is that I would anticipate that actually we will probably be far fewer planning authorities than that. But if you cannot legislate for culture change, and that's where the change needs to happen, then why are we doing this at all? I mean, wouldn't it be better to concentrate the resources into training and delivery, and work through the existing technical advice guidance that Welsh Government can give? Instead of concentrating resources into this Bill, I mean it may well be that you want strategic development plans, but that could be an individual, short, discrete piece of legislation.

[25] **Carl Sargeant:** Chair, this isn't either/or; this is both. We are legislating a new planning system that will be fit for Wales in terms of a process system, but I accept the Member's absolute point about culture change, and how we develop that. We have the planning advisory information service going around Wales talking to planners and training with authorities currently. They are doing a lot of work and will come back to me with a

report on recommendations on how we can enhance opportunities. That is for professional officers and for local elected members as well. We have the Royal Town Planning Institute doing work with us, alongside, again about improvements in the system, so it is not a case of—. I accept the Member is absolutely right about culture shift, and how we enable planning to work better with the people operating the system. So, we need a clever system, but we need clever people to operate it, too. I believe we're doing both, and you can't have either/or. We are doing both, and are capable of doing both, but we have to take people on that journey with us.

[26] **Alun Ffred Jones:** Llyr, roeddet ti **Alun Ffred Jones:** Llyr, you wanted—  
eisiau—.

[27] **Llyr Gruffydd:** Just to pick up on the point the Chair made earlier, and which you sort of responded to in part, I think, in relation to your responsibility within the planning system, of course, one of the big concerns is that, with the national one-size-fits-all delegation scheme, then more and more decisions will be made by officers in planning authorities. The example that you were quoting is RCT, and it is eight applications that would actually have gone before the council in four months, which, you know, does raise the question around democratic accountability for those decisions. Now, I understand that there is a consultation and that you, I am sure, are articulating certain triggers that would enable councillors to deal with applications, but one suggestion by the Law Society was that an additional trigger for referral to a planning committee would be when a town or community council objects to a certain application. Is that one that you would be minded to consider?

[28] **Carl Sargeant:** Well, they're currently consultees of an application now. My concern with town and community councils—and it's something that I have taken up with the public services Minister—is that there isn't national coverage of this; there are areas that aren't covered by town and community councils. However, I do think they have an important role in this, and going back to Antoinette's point, I think people who are involved in the planning system should have at least some training in terms of what they're dealing with, not because—. Refusal of an application, there are many reasons, but because it—. This may sound—. Bear with me. Just because it's got a red door and it is next door to me, that is not a real planning activity around why it should be refused, and I think that at some levels of activity in the planning system, unless you understand it fully, then it could be quite restrictive to development in terms of opportunities for communities. I am happy with town and community councils being engaged, being involved in that process, absolutely—I think it's an important point. But I think I would have to be convinced that the professional element of dealing with such an application was conducive with the rest of the planning system. But I'm not opposed to town and community councils having an involvement in this process, as is currently in the system now.

[29] **Alun Ffred Jones:** But in reality they have absolutely no powers at all.

[30] **Carl Sargeant:** I know town and community councils that have been very active in expressing their views on applications and have been very successful in that process.

[31] **Alun Ffred Jones:** Joyce Watson.

[32] **Joyce Watson:** Minister, good morning. To pick up on the point about people having relevant training and expertise and understanding—and it comes in many forms—on that issue alone, is it not currently the case that county councillors have extensive training before they go on the planning committee? Could you, if it isn't already the case, make it part of it that anybody that sits on the planning committee has to go through that training so that they then understand what it is in front of them to make a more informed decision?

[33] **Carl Sargeant:** Absolutely. And elected members do go through a training process. Again, substitutes are something that we are looking at to make sure that all people involved in the planning system are correctly supported in the way that they do this important activity. Can I say it's about the relationship between officers and members too—about understanding the real reasons? And it is hard for a politician to say this, but taking the politics out of planning is a really important point, because we have to think about what the implications are for the greater good of our community. That's tricky, but what I'm trying to do, with the consistency where we are across Wales, getting benchmarking of where authorities work well and where they could improve—. We're working with the Welsh Local Government Association on a planning protocol where, again—not statutory, but it is something that, again, the WLGA are working with us on, establishing what elected members can and cannot do, and should and shouldn't do in terms of the support mechanisms. So, we are working with local planning authorities to make their system better, but also to enhance their training and support needs, which are required to have a professional planning service in Wales.

[34] **Alun Ffred Jones:** Okay. We'll move on to costs and benefits. Jeff Cuthbert.

[35] **Jeff Cuthbert:** Yes. Thank you. It flows from that last question, to some degree. Three practical points: the 5.7% reduction in the Welsh Government's budget for 2015-16, the impact that you think that could have on the delivery of programmes for the Bill itself and, indeed, it's been alluded to, 65 possible pieces of secondary legislation. The issue of concerns about a shortage of planners in Wales who are able to think strategically, who have the right level of expertise and ability: do you think that that is an actual issue and, if so, how do you intend to address it? Finally is whether you're considering submitting a revised regulatory impact assessment at a later stage.

[36] **Carl Sargeant:** Okay, thank you, Jeff, for your question. Look, the budget's going to be tight. We recognise from where we started in Government we've had about a 9% reduction of our overall budget in Wales. That has an impact on services, including Welsh Government's ability to deliver on their actions as well. But I am confident, and working with the team—. I can say this, because they are sitting by me, we've got an excellent planning division that works incredibly hard, and the Bill, alongside the day job, has taken an awful lot of work to get to where we are. But I'm confident we can do this. I'm confident, with the budget mechanisms we have in place, we will be able to deliver. I have to say that, not only because I believe it, but also because the First Minister expects that of me. So, we will deliver with the budget with the planning Bill and the needs that we have to do with our communities externally and our partners.

[37] Strategic planning: I think it goes back to a question I said earlier on. I am concerned about the overall picture of planning in Wales, because our ability to be able to deliver long term, strategically, is something that we have to think about. If we want a clever economy, a successful Wales, the planning system is fundamental to this process, and that's why, when we see authorities losing staff, because local planning authorities—. It's a bit of a cinderella service. It's not the service that gets additional funding because it's good to give planners more money; it's actually based generally on the economy and how the economy is building, and it's been quite weak recently and therefore there's been a reduction in some of the staff in services, which does leave some expertise void for local planning authorities. That's why I believe collaboration of services and merger of some services are absolutely the right way to go in terms of having a resilient, long-term strategic planning service. I hope that answers that question. In terms of the RIA, absolutely. We will be issuing a new RIA after the drafting of the amendments and the new Bill.

[38] **Mr Hemington:** Just in support of what the Minister's said there, in terms of strategic planning and the skills for strategic planning, that's an area that both ourselves and the planning advisory and improvement service have identified as an early priority in terms of



training requirements, and we are commissioning some dedicated training through the RTPi to look at that, which will be delivered over the next few months. So, that is a key priority for us to look at.

[39] **Jeff Cuthbert:** While I am pleased to hear the last comments—. I mean, clearly, you have to have people at that level with a uniform approach across Wales that allows for local interpretation, I accept that, and perhaps when you have greater clarity on how that training may be delivered, you could send us a note on it. Now, as I understand it at the moment, of course, with 25 planning authorities—and I accept the point that, at the end of Williams, there could be fewer than that; I don't want to guess what that number might be. But we could still have the issues that we have now where, for example, those local authorities that also are parts of national parks, where more than one planning authority could be involved and come to contrary decisions—. I assume that is part of your thinking as well.

[40] **Carl Sargeant:** If I split that into two, we've got the element of national parks and we've also got the issue of consistency and support for organisations. National parks: we have a review currently ongoing, commissioned by the previous Minister, in terms of what the role of the national park is. There's two elements of that, about what the national park is and also the function of the planning duties around that. We've asked the commission to do a little bit of work and report back to us on that. There's nothing in this Bill that would indicate that I have pre-empted that process of saying what the national parks are or are not, or any other local planning authority, to that extent. What the Bill and amendments will say is about giving a level playing field to the 25 planning authorities across Wales. So, we're looking—. Subject to further consultation and evidence, if we decided that one authority should be the planning authority for that region, whether that be a national park or a local planning authority as a local authority, then there is the ability within the Bill structure to make those amendments at a later date. But nothing in this Bill would suggest that we are merging planning authorities currently, and that is not my intent currently. We have to have the evidence to support that for the right reasons.

[41] But going back to my point about the 25 and Williams—carefully, I'd say this, because I know the public services Minister very well—I think Williams in this aspect is a little bit of a red herring. I think what we need to be able to do in Wales is to have a strategic vision around what planning services are. The economy doesn't always respect political boundaries, it's about the travel-to-work areas et cetera, and, therefore, I think we have to be a little bit more clever in the planning system about planning authorities. That's why we have in place the ability to have a strategic planning area that would cover, possibly, the city region style event of a planning system, which just makes sense. That's nothing to do with Williams at all, because, actually, that probably goes beyond Williams in terms of the city region. So, what we have to be able to do is have the flexibility to merge planning authorities. I already have the power to do that in local authorities. But we think, you know, it should be a view that we work with them. But 25 is just far too many. It just doesn't make sense in such a small country. We can do much better by working together, and have a resilient service, longer term. So, I hope that's a little bit more clear as to my intention in terms of what we are planning, but there's nothing in the Bill that is prescriptive in terms of numbers, nor is there anything in the Bill that would suggest that I am attacking any local planning authority, either in a local authority or a national park.

[42] **Alun Ffred Jones:** Joyce Watson, are you going on to national parks?

[43] **Joyce Watson:** Yes, national parks, Chair, thank you. Minister, you talk about a level playing field. I don't know exactly what you mean. And I'm a huge supporter and advocate for national parks, and I have the three in my area. I would be hugely concerned, so I need some reassurance, that what is special about national parks, and the reason that they had their designation and their particular expertise, isn't lost in this planning Bill. I would be—and I'm

going to say it—very nervous about some local authorities given power to decide on their own what should and shouldn't be in a national park, given some of the cases that have come forward in their decision-making process in the past.

10:00

[44] **Alun Ffred Jones:** Do you want to respond to that?

[45] **Carl Sargeant:** Of course, gladly. I thank the Member, and I know the Member, as many others in this committee, including myself, values the national parks and areas of natural outstanding beauty, which don't share the same designation, but I think have equal importance in terms of their place in Wales.

[46] Can I be very clear from the outset that I do not intend to change the designation of a national park? That is not my intention at all. I think the designation of a national park is really important to Wales. It's a Welsh element that we should protect at all costs. I think we can grow on that actually. I think there's an opportunity to include or to add on to the principle of what an AONB is, alongside the national park. I think we should make sure that we have protection of our landscapes. Am I convinced yet, whoever this may be, whether that be a national park or local planning authority that overlap in the same area, that either/or should be the one that is determining planning applications? I am not and that is why we have a consultation process and a commission out looking at what national parks do and how they operate. I think there is an opportunity for us to look cleverly about how we can maybe enhance the opportunity for national parks and AONBs, but also balance the issue around the planning system and how the procedures of that operate. There is nothing in the Bill, as I said—and I hope this gives confidence to the Member and others—that takes anything away from national parks in terms of their planning function currently or in the activity of this Bill.

[47] What the Bill does do, if I may, Chair, in terms of the question that the Member started with about the equalisation of process—. I currently have powers to merge planning authorities to create joint LDPs and joint planning authorities in local planning authorities. I don't have that with national parks, and yet, of the 25, they are one of the planning family; I include them in all my correspondence in terms of what they do and how they operate. All they do, in terms of national parks, is interpret policy differently to another planning authority. They are not a special planning authority—they're a very special organisation—but not in terms of the process they do. What this would do is enable all of the 25 planning authorities to be on the same legislative footing, where they could, or should, if that was the right thing to do, be merged at any point. But it doesn't in the Bill indicate that that's what we intend to do, nor does it pre-empt anything that the commission is looking at currently.

[48] **Alun Ffred Jones:** Okay. William Powell.

[49] **William Powell:** Diolch, Gadeirydd. I'd like to associate myself with the concerns that Joyce Watson just mentioned, and I'm grateful for the reassurance that you've offered us, Minister, with regard to your appreciation of the importance and special qualities of national parks. But I wanted to pick up a point that you made in your earlier answer regarding drive-to-work areas and the importance of looking at developments across boundary, because a very large number of communities in Wales sit alongside a national boundary—the English-Welsh boundary—and tens of thousands of people cross that border every day for work. Developments across boundary are very important. What are your thoughts as to how this Bill can make sure that we don't have a second class of planning in those areas that sit alongside the border, and how do you think we can safeguard sensible development on the Welsh side of the border that takes account of that porous border and the drive-to-work zones that I've just described?

[50] **Carl Sargeant:** The language the Member was used was interesting there—the second-class system over the border. I quite liked that, actually, in terms of the planning process. Unfortunately, I don't have any legislative competence over the border in terms of the planning system or any other element of this, but I think it's an important part—that we think about how we strategically plan in an area, which does take into account travel-to-work areas cross-border. As the Member is aware, I live in a cross-border constituency, right on the boundary there, and we have a lot of transition both ways. I think that, in terms of their planning system, housing, economics and social and environmental benefits, these all have to be considered in their local planning processes, but, unfortunately, I don't have any legislative competence over the border.

[51] **William Powell:** Is there a need to seek to strengthen the protocols that already exist or cross-border co-operation in a way that would tie in with the provisions of the emerging Bill?

[52] **Carl Sargeant:** I think that there are non-statutory opportunities and it is nothing that is new to areas. In the north-east, Mersey Dee Alliance works very closely together in terms of what the operation is across Chester, Merseyside and north-east Wales. I expect that there is something very similar in the Shropshire area, but there is nothing statutory that we can insist on.

[53] **Alun Ffred Jones:** Julie Morgan, do you want to—

[54] **Julie Morgan:** Yes, on the national parks.

[55] **Alun Ffred Jones:** National parks, yes.

[56] **Julie Morgan:** It was really to continue with what Joyce was saying and to echo her comments. I am reassured that the Minister has said that there are no plans to merge the national park planning functions, but, obviously, this Bill does give the possibility of merger and I wondered why that was necessary if there aren't any actual plans to merge. I share the view that the national parks are absolutely unique, and having planning powers for the national parks, I think, is important because I think that it is possibly more difficult to determine planning applications in an area that is designated as a national park. So, I'm also concerned about the one-size-fits-all idea. I don't know whether you've got any comments on that.

[57] **Carl Sargeant:** Yeah, of course. I've had long conversations with the national parks regarding this very issue and they are working really well with us in terms of the commission that we have in place about what the national park function is. I've got a team that have been out to work with them and with other stakeholders about what the operation is. I share the Member's concern and I share the Member's view that what we can do with the national parks—the national parks' identity is really important to us and their function and what they do is really important. I think that we can grow that; I think actually that we can enhance what they do, and, how can we move, as I said earlier on, to the AONB processes, what is it that the value of the national parks and the AONB, and yet there are very different designations and protections surrounding that—. Is there something together that we can work on to enhance the opportunities there?

[58] I'll just go back to the planning function. I think that this is a process. I also recognise the Member's concern about this. On interpretation, whether a planning officer is in Cardiff or whether a planning officer is in the Brecon Beacons, the interpretation of a professional planning officer of policy should be one of their professional capacities. I think that either/or could interpret national park policy wherever they are from. We often see officers moving between authorities—planning authority and local planning authority and a national park. So,

this is about interpretation. I'm saying that I need to be convinced of the reason why we need two in the same area. Why do we have two authorities presiding over the same area and making decisions on an application? It's duplication of a process.

[59] **Alun Ffred Jones:** Can I interrupt you there? Because of the boundaries, there is no duplication, in the sense that either it is determined by the national parks or it is determined by the local authority. Why are you talking about duplication or what do you mean by 'duplication'?

[60] **Carl Sargeant:** There's a consultation process where both planning authorities would have a view on an application in the same area. Now, it seems to me that the actions of—. If we believe that a planning authority is acting professionally and as a planning authority, then it seems to me a bit odd that we are asking two to consider this. There have been processes where an application has been considered by both groups of individuals where they come to a different conclusion.

[61] **Alun Ffred Jones:** Perhaps you could send us a note on examples that will illustrate that.

[62] **Carl Sargeant:** Indeed.

[63] **Alun Ffred Jones:** Just before I finish on this—sorry—

[64] **Mr Hemington:** Sorry, I was just going to say, in terms of planning policy, areas of outstanding natural beauty and national parks have exactly the same status, so they are both protected landscapes and treated in exactly the same way. The difference is that the planning service is delivered in a different way: one is through the county council in the case of areas of outstanding natural beauty, and through the national park authority in the case of national parks. We specifically looked at this issue in terms of planning outcomes through the research that we undertook with land use consultants, and that research basically found that both models delivered the objectives of the policy. So, on the policy in relation to areas of outstanding natural beauty, which is delivered through county councils, the quality of the decision making is exactly as good as the national park authorities'. So, the idea that a council can't make those policies has been, sort of, disproved—or to make those decisions—by that piece of research.

[65] **Alun Ffred Jones:** Well, I'm not sure where we're going with this. We seem to be getting entirely—. I'll allow Antoinette, and then you, if you want to come back, Joyce.

[66] **Antoinette Sandbach:** Well, I wanted to pick up on the AONBs, because there seems to be a suggestion that that planning function may either move to the national park authority, or the national park planning function might move to the local authority where it was in that local authority. I'm concerned about that because, of course, the parks span a number of local authority boundaries and one local authority may take a decision that impacts on another local authority area planning decision within the national park. So, given that your research says that local councils are carrying out AONB assessments effectively, if it ain't broke, why fix it? I mean, you seem to be indicating that your research says, 'Both are working well; the designations are applied appropriately'. I have to say, evidence—. I know there are a lot of complaints about AONBs, but that's another thing. So, why—I think I'll pick up on what Julie Morgan said—are you trying to look at potentially merging the parks authorities?

[67] **Carl Sargeant:** You picked up an important point: both processes are effective. AONB, local authority, national park—they're effective principles but the designation is the same. The way they operate is very different in terms of their actions. With what I've said—

and we go right back to the discussions we had at the start of committee about the resilience of service across Wales—we currently have 25 planning authorities doing planning function. So, it would be unfair to suggest that—and it hasn't been, but I know it will be at some point—that only decisions in a national park could be determined by a national park authority because they're better somehow, rather than a local planning authority doing the same function as an AONB.

[68] **Antoinette Sandbach:** I don't mean to interrupt you, Minister, but I think the suggestion is that the national parks authorities are more, or as, effective, because they have the overview of the whole park, whereas if it goes to a local authority it may only have an overview of part of the park, and I think that's where the distinction is. Of course, each of the parks has been designated in that manner because it has unique characteristics to that particular national park.

[69] **Alun Ffred Jones:** I'm sorry, I'm going to curtail this discussion at the moment. I must admit, Minister, I'm a bit confused. You seem to be suggesting that the system is working perfectly—that is the evidence. So, why are we discussing, why is there any mention—? Why is the Bill, sort of, allowing you the opportunity to merge, presumably, if you don't intend to do so? It seems very confusing, that's all.

[70] **Carl Sargeant:** Well, I wouldn't want to be misinterpreted there, Chair, in any way. I said that the system in Wales as a whole, of 25 planning authorities, could work better, and that national parks, for me, are part of that planning family. The Bill doesn't indicate any merger at all—in the Bill. In fact, it'd be a Government amendment that would be laid that would support the principle of all planning authorities being laid on the same legislative footing. No plans for a merger; there is nothing in the Bill—in amendment, or currently—that would suggest otherwise, so I would like to be clear on that point.

[71] **Alun Ffred Jones:** Right, okay. I just want to go back to one point about—I'm sorry—the cost. Some of the evidence suggests that the new Bill could incur costs that will increase the burden on local authorities and on the planning system in general. We are facing a situation—. Take Natural Resources Wales as a specific example: reducing budgets, reducing staff. The future generations Bill will impose certain duties on NRW to take part in whatever number of local plans there will be, and then you've got the planning Bill, where, again, NRW will have to be consultees on a number of applications. Do you think they are capable of meeting those demands, despite this reduction in budget?

10.15 a.m.

[72] **Carl Sargeant:** Indeed. I've met them most recently in the last two or three weeks and had that very conversation about preparation for new legislation plans. I've also met the Planning Inspectorate chief executive to ask the very same question as well: are you prepared for the new planning Bill and that process? As I said to your very opening question, Chair, I don't think this is about additionality and additional burdens; I think this is about reprofiling the system and making it clearer for people who use it. I think, for NRW, which are already consultees in many cases, it will just be at a different place in time that some of the consultation process takes place. It's not a case of new work; it's just shifting when they do that. It's the same for PINS, and certainly my department. I think the costings that we've laid are accurate. We will be introducing a new RIA, as Jeff alluded to, but all these organisations that I have spoken to, they have not indicated to me that this is a financial burden that they cannot manage.

[73] **Alun Ffred Jones:** Okay. On to statutory purpose. Jenny Rathbone.

[74] **Jenny Rathbone:** You said earlier that you that you wanted to—[Inaudible.]—

planning, and look at it in terms of the greater good of the community. Obviously, I agree with that, but I just wanted to raise the point about the proposal by some organisations to give the Welsh planning system a statutory sustainable development purpose. This was raised in the independent advisory group's report, to provide clarity about what the planning system is all about: the regulation and management of development, and use of land in a way that contributes to the achievement of sustainable development. Could you just comment on why you don't think that's necessary as a way of linking it strongly to the future generations Bill?

[75] **Carl Sargeant:** I think, without the future generations Bill, I may be convinced of the argument, but I think, by the introduction of the future generations Bill, that encompasses that whole process. I suppose I'm fortunate—or unfortunate, I'm not quite sure—that I hold the ring for the future generations Bill as well, but actually, it may be better placed—I carefully say this—with the First Minister, as he's the overarching manager of all of Government. I think the future generations Bill sits absolutely firmly in the principle of all legislation, including the planning Bill. I did write to committee earlier this year with some infographics around how they liaise and how the Bills liaise. I think the statutory purpose element of that, of the sustainable development process, sits very firmly in the principle of the future generations Bill, and that's where the Bill, in planning terms, lies with that. Therefore, the need for a statutory purpose as a fall-back position or a position for the Bill is something that I don't recognise is needed at this point in time.

[76] **Jenny Rathbone:** Okay. This has been raised by various groups of witnesses with a concern for the environmental aspects of planning, and the UK Environmental Law Association, for example, said that positive land-use planning, which is the wording that the Government's using, is not the same as sustainable development. Could you just clarify what you think of how positive land-use planning should be interpreted, and whether it could be misinterpreted to not be about sustainable development?

[77] **Carl Sargeant:** An interesting point on lawyers having an interpretation: you can probably ask many lawyers and they'd all have a different interpretation, almost. Sitting next to one is not really helpful, sometimes, in terms of saying that too close. Can I say, really, we understand what we mean by sustainable development and positive land-use planning, and we believe it is about enabling development in a sustainable way? That's clear to us. It's clear within the Bill in how it's defined, but I do accept that there will be different interpretations, particularly in the legal field, about what this means and what it doesn't mean. If we take this back into how it actually operates, something that Antoinette and I share a view on is in terms of how planning teams interpret policy, and about consistency around that. That's what we really need to do.

[78] So, we've got the narrative of what this is, but actually, how do we interpret this on the ground, which is really important? This is a structural approach to change, but actually it's about interpreting the policy, which sits outside this Bill, into action, and I think that's important. I recognise the view of one of the legal submissions that you've had, but I'm sure there are many other legal interpretations, too, that would be contradictory to what their view is, but we're very clear on what we mean.

[79] **Jenny Rathbone:** Okay. You can see how positive land-use planning could be interpreted by somebody who wants to concrete over the countryside on the grounds that it's going to provide jobs.

[80] **Carl Sargeant:** I recognise that, but I also recognise that we have safeguards in place in terms of our policy directive that are about interpretation by professional planners and elected members to make sure that that doesn't happen and it's interpreted correctly. We provide an awful lot of guidance. Unfortunately, we're told often that we provide—. When it's difficult, they say, 'Can we have more guidance?', but when it's not too difficult, they

say, 'We've got plenty of guidance'. We provide a lot of guidance on what we mean. We're very clear on this.

[81] **Mr Hemington:** Just on that point, we have provided the committee with some ideas around how the future generations Bill and planning policy will work together through the planning policy prospectus. We looked similarly at the development plan system, and demonstrated how the future generations Bill will influence the planning system going forward.

[82] **Alun Ffred Jones:** Thank you. Joyce Watson: links with other planning regimes.

[83] **Joyce Watson:** First question: why, Minister, do you think it's not considered necessary to have a direct requirement in the legislation for each of the three tiers of development plans to have regard to the outcome of natural resources planning?

[84] **Carl Sargeant:** The way the plans are developed and the way those processes are developed will have regard to the natural resources usage. It's the way they are created. We don't believe that there is a statutory duty to say that; it's just the way they operate. That's how you create a plan in order to have an effective plan. It will be a consideration—and not just natural resources. There will be lots of other aspects of creation of the plan, which will have to be taken into consideration to have a credible plan.

[85] **Joyce Watson:** Okay. I'd also like to know how natural resource policy and any national environmental goals resulting from the Environment (Wales) Bill are going to feed into the preparation of the national development framework.

[86] **Carl Sargeant:** I think it's section 2 of the Bill that makes provision so that the national development framework must set out the policies for Welsh Ministers in this process. As I said earlier, the natural resources planning will play an important part of the evidence base for creation of the plans in the NDF, and there'll be scrutiny processes around that, too, in terms of making sure there's proper regard for the evidence in that. So, the prospectus that we provided in the additional information that we gave to committee shows where the three Bills are—the environment Bill, the planning Bill and the future generations Bill—and how they'll react with each other. We believe the actions within the environment Bill, when that comes through, will have a strong emphasis on what considerations are made through the planning system and the planning tiers that are in place. So, we believe that's all in the structure, already developed.

[87] **Joyce Watson:** Will there be a statutory requirement, Minister, for strategic development plans as well as local development plans to have regard to local wellbeing plans?

[88] **Carl Sargeant:** Yes, in the future generations Bill, there is a link between LDPs and the wellbeing plans, and therefore the SDPs will have a direct link between the LDP. So, there is a legal provision in the future generations Bill.

[89] **Mr Hemington:** Just to reinforce what the Minister said, section 2 of the Bill, which deals with the national development framework, includes a requirement for the NDF to set out policies of the Welsh Ministers in relation to development of use of land in Wales. That could include natural resource planning and natural resource goals.

[90] As far as SDPs are concerned, section 5, and, as far as LDPs are concerned, section 62 also say that they must have regard to current national policies. So, with natural resources planning and the goals of national policies, you must demonstrate as part of that process how you've addressed those particular issues. There is also an important link to the area-based

approach, as well, as part of natural resource planning. So, we feel that we've already covered those particular linkages as far as natural resource planning is concerned and as far as any other policies of the Welsh Government are concerned.

[91] **Joyce Watson:** My final question in this area is: why are there no specific requirements on the face of the Bill, linking the revised development plan hierarchy to statutory transport planning and also marine planning?

[92] **Carl Sargeant:** There's a very wide-ranging process in terms of plans being considered when you're developing a development plan, an LDP or an SDP. We don't believe we should be specific in that guise, in terms of making these statutory processes within that, because we need some variability to consider many other actions within the planning system. I think it's an important question. I will give that further consideration and drop a note to the committee at a later date, if that's okay, Chair.

[93] **Mr Hemington:** I think the way we've dealt with these sorts of relationships in the past has been through guidance, where we have described in detail the sorts of policies that should be taken into account in these various plans, because there does tend to be a change in the policy over time. There also can be situations where people have paid different regard to different policies, so you explicitly mentioned a particular policy, and that one is considered through the plan-making process. There might be something equally as important that isn't specifically mentioned and is seen of less importance. So, historically, when we've looked at these sorts of issues through planning legislation, we've dealt with generic terms like 'policies of Welsh Ministers', to cover all policies rather than specifically identifying particular policies, which may be relevant at a point of time and may change in the future.

[94] **Alun Ffred Jones:** But we're not talking about policies here. We're talking about statutory plans, aren't we? So—

[95] **Mr Hemington:** We deal with them in the same way—at the moment.

[96] **Carl Sargeant:** On marine planning, for instance, there are elements of marine planning that we have competency over, and there are elements that we don't. Things may change regarding Silk and St David's Day. Who knows what powers we may have, but that may be a case in point in time. If we had the Bill in place, that wouldn't be on the face of the Bill if new powers came forward. What we're saying is that guidance gives us flexibility to make those amendments and considerations of equal opportunity in the process of guidance underneath the statutory legislation—the Bill element of this aspect.

[97] **Alun Ffred Jones:** If the purpose of the Bill is to clarify the planning process and to make it simpler for applicants and the public, I suppose, wouldn't it be wiser to have regard to specific elements like the marine planning and so on, which can be, or could be, very relevant?

[98] **Carl Sargeant:** Yes. There are aspects that are critical to the framework of the Bill, and that's what the Bill is: a framework Bill. There will be, as is currently the provision, lots of detail in the guidance aspects of this, and that's what we consider these elements around transport and marine, having the flexibility within guidance, as issued currently, to continue to have. So, we're not proposing anything new, effectively; we're just suggesting that that's the best vehicle to do that, but I will give that further consideration. The Member's got an important question.

[99] **Alun Ffred Jones:** Before we move forward, William Powell, do you want to come in?



[100] **William Powell:** Diolch, Gadeirydd. Minister, another important aspect of successful planning is surely expectation management, and also issues around the deliverability of particular planning projects. In this context, would it be wise to take more regard of the comments and input, and the future planning of our utility companies, particularly Dŵr Cymru Welsh Water, and, in certain parts of Wales, Severn Trent Water? I've had some representations made to me at a fairly senior level over the recess that, at the moment, particularly Dŵr Cymru Welsh Water feels that its voice is often not properly heard in terms of current local planning arrangements, and sometimes their views are disregarded, and this can sort of stack up problems for the future. Alongside the transport planning that's been referred to, I think it would be important to consider giving Dŵr Cymru maybe a statutory consultee role and to take that on board. I'd appreciate your thoughts in that regard.

[101] **Carl Sargeant:** Yes, indeed. You know, the best way to secure good planning is to plan. That's the whole purpose of this. You know, we're trying to create an environment where we have long-term strategic planning opportunities. We understand where some of the larger-scale developments will be, where local development plans are considered long term, to understand giving communities security and understanding about what the long-term opportunities are. I think the Member raises an important point about what are consultees and where do they lie in the system, and the issue around Welsh Water or other. Considering whether they should be statutory consultees in this process is something that we are considering, about where they sit in this. The utilities play an important part in this, and it is certainly something that we are considering in more detail.

10:30

[102] **Alun Ffred Jones:** Llyr Gruffydd. Yn Gymraeg, ie?

**Alun Ffred Jones:** Llyr Gruffydd. In Welsh, yes?

[103] **Llyr Gruffydd:** Ie, diolch yn fawr. Fe wnaf ofyn cwpwl o gwestiynau, os caf i, ynglŷn â'r dystiolaeth yr ydym wedi'i derbyn fel pwyllgor ar yr angen i gynnwys yr iaith Gymraeg ar wyneb y Bil. Fe'n hatgoffwyd ni mewn un sesiwn penodol, wrth gwrs, nad gofyniad, efallai, i'r Gymraeg fod uwchlaw pob ystyriaeth arall o reidrwydd yw'r hyn sy'n cael ei ofyn amdano, ond cryfhau sefyllfa'r Gymraeg yng nghyd-destun y broses o gydbwyso'r gwahanol ystyriaethau pan fydd yn dod i wneud penderfyniadau cynllunio. A gaf i ofyn a ydych wedi cael cyfle i ystyried y posibilrwydd o edrych ar gryfhau statws y Gymraeg o fewn y drefn yn y Bil?

**Llyr Gruffydd:** Yes, thank you very much. I'll ask a few questions, if I may, on the evidence that we've received as a committee on the need to include the Welsh language on the face of the Bill. We were reminded in one specific session that, perhaps, it is not a requirement for the Welsh language to be above every other consideration that is being asked for, but the strengthening of the position of the Welsh language in the context of balancing the different considerations when it comes to making planning decisions. Can I ask you whether you've had an opportunity to consider the possibility of looking at strengthening the status of the Welsh language within the Bill?

[104] **Carl Sargeant:** Thank you for your question. Indeed, my team have been doing extensive work with organisations and individuals to look at opportunities to include the Welsh language within the Bill, and I'm still very open to suggestions in terms of opportunities there to strengthen considerations about what we can include in the Bill. We already have started to think about some amendments to table at a later stage. I will share them with committee at the appropriate time, when we are confident of the drafting. It is something on which I know that organisations like Dyfodol i'r Iaith and Cymdeithas yr Iaith, and other organisations and individuals that we've spoken to, have been very helpful, in the way that we can construct and articulate through legal terms the ability to enhance the Welsh language and its consideration in development across Wales. It is something that we've given

very serious consideration to and we'll be introducing some legislative amendments at the appropriate stage.

[105] **Llyr Gruffydd:** Diolch i chi am yr ateb hwnnw. Un awgrym sydd wedi cael ei wneud gan Gymdeithas y Gyfraith, yr oeddwn i'n ei ffeindio'n rhywbeth sydd yn werth ei ystyried, yw edrych ar ddefnyddio cynlluniau datblygu strategol, neu ardaloedd datblygu strategol, yng nghyd-destun ieithyddol hefyd. O bosib byddai hynny, efallai, yn rhywbeth y byddai'n werth ei ystyried. Nid wyf yn gwybod a oes gennyh chi unrhyw ymateb i hynny.

**Llyr Gruffydd:** Thank you for that response. One suggestion that has been made by the Law Society, which I found to be something worth considering, is to look at using strategic development plans, or areas of strategic development, in a linguistic context as well. Perhaps that is possibly something worth considering. I don't know whether you have any response to that.

[106] **Carl Sargeant:** I did see that submission and I suppose the bit that concerns me about that is about the consistency of where we—. I think the Welsh language is valuable wherever you are in Wales, and what concerns me is if we're being strategic and so we only align it to a certain area. I can see some benefits from that, of course, but I think I would like to see consistency and growth wherever we are. I think the Welsh language is owned by all of Wales. So, I would probably resist the issue of being specific to an area. I think it should be based on the principle of planning: where we are in terms of growing opportunity for the Welsh language, and, more importantly, that it's not damaging to the community in terms of development. That's why I probably resist the principle of what they're suggesting at that point, but we have got other ideas.

[107] **Llyr Gruffydd:** Yr awgrym, felly, ydy eich bod yn edrych am ryw fath o bolisi cyson ar draws Cymru, efallai, yn hytrach na chanolbwyntio—

**Llyr Gruffydd:** The suggestion, therefore, is that you're looking for some kind of consistent policy across Wales, perhaps, rather than focus on—

[108] **Antoinette Sandbach:** There's no translation.

[109] **Alun Ffred Jones:** No translation?

[110] Cyfieithu? Tria fo eto.

Translation? Try it again.

[111] **Llyr Gruffydd:** Yr awgrym, felly, yw'ch bod, efallai, yn ystyried polisi cyson ar draws Cymru, yn hytrach na thargedu, efallai, gwahanol lefel o bwysau ar y Gymraeg mewn gwahanol rannau o Gymru, gan adlewyrchu, efallai, lle mae'r Gymraeg yn iaith gymunedol fyw.

**Llyr Gruffydd:** The suggestion, therefore, is that you perhaps consider a consistent policy across Wales, rather than targeting, perhaps, different levels of pressure on the Welsh language in different areas of Wales, reflecting, perhaps, where the Welsh language is a living community language.

[112] **Carl Sargeant:** I think the planning Bill is only part of this, isn't it? I think the First Minister, who leads on the Welsh language, has recently made an announcement of significant investment to support training and activity around the Welsh language. We see the planning system as fundamental, but only part of the process to grow the Welsh language. But it's not also the big fix for everything either. So, it's part of the jigsaw. We believe that we can enhance that opportunity, through things that we can do through amendments, but I see what we need to do is have a more generic approach to all of Wales, as opposed to very specific areas that should be protected, for want of a better word. I think we should be more generic and enhance that and build that into the planning system. I think that's a good idea.

[113] **Alun Ffred Jones:** Un arall.

**Alun Ffred Jones:** One more.

[114] **Llyr Gruffydd:** Un arall ynglŷn â rôl y comisiynydd iaith: a ydych chi'n barod i ystyried gwneud y comisiynydd iaith yn ymgynghorai statudol ar gyfer ceisiadau—wel, ar gyfer ceisiadau mawr, beth bynnag?

**Llyr Gruffydd:** One other question about the role of the language commissioner: are you ready to consider making the Welsh language commissioner a statutory consultee for applications—well, for major applications anyway?

[115] **Carl Sargeant:** That may be one of the suggestions that we're thinking about.

[116] **Alun Ffred Jones:** Diolch yn fawr am ymateb, ac edrychwn ni ymlaen i weld beth fydd y gwelliannau gerbron.

**Alun Ffred Jones:** Thank you very much for responding to that and we look forward to seeing what the amendments will be.

[117] Antoinette Sandbach, on the national development framework.

[118] **Antoinette Sandbach:** Minister, some of the evidence that we had expressed a great deal of concern about the ability of the public to feed into consultation on the national development framework, and whether or not that process is adequate. I mean, planning is a very complex area, particularly for general members of the public who may not understand on the first reading what the proposals are for their area. Have you looked at whether or not it's adequate at the moment, and whether or not you would, for example, lengthen the ability for them to feed into the process?

[119] **Carl Sargeant:** I recognise the complexity of the planning system. I think it's really important that we have a process that is transparent and gives people the opportunity. I'm sure the Member is also very aware that trying to get people engaged in the planning system is very difficult unless it's actually a direct influence on them. I think local planning authorities struggle with this on LDPs, et cetera, as Governments would do too. I think what we are keen to ensure is that the public and the public consultation arrangements around the Bill are adequate enough to reflect the opportunity for people to engage in the process, should they wish. I'd like to go further and say, 'You must', but, I can't. So, you know, it's about giving people access to do that.

[120] **Antoinette Sandbach:** But, I mean, what is the process that's going to be followed to identify sites, because, obviously, as you said, it's only when people realise something's going to take place on their doorstep that they want to get involved? But, if they don't know that a site has been identified, they're not given that opportunity then to engage. Just saying, 'We've got this big plan and this is the whole of Wales', for example, doesn't give local people that buy-in, so what's—. Because, I don't see the processes on the face of the Bill that will be used to identify the sites of the NDF.

[121] **Carl Sargeant:** Very similar to the LDP process, as I said earlier. What we've tried to do in this Bill as well is find cute ways of engaging people better. One of those issues is around pre-application, pre-application consultation et cetera, which I'm sure you may have questions on, but, again, this is about—. It's really hard. You can publicise all you wish, but if people won't engage in that process, it's really difficult. I think what we're saying is we want to be as open as we possibly can, to give people the information there, but I can't make people read this.

[122] **Antoinette Sandbach:** No. I understand that, but—

[123] **Mr Hemington:** Sorry. I think we are clear ourselves as well. We're taking, with the national development framework, the opportunity to identify a site and we're very clear that

we'll need to go beyond a traditional consultation if we're to go down that step, so there will need to be much more focused community engagement around any particular sites that are identified. We recognise that that will need to take place.

[124] **Antoinette Sandbach:** So, how are you proposing to put that in place?

[125] **Mr Hemington:** Through the process of preparing the national development framework.

[126] **Antoinette Sandbach:** Well, that's a circular answer. I'm sorry; that doesn't actually—. When you say there's a need for greater local engagement, you know, there are some very ineffective community councils in the same way that there are effective ones, and there are some that never tell local residents what's proposed for their local area. So, if you do want to engage people, how are you going to do it? Saying, 'We're going to have a consultation—'.

[127] **Carl Sargeant:** This is as much your job as it is mine, Chair. [*Laughter.*]

[128] **Antoinette Sandbach:** I know; I'll help.

[129] **Carl Sargeant:** We will set out—. Developments of national significance, et cetera, are set out in the NDF, so that'll be subject to public consultation and also subject to Assembly scrutiny, should you wish to do so, which will be as much a part of my role in terms of definition and explanation to our communities as it is yours, effectively.

[130] **Antoinette Sandbach:** Okay, so—

[131] **Mr Thomas:** Just to add, there's provision in the Bill that does allow for statements of public participation to be created, which will set out the form of how the consultation will take place, when the consultation will take place and that will also aid and assist people to be able to engage in the process—

[132] **Alun Ffred Jones:** But, is that the intention?

[133] **Mr Thomas:** Yes, yes.

[134] **Carl Sargeant:** It's in the Bill.

[135] **Mr Thomas:** Yes, it's section 2: 60A.

[136] **Antoinette Sandbach:** Well, I understand that, for example, there's reference to a statutory consultation period of 12 weeks on the NDF, but that's not actually on the face of the Bill and, therefore, it's not statutory. Is 12 weeks long enough? I mean, you know, when you're trying to get that information out to people, is 12 weeks long enough? And if there's a process, for example, where experts are engaged to identify sites that are relevant to the NDF, does that give enough time, really, to allow people to instruct their own experts or to get together a group?

[137] **Carl Sargeant:** I'm happy to listen to the committee's view on this, but, you know, 12 weeks is a standard process that consultations of good practice—. We will continue to do so; there's no reason why we would depart from that. But, if committee is suggesting that that should be longer or shorter, then I'm interested.

[138] **Ms Dawson:** If I can just add to that, 12 weeks is the standard period for consultation, I think, in the Welsh Government's public policy on consultation—

[139] **Alun Ffred Jones:** LDPs take forever. I mean, 12 weeks is nothing compared with the process that the LDPs go through, and yet this is probably more important, because it will set the pattern, won't it?

[140] **Carl Sargeant:** Well, I wouldn't say 12 weeks was 'nothing', Chair, but, certainly, 12 weeks is a starting point, which I'd be interested to have your view on if you think it should be longer.

[141] **Llyr Gruffydd:** I just wanted to ask, because there's a difference between consultation and Assembly approval, isn't there? You said earlier that the NDF is a rebrand and a refresh of the Wales spatial plan, but, of course, the spatial plan had to be approved by the Assembly, whereas here of course it doesn't, in effect. You need to maybe have due regard to or regard to the views of the Assembly, but there is no requirement on you to explain whether or why you accept those views. So, there is a difference there, isn't there?

[142] **Carl Sargeant:** Well, there isn't a requirement on me to accept that, but nor is there not a requirement on you to scrutinise, and it is a point of whether that be—. I would not dare to tread on the toes of the Presiding Officer, but, I mean, if it's the will of the National Assembly to scrutinise that process, then that is a matter for them and not for me, really.

[143] **Llyr Gruffydd:** But, scrutiny and an actual decision by the Assembly to adopt the NDF are two very different things.

[144] **Carl Sargeant:** I accept that, but also Ministers always reflect carefully on committee reports and reports that are made by the Assembly.

[145] **Antoinette Sandbach:** We know that, quite often, you reject recommendations as well as accept them, so—.

[146] In terms of the 60-day period, we have had quite a lot of evidence that that isn't adequate and, indeed, the experience of the Scottish Parliament has shown that that is not adequate. There has been a suggestion that, well, certainly 100 days would be a kind of minimum period. Are you willing to look at that, Minister?

[147] **Carl Sargeant:** Well, I've seen the evidence that's been submitted to yourselves as well. We've been keeping a very close eye on the evidence. I am only aware of one organisation that may have introduced the question around the 100 days and that is the RSPB, I am led to believe. If the Member has any other organisations that have said that, then I'd be interested in hearing that, but I'm not aware of—

[148] **Alun Ffred Jones:** A committee of the Scottish Parliament also said that it was a longer period.

[149] **Carl Sargeant:** I'm grateful for the clarity there, Chair. But, I'm not aware of any reasoning behind that, other than, 'We'd like some more time'. As I said, Chair, I'm more than happy to listen carefully to recommendations of the committee as to whether they should be furthered in terms of the timeline or not.

[150] **Alun Ffred Jones:** I've chaired this very badly, and there are lots of areas that we haven't covered. My fault. So, we need to concentrate our questions, briefly, so that I can at least—. If there is additional material that you want to question the Minister on, then we can send him written questions. So, I've got through all this; I want to move on, unless you have a very pointed question on this now.

[151] **Antoinette Sandbach:** No, only on the NDF.

[152] **Alun Ffred Jones:** Yes.

[153] **Antoinette Sandbach:** Will it incorporate environmental constraints as well as areas of opportunity for development?

[154] **Carl Sargeant:** Can I ask Dion to respond to that? Is that possible?

[155] **Mr Thomas:** Yes, I think the NDF won't necessarily have designations of environmental constraints in it, but it will form an evidence base in terms of environmental policy to inform the plan.

[156] **Alun Ffred Jones:** Llyr, cynllun **Alun Ffred Jones:** Llyr, is this on SDPs? SDPs, ai e?

[157] **Llyr Gruffydd:** Ie, cynlluniau datblygu strategol. Mi gyfeirioch chi yn gynt, wrth gwrs, at y ffaith y bydd y byrddau datblygu strategol yma, neu dau ohonyn nhw beth bynnag, yn adlewyrchu'r dinas-ranbarthau. A allwch chi esbonio ychydig ynglŷn â natur y berthynas rydych chi'n ei rhagweld rhwng byrddau'r dinas-ranbarthau a'r paneli datblygu strategol?  
**Llyr Gruffydd:** Yes, strategic development plans. You referred earlier to the fact that these strategic development boards, or two of them, at least, will reflect the city regions. Could you explain a little bit about the nature of the relationship that you foresee between the boards of the city regions and the strategic development panels?

10:45

[158] **Carl Sargeant:** There's nothing statutory about the process. These are boards that won't cover all areas. There won't be city region boards in some of the areas, I expect, but I would expect there to be a relationship between the two. It's about understanding, when you're making a strategic plan, using all the information available to you, to create an effective plan. That would be included in the city region, I would expect, too, but there is nothing statutory in the Bill to suggest that.

[159] **Llyr Gruffydd:** Rydych chi wedi ein hatgoffa ni yn eich ateb y bydd yna rai ardaloedd o Gymru lle na fydd cynlluniau datblygu strategol, ond wrth gwrs mae rhai pobl o'r ardaloedd hynny wedi rhoi tystiolaeth i ni yn dweud bod ganddyn nhw faterion strategol sydd angen delio â nhw—pethau fel niferoedd tai, ac yn y blaen, efallai, mewn rhai ardaloedd. Sut ydych chi'n rhagweld y byddan nhw'n gallu delio â'r rheini heb gael cynlluniau datblygu yn y paneli datblygu strategol?  
**Llyr Gruffydd:** You've just reminded us, in your answer, that there are some parts of Wales where there won't be strategic development plans, but of course some people from those areas have given evidence to us saying that they have strategic issues that need to be dealt with—things like housing numbers, and so forth, in some areas. How do you foresee that they will be able to deal with those without having strategic development panels?

[160] **Carl Sargeant:** Well, there's nothing prohibitive about having a strategic development plan. We're saying that you can't—. We're not saying that it would be bad for an area. North Wales is a good example, actually. We probably—. My view is, in terms of the demography, or just the operation across east and west, whether there is enough mass to have a strategic development plan is questionable, but I know that they do have considerations about how they plan other things—transport et cetera. So, if they were to come to us and suggest, 'Look, we, as a collective of six'—or whatever that may be—'think that we could

have a strategic development plan and work on that together', on housing numbers and other elements that would be helpful in the development of their communities, that is something that we'd consider. But the first point is that this would be a directive from the Minister to a body of one or more local authorities to suggest we would like them to come together with a strategic development plan for that area. So, it works both ways—there is ministerial direction, invitation, or I wouldn't suggest it is prohibitive for organisations to come forward themselves to suggest that it would be the right thing to do as a local/regional area.

[161] **Llyr Gruffydd:** Ac mae ad-drefnu awdurdodau lleol hefyd yn mynd i olygu bod yr awdurdodau cynllunio'n fwy a mwy strategol, o bosibl, beth bynnag. Felly, mae hynny'n rhan o'r ystyriaethau, am wn i.

**Llyr Gruffydd:** And local government reorganisation does mean that planning authorities are increasingly strategic anyway. So that will be part of the considerations, I suppose.

[162] Cwestiwn olaf ar y cynlluniau datblygu strategol, neu'r paneli, efallai, yn benodol. Yn amlwg, rydych wedi clywed y dystiolaeth ynglŷn ag atebolrwydd democrataidd, a'r awgrym y bydd traean o'r paneli hynny yn anetholedig. A ydych chi wedi cael cyfle i ystyried, efallai, a fyddwch chi'n newid yr argymhelliad sydd yn y Bil ar hyn o bryd i sicrhau, efallai, bod y traean hwnnw yn cael ei gyfethol, er nad oes ganddyn nhw bleidlais ar y paneli?

A final question on the strategic development plans, or the panels, perhaps, specifically. Clearly, you've heard evidence about democratic accountability, and the suggestion that a third of those panels will be unelected. Have you had an opportunity to consider, perhaps, whether you will change the recommendation that is in the Bill at the moment to ensure, perhaps, that that third is co-opted, even though they don't have voting rights on the panels?

[163] **Carl Sargeant:** If the committee would like to make a recommendation to me, I will give that further consideration.

[164] **Alun Ffred Jones:** Okay. I will jump to Russell George now on developments of national significance.

[165] **Russell George:** Thank you, Chair. Minister, I wonder if you are confident that there is enough, or adequate, resource within Welsh Government to deal with this new type of application.

[166] **Carl Sargeant:** Yes.

[167] **Russell George:** Thank you. Earlier on, in your answer to the Chair, you made comments that you had discussed the Planning (Wales) Bill and the legislation with Natural Resources Wales and the Planning Inspectorate as well. I wondered if you had specifically discussed this type of application with them, and whether they also felt they had enough resource available to them to deal with this type of application.

[168] **Carl Sargeant:** I have, and I also confirm that they've never raised with me concerns about the financial or other capacity of the organisation to deal with these issues, either.

[169] **Russell George:** Okay, thank you, Minister. There is an argument that has been put to us by witnesses that not having definition of developments of national significance on the face of the Bill could lead to a future Welsh Government expanding their proposed definition to justify its introduction. I wonder if you would give a response to that view.

[170] **Carl Sargeant:** I don't think that's necessarily correct. I think that it is very clear what we mean by DNS. There will be a consultation process around this. Again, having the flexibility, because of new technology and different categories et cetera, what may come

through in the future is still unknown, but it would be through a consultation process that would have to be amended to change the DNS procedure. So, I don't think—. It gives us enough flexibility to make amendments, but also gives clarity on what DNS means as an overarching title.

[171] **Russell George:** Okay. The Bill doesn't provide any option for applications of development of national significance associated development to also be made to Welsh Ministers. By associated development I mean, for example, a number of large windfarms that would not be decided by Welsh Government, associated infrastructure largely not decided by Welsh Government, but perhaps a substation that would be decided by a local authority, for example, that could be called in to Welsh Ministers.

[172] **Carl Sargeant:** Secondary consenting on—. Can I ask Dion just to give you the detail—it's quite a technical question—if I may?

[173] **Mr Thomas:** Yes, there are provisions in the Bill that focus on secondary consent, which is section 62H, in that it allows us to define what those secondary consents are, and in the statements of policy intent that we issued it identified that that would include associated development.

[174] **Russell George:** Okay. So, is it your intention that some associated developments are to be included as part of the development of national significance application if it is an integral part of the development, if you like?

[175] **Mr Thomas:** It will be an option for the developer to put that forward.

[176] **Russell George:** Right.

[177] **Mr Thomas:** However, there are powers that will enable the Welsh Ministers, if needs be, to bring that in for consideration as a package.

[178] **Russell George:** Right, okay. And do you also think that large energy projects, infrastructure projects, should be decided by Welsh Ministers, regardless of whether further devolution is devolved?

[179] **Carl Sargeant:** Well, that's still to be decided on what's devolved and not devolved, but it would be a case of developments of significance being a matter for Welsh Ministers, yes.

[180] **Russell George:** If I could also ask: why has the option of delegating the taking of the final decision on a development of national significance application to the Planning Inspectorate not been included in the Bill?

[181] **Carl Sargeant:** This is something that we are giving further consideration to in terms of what and where the delegations should lie. Flexibility for Ministers, longer term, is something that we will give due consideration to.

[182] **Alun Ffred Jones:** Okay. Any further questions on this matter?

[183] **Carl Sargeant:** Can I just clarify that? My understanding is that it is a delegation function, but my view is that we should consider—. And just to clarify with the Member, this gives us the flexibility in order where, longer term, if Ministers feel that it is appropriate for PINS to make those decisions, then it is appropriate within the Bill to have that structure. But it's something I'm giving further consideration to in terms of what delegation powers there are currently in the Bill as drafted.



[184] **Alun Ffred Jones:** In terms of the option to apply directly to Welsh Ministers, there is no timescale for decision making if an application is made directly, and yet you make a big play that local authorities have to make decisions within certain periods. So why shouldn't it apply to you? Not you, sorry, the Minister.

[185] **Carl Sargeant:** Of course. Okay. Well, look, if we think about optional direct as the last port of call, effectively, this is a decision that an applicant would make, to choose either to make an optional direct to the Minister or to continue with the local planning authority. That is a matter for them. Ultimately, we are the last port of call in the planning system. There always has to be a point at which the system comes to an end. Otherwise, it is just an iterative loop. We are the final point. We believe we operate in a time frame that is expected from me. It isn't a statutory time frame, but it's something where there isn't anywhere else to go after me or my department in terms of this determination. So, we will still operate in regard to eight weeks for ordinary applications and 16 weeks for applications with environmental impact assessments. That's a target internally that I would expect to meet.

[186] **Alun Ffred Jones:** So why don't you put that in the Bill?

[187] **Carl Sargeant:** Well, I don't know what the benefit of doing that would be.

[188] **Alun Ffred Jones:** Well, the same benefit, presumably, as the benefits for developers who make applications to local—

[189] **Carl Sargeant:** Respectfully, there is an action following an authority not complying with the time process. As I said earlier, Chair, once the application is presented to us in that process, there isn't anywhere else to go to—

[190] **Alun Ffred Jones:** Why should that allow you, then, not to act within a certain time frame?

[191] **Carl Sargeant:** I didn't say that we wouldn't. I said that our targets internally are that of eight weeks and 16 weeks, which I would expect my department to continue with.

[192] **Alun Ffred Jones:** But I don't understand the difference. Why should you set yourself an internal target while everybody else has to comply with set targets?

[193] **Mr Thomas:** Just to clarify, I suppose, a little bit, in relation to local planning authorities, the statutory determination period really is used a lot more in the context of non-determination. So, after eight weeks, the applicant has the opportunity to then submit an appeal to the Welsh Ministers, and that is the action that the Minister is talking about, really. With optional direct applications, there isn't that right of appeal, other than going to the High Court for a judicial review. Therefore, non-statutory targets, then, to put a statutory target into the Bill would not have any effect, in essence.

[194] **Carl Sargeant:** Notwithstanding that, Chair, as I said earlier on, this is an option by the developer, not by ministerial intervention. This is something that would be chosen by the developer to do if they still wish to do so.

[195] **Alun Ffred Jones:** If you call it in, is there a time frame?

[196] **Carl Sargeant:** On development? There is a very similar process in which we would consider it within the timings, but it is not statutory.

[197] **Mr Hemington:** There are targets for call-in as well—and recovered appeals—but

they are not the same as these targets.

[198] **Alun Ffred Jones:** William Powell.

[199] **William Powell:** Diolch, Gadeirydd. Minister, a couple of moments ago, you spoke of the important role that the Planning Inspectorate will continue to have, both in nationally significant developments and elsewhere. Given the coming of age that this Bill represents for planning in Wales, has the time not come to consider having an independent planning inspectorate for Wales? That would also, maybe, bring benefit to the issues around the Welsh language that were discussed previously.

[200] **Carl Sargeant:** I'm probably not in that space at the moment. I see the Planning Inspectorate working extremely well as a Welsh arm. It is independent of Welsh Government in that process. They're based in Wales. What it does do is give the organisation the ability to have expertise across the border, which they often use in terms of determination, where there may be complex applications coming forward to Wales. It gives them the ability to use in-house cost-saving mechanisms to support their determination.

[201] I have had a discussion with them about the Welsh brand. I think that is really important—Welshifying their actions—but I don't think splitting away from the UK base of that administration would be of any benefit to Wales at all.

[202] **William Powell:** But, Minister, given the divergence that we are now—. We are on a road of setting up, in so many ways, our own structures, is there not a need for something more than a, sort of, superficial rebranding—something more fundamental?

[203] **Carl Sargeant:** The organisation operates in a very Welsh way. We have—I am not sure if he is a chief executive, or whatever we call him—a director who looks after the Welsh element of the Planning Inspectorate in Wales. As I said earlier, there are major benefits to being part of the England and Wales Planning Inspectorate.

[204] **Mr Hemington:** Just to support that, we have got a dedicated team of inspectors based in Cardiff, who are fully appraised of Welsh planning policy and Welsh legislation. So, they know the system inside out.

[205] **Alun Ffred Jones:** It does seem strange, though, setting up, for example, Natural Resources Wales, which was splitting the old Environment Agency from its Wales and England functions, but for some reason, in planning, you seem to think that there are huge benefits to being based in Bristol.

[206] **Carl Sargeant:** They are not based in Bristol; they are based in Cardiff.

[207] **Alun Ffred Jones:** But they are part of this Wales/England—. What are the advantages?

[208] **Carl Sargeant:** As I said earlier, there are advantages where there is a need for expertise within the organisation. They share among inspectors in England and in Wales. I know that some of our inspectors are often called upon for advice in terms of complex applications that may come in in England, too. I think it just gives more resilience to their service, but it doesn't mean that they don't operate in a Welsh context at all.

[209] **Alun Ffred Jones:** Mick Antoniw: development management regulations.

[210] **Mick Antoniw:** I've just got two very small points, and you can take them together, with regard to sections 42 and 44. One is whether you'd consider an amendment with regard

to the appeals, whereby instead of a matter having to go right back to the beginning to a completely new application, there would be a new power, perhaps, to refer back for further consideration.

11:00

[211] Secondly, in respect of section 44, on Welsh Ministers' costs, should those costs be paid only where there's been some failing or unreasonable behaviour?

[212] **Carl Sargeant:** On the first question the Member raises regarding applications being re-presented back at local planning authorities, I've got some concern over that. Where an amendment to a plan goes back to a local planning authority for reconsideration, there is potentially some re-consultation processes that should be taking place and perhaps could be missed and therefore I think just the neater way of doing this is presenting it back as a new application amended, and therefore it goes through the proper procedures of consultation and local engagement. But it's something that—. Whether there is a halfway house in terms of where the determinations may or may not be in a process is something that we can give further thought to.

[213] With regard to recovery of costs, I think it's based on a really complex piece of what was branded as 'unreasonable behaviour'. We have a circular that will be supporting that process in terms of what costs could be awarded for that. Determining unreasonable behaviour is quite challenging, but it's something that my team have worked on and we are continuing to work on to give authorities and ourselves guidance for recovery of actual costs in that case.

[214] **Alun Ffred Jones:** Okay?

[215] **Mick Antoniw:** That's fine.

[216] **Alun Ffred Jones:** Julie Morgan on town and village greens.

[217] **Julie Morgan:** Sorry, on—?

[218] **Alun Ffred Jones:** Town and village greens.

[219] **Julie Morgan:** Yes, okay. Yes. I know that the Minister is proposing an amendment to the Bill that will mean applicants can register interest in a town and village green right up until the planning decision is made. Would the Minister confirm that that is the way you're planning to go?

[220] **Carl Sargeant:** That is correct.

[221] **Julie Morgan:** Right, thank you. Would the Minister consider looking again at the length of time that communities are able to prepare an application, which at the moment is two years, but the legislation plans to reduce to one year?

[222] **Carl Sargeant:** I will give that further consideration, Chair. The whole purpose of reviewing this process around town and village greens is because we believe there are cases where the application for town and village greens has been used in a negative way, not to protect land base but actually to prevent development. That is what we are seeking to prevent ourselves in terms of making a clear pathway for community development to continue, along with the community. But it's something I recognise the Member has strong views on in terms of the timeline and the complexity surrounding that, and something I will give further consideration to.

[223] **Julie Morgan:** Thank you very much, and we did have mixed evidence about using this process to block development, with some people saying there was no evidence at all of this. So, I wondered what your evidence base is.

[224] **Carl Sargeant:** Well, we do have evidence in terms of development. I think you may have had some correspondence from the Home Builders Federation. I know that I was recently talking to development control in Rhondda Cynon Taf County Borough Council around these issues. There is evidence, but I think we just have to agree—not us personally, but we'll have to agree to disagree on some aspects. Some will believe that it's preventative and some don't in terms of their actions in terms of registering for village greens. Either way, I think we need to resolve the issues that have been brought to us on either side, and I think we've moved some way to, hopefully, having some consensus around what is happening as to the ability to register for village green status right up to the time when an application is passed through an authority. But I will give further consideration to the timeline.

[225] **Julie Morgan:** I think that's definite progress and thank you for giving consideration to the time limits. Can I do design and access now?

[226] **Alun Ffred Jones:** Yes.

[227] **Julie Morgan:** When you wrote to the committee on 7 January you said that you would be forwarding a note about your views on how we go forward on design and access statements. I don't know if you're in a position to tell us what you're planning yet.

[228] **Mr Hemington:** Well, the consultation closes this Friday. We will get you a note summarising the views that were expressed as part of that consultation. I doubt very much whether we will have had time, by the time you report, to consider the way forward in detail.

[229] **Julie Morgan:** So, at the moment, we don't know what the plans are.

[230] **Carl Sargeant:** No, and based on—we don't want to pre-empt the consultation, but as soon—. As Neil said, the consultation ends Friday; I will do my best to at least give a broad summary of what we can send you in terms of the detail of what the consultation suggests and what our broad thinking may or may not be. But the evidence that led us to this was saying that the system is complex and doesn't help the principle of better design, but, you know, the consultation will be an important process for us to define exactly what we want to do within the Bill structure. I will share that with you as soon as we've got that detail.

[231] **Julie Morgan:** Right, thank you, and I'm sure the Minister is aware of some of the research that does say we should retain design and access statements, certainly for some developments.

[232] **Carl Sargeant:** I am.

[233] **Julie Morgan:** So, I hope you'll bear that in consideration.

[234] **Carl Sargeant:** We will.

[235] **Alun Ffred Jones:** We did receive quite a bit of evidence or—yes, evidence—that suggested that it was a valuable part of the planning process. Perhaps not in every application, obviously.

[236] **Carl Sargeant:** We will give that consideration. We are aware of the evidence that's been presented to you.

[237] **Alun Ffred Jones:** Diolch yn fawr. Can I go back then to the pre-application consultation, and Antoinette Sandbach?

[238] **Antoinette Sandbach:** Minister, as I understand it, your ambition for pre-application consultation is, effectively, to make the process more streamlined, but you haven't made advice from, for example, local planning authorities—. If they give the go-ahead on a pre-application consultation, you haven't indicated that, unless there's a material change of circumstances, whether or not that advice would be effectively binding on the local authority, because it's perfectly possible, and it happens now, that they give a green light on the pre-application consultation and then, for unknown reasons, give a red light at a later stage, without there being any material change of circumstances. Will you look at that issue?

[239] **Carl Sargeant:** Well, we are working with local authorities, the WLGA, in terms of giving better advice and guidance and training, again, to ensure that, as the Member indicates, the pre-application service could be used advantageously to ensure that both sides fully understand what the consequences of an application are. But I also share the view of many that we wouldn't want to see the pre-application process being presumptuous to a planning application; I think it's about ensuring that all the information is given upfront so that people fully understand the system that they're entering into.

[240] **Antoinette Sandbach:** But, clearly, in terms of unreasonable conduct, if there's been a green light on one and a red light on the other, that may be a material consideration in terms of unreasonable conduct.

[241] **Carl Sargeant:** I think the Member raises a fair point and that's something that we are working with local authorities to clarify.

[242] **Antoinette Sandbach:** And in terms of charges, there's a danger that pre-application advice may lead to frontloading of charges. What's your view, for example, about NRW being able to recover charges at a pre-application stage rather than at the actual planning application stage?

[243] **Carl Sargeant:** I think we've got to put this in context. I think, as I said earlier, it's not about additional work sometimes, it's about shifting where the workload is, so where NRW maybe is a consultee or asking to be considered about what their view is on an application, that would take place just earlier than when the application's presented. If nothing material changes, then there's no change in their principle, I suppose. So, we're not asking them to do additionality, but I have asked the team to have a little look at this, actually, because I am aware of views of organisations saying, you know, where they do work upfront, should they be paying or otherwise then, and it's something that I'm giving further consideration to about the fees and charges, et cetera. But we are doing—. There is a consultation document out on fees and charges. There may be something that comes back on that with regard to pre-consultation as well, I don't know, but it is something I am aware of.

[244] **Antoinette Sandbach:** And in terms of pre-application consultation in a wider sense, in terms of a community sense, for example, I mean, I presume that there's going to be different requirements for different sizes of projects, so that there'll be some form of scale. So, for what I would call 'relatively minor developments', like somebody's house extension, are they going to have to leaflet their local neighbourhood because they want to build a conservatory on their house? On the other hand, if it's 100 houses or maybe, in a small rural village, 50, for example—. Will you be looking at tiering so that, for the smaller applications, there isn't this huge cost disincentive, and particularly for small businesses where there may be only one or two partners or a small company that might want to do a very limited expansion?

[245] **Carl Sargeant:** I think we have to balance this, don't we, in terms of actions versus the outcome? I think it's an important part of development that people understand what developments are going on in their community. I think it's an important process of—. Community by stealth is never a good thing, and I think there has to be a minimal requirement for all, but I think it's about a minimum and then moving up from there, about what the requirement is for significant developments. There will be guidance surrounding that in terms of what we expect to happen.

[246] **Antoinette Sandbach:** So, for example, with the planning application, very often public notices are displayed on lamp posts or telegraph poles or wherever—you know, in visible sites. Are you anticipating a major move away from that kind of notification for the smaller scale?

[247] **Carl Sargeant:** No.

[248] **Antoinette Sandbach:** No.

[249] **Carl Sargeant:** No, I think that, from there, ramping up, it would be 'that plus'.

[250] **Mr Hemington:** Just to amplify that, there is this consultation engagement finishing on Friday, which talks about how we're going to deal with both the pre-application service and the pre-application consultation. So, we're awaiting the outcome of that consultation before moving forward. But a proposition in here, around the additional requirements, is starting with major development, which I think is higher, obviously, than the single dwelling. But it sets a minimum standard. We also are aware that you received evidence from certain developers who go beyond that minimum standard on a voluntary basis, and we wish to encourage that where it adds benefit to the planning process.

[251] **Antoinette Sandbach:** Finally, I've got a rather technical question, which I'm actually going to read. Will you confirm whether or not the requirements to respond to pre-application consultations within set timescales under section 15 will apply equally to all specified persons in Schedule 4 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, including other local authorities, local highway authorities and other Welsh Ministers?

[252] **Carl Sargeant:** That very technical question will be answered by a very technical adviser. [*Laughter.*]

[253] **Alun Ffred Jones:** So, that's not you, then. [*Laughter.*]

[254] **Carl Sargeant:** But no pressure. [*Laughter.*]

[255] **Mr Thomas:** The short answer is 'yes'. [*Laughter.*]

[256] **Antoinette Sandbach:** Thank you.

[257] **Carl Sargeant:** I could have said that, I think. [*Laughter.*]

[258] **Antoinette Sandbach:** That was very brief and concise. Thank you very much. [*Laughter.*]

[259] **Alun Ffred Jones:** Jenny Rathbone and then William Powell.

[260] **Jenny Rathbone:** One of the concerns raised by witnesses, that the changes that are

being proposed might fetter local authorities' ability to prioritise areas they want to see development in, areas of deprivation, would they—. Are you in a position yet to clarify whether local authorities would retain the right to amend their fees according to whether it was an area, you know, where it's hard to get development as opposed to areas where everybody wants to get a slice of the action?

[261] **Carl Sargeant:** Well, we certainly don't want to be prescriptive in terms of what local authorities should or shouldn't do in terms of their fee regime, and that's why the consultation document's out. We'll read with interest about what that means. I would like to see local authorities having some flexibility in terms of that process of where they're able to—. The ability of the charging is a matter for the local authority. If they wish not to charge for a process, that is a matter for them, but that's a burden that they would have to face, too. I think the flexibility for them is important, and I share the Member's views that, where it is appropriate to encourage development, it would be appropriate for the authority to consider that carefully.

[262] **Jenny Rathbone:** Thank you.

[263] **Alun Ffred Jones:** William Powell.

[264] **William Powell:** Diolch, Gadeirydd. Minister, another form of pre-application consultation that's been successfully adopted in some planning authorities in Wales is one of developer-funded development briefs around significant developments. I'm thinking particularly, in the context of the Brecon Beacons National Park Authority, of the fairly controversial developments at Cwrt-y-gollen, a former army camp just outside Crickhowell, where the developer was required to produce a brief, or rather fund a brief, which was developed by a third party, and help to sort of co-ordinate consultation locally. Do you not think there's some room in developments of larger scale or high impact—both brownfield and sensitive greenfield sites—where that might have a role to play?

11:15

[265] **Carl Sargeant:** Of course. Being non-specific to any development, Chair, the reality is that we know that, in most cases, developers have a huge role to play, not only in the development and building part of a community, but actually in engaging upfront. Actually, that helps them, too, because they can iron out many problems by talking to the community and saying the things that it isn't, as opposed to what it is. That works upfront, and we've seen many major developers and developments being progressed quicker, without too much controversy, by the early engagement process. So, that's why we've introduced this. I would encourage, as Neil said—. If some developers already do this well, and already spend much more than we would be expecting in terms of minimum standards, it clearly works, otherwise they wouldn't do it.

[266] **William Powell:** Thank you.

[267] **Alun Ffred Jones:** Are there any other burning questions? If not, we'll draw this session to a close. Thank you, Minister, for attending and answering the questions. Thanks to your officials as well. We will now deliberate the evidence that we've received and your evidence as well. Diolch yn fawr iawn. Thank you very much.

[268] **Carl Sargeant:** Thank you.

[269] **Alun Ffred Jones:** I think we'll take a short break, but we'll do the papers first.

11:16

**Papurau i'w Nodi**  
**Papers to Note**

[270] **Alun Ffred Jones:** Are you happy to note them? There's a long list of them. We've all read them. Happy? Okay.

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod**  
**Motion under Standing Order 17.42 to Resolve to Exclude the Public from the  
Meeting**

[271] **Alun Ffred Jones:** Can I have a formal decision to go into private session?

*Cynnig:*

*Motion:*

*y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog 17.42(vi).*

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).*

*Cynigiwyd y cynnig.*  
*Motion moved.*

*Derbyniwyd y cynnig.*  
*Motion agreed.*

[272] **Alun Ffred Jones:** We'll take a short break now. We'll be back before 11.30 a.m.

*Daeth rhan gyhoeddus y cyfarfod i ben am 11:16.*  
*The public part of the meeting ended at 11:16.*