

## **PCB09 Cymdeithas Cyfraith Amgylcheddol y DU | UK Environmental Law Association (UKELA)**

Senedd Cymru | Welsh Parliament

### **Y Pwyllgor Deddfwriaeth Cyfiawnder a'r Cyfansoddiad | Legislation, Justice and Constitution Committee**

### **Gwaith craffu ar Filiau Cydgrynhoi Llywodraeth Cymru ym maes cynllunio | Scrutiny of the Welsh Government's planning Consolidation Bills**

Ymateb gan: Cymdeithas Cyfraith Amgylcheddol y DU | Evidence from: UK Environmental Law Association (UKELA)

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## **Introduction**

- 1.** UKELA (UK Environmental Law Association) comprises over 2,000 academics, barristers, solicitors and consultants, in the public and private sectors, involved in the practice, study and formulation of environmental law. Its primary purpose is to make better law for the environment.
- 2.** This document responds to the Welsh Government's consultation on the proposed legislation to consolidate planning law in Wales – The Planning (Wales) Bill and the Planning (Consequential Provisions) (Wales) Bill (collectively, 'the Bills'). It has been prepared by UKELA Wales in consultation with UKELA's Planning & Sustainable Development Group. It does not seek to represent the views and opinions of all UKELA members but has been drawn together from a range of its members.

## **Background**

- 3.** On 15 September 2025, the Planning (Wales) Bill and the Planning (Consequential Provisions) (Wales) Bill were introduced into the Senedd. Their conjoined purpose is to draw together the disparate pieces of legislation that collectively form Welsh planning law into a single cohesive code while ensuring alignment and proper transition. To inform its scrutiny, the Legislation, Justice and Constitution (LJC) Committee has issued an open call for evidence on the Bills.
  - 4.** Taken together, the Bills aim to provide a comprehensive consolidation package. The main Bill delivers a coherent single statute for Wales, while the Consequential Provisions Bill ensures the new framework operates smoothly by aligning and updating related legislation
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**5.** Changes to the land use planning system in Wales have significant implications for environmental law. The Bills could also clarify and improve accessibility to land use planning law.

**6.** UKELA acknowledges the extensive work that has gone into producing the Bills. They appear to be a genuine effort to make planning law clearer, more coherent, and more accessible. They seek to draw together a complex and fragmented body of law into a single simplified form. Thus, the Bills are credit to the expertise and persistence of those who have worked on the consolidation and if enacted, should provide a solid foundation for future planning practice and policy in Wales.

## **Consultation questions**

### **Planning (Wales) Bill**

#### **(1) The Appropriateness of the Scope of the Bill**

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**7.** UKELA welcomes the consolidation of planning legislation in Wales. The Explanatory Memorandum confirms that the purpose is to restate existing provisions in a single, bilingual Act, modernising drafting and structure without introducing policy reform. This is consistent with the limits of Standing Order 26C.2, and we consider the scope of the Bills to be appropriate for a consolidation exercise.

#### **(2) Inclusion of the Relevant Enactments Within the Consolidation**

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**8.** The Bills draw together the principal planning enactments applicable to Wales, as listed in the Explanatory Memorandum and supporting tables. From our review, the relevant enactments appear to have been included, with England-only material removed where necessary. We have not identified any obvious omissions, and we are content that the inclusion of enactments is satisfactory.

#### **(3) Correctness of the Consolidation of the Enactments/Compliance of Any Changes to the Enactments' Substantive Legal Effect With Standing Order 26C.2**

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**9.** The Explanatory Memorandum confirms that the Bills only make changes permitted under Standing Order 26C.2 and that any such changes are explained in the Drafters' Notes (Annex D1/D2). On the face of the Bills, we have not identified provisions that alter statutory duties, rights or penalties beyond those limits. For assurance, we note that Annex D1/D2 provide clause-by-clause explanations, and we recommend that the Committee have regard to them when confirming the Bills' compliance.

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#### **4) Clarity and Consistency of the Consolidation of the Law by the Bill**

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**10.** The consolidated text is clearer and more consistent than the body of legislation it replaces. By centralising definitions, aligning terminology and removing duplication, the Bill improves both readability and usability. This will make a real difference in practice for those who need to engage with planning law including e.g. public bodies, developers, landowners, local residents' community groups and non-governmental organisations. Having all relevant provisions in one place should reduce the risk of misinterpretation and help stakeholders navigate complex planning procedures more effectively.

**11.** UKELA particularly welcomes the way that the consolidation approach supports the accessibility of environmental law, as those affected by development and decision-makers alike will be better able to understand the legal framework that underpins planning decisions. To embed these benefits into the overall land use planning regime, we suggest that the Welsh Government publish a concordance or plain-comment, public-friendly guide alongside the Bill as enacted and consider engagement or training to support users during the transition from any current provisions and the new legislation.

#### **Planning (Consequential Provisions) (Wales) Bill -**

##### **The Appropriateness of the Scope of the Bill**

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**12.** The scope of the Consequential Provisions Bill is appropriately limited to making the necessary amendments to other legislation so that the Planning (Wales) Bill can operate as a self-contained consolidation. We are satisfied that this falls squarely within the purpose of a consolidation exercise under Standing Order 26C.2.

##### **(2) Inclusion of the Relevant Enactments Within the Consolidation**

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**13.** The Bill makes consequential amendments across the existing statutory framework, removing Welsh provisions from England-and-Wales statutes and inserting transitional and saving provisions. From our review, the consequential amendments appear complete and appropriate for ensuring consistency with the new consolidated Act.

##### **3) Correctness of the Consolidation of the Enactments/Compliance of Any Changes to the Enactments' Substantive Legal Effect With Standing Order 26C.2**

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**14.** The Bill does not introduce new policy or substantive reform. Its function is to tidy up cross-references and to ensure continuity for existing permissions, appeals

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and enforcement proceedings. This is consistent with Standing Order 26C.2, and we have not identified any changes that go beyond the permitted scope of consequential amendment.

#### **(4) Clarity and Consistency of the Consolidation of the Law by the Bill**

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**15.** The Consequential Provisions Bill supports clarity by ensuring that the new Planning (Wales) Act will operate without conflict with existing UK-wide legislation. The inclusion of transitional and saving provisions provides continuity for ongoing cases and should give certainty to practitioners and stakeholders. In our view, this Bill complements the main consolidation exercise and helps deliver a clearer and more consistent body of planning law for Wales.

#### **The intersection of the Bills with environmental law**

**16.** Both Planning Bills are consolidation measures, intended to restate existing planning law as it applies in Wales. Planning and environmental law intersect through the statutory environmental duties that shape planning decisions as well as through the impact and effect (direct and indirect) that development has or is likely to have upon the environment. However, as stressed in the Explanatory Memorandum to both bills, neither seeks to introduce substantive changes to the current law, but their aim is to restate, modernise, and simplify provisions. They do not in particular change the current status quo.

**17.** As the status quo in planning law terms is maintained by the Bills, they are unlikely, of themselves, to involve any new or modified impacts on the substantive environmental sectors within environmental law such as water, waste, noise, etc.

**18.** However, UKELA considers that the Bills are likely to improve many cross-sectoral aspects of environmental law such as improving access to information, public participation and access to justice. Moreover, the Bills improve how environmental duties are integrated within planning decisions by clarifying, codifying and updating references. They bring together duties such as giving special regard to listed buildings and features of historic or environmental interest (Planning (Wales) Bill, Clause 404). They also include the obligation on local planning authorities to review environmental characteristics and integrate them into planning frameworks (Planning (Wales) Bill, Clause 18).

**19.** The Consequential Provisions Bill amends relevant UK legislation to reference the Planning (Wales) Act where appropriate. This reduces any risk of resulting misalignment between consolidated Welsh law and UK environmental law (Planning (Wales) (Consequential Provisions) Bill, Schedule 2). Ultimately,

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environmental law and its consequent duties are made clearer through de-fragmentation, making them easier to apply and comply with.

**20.** The aforementioned benefit of the Consequential Provisions Bill highlights a potential risk, however. It was crucial to ensure that Welsh planning law aligned with UK legislation. This remains important for future reforms, such as any post-Brexit differences that may arise in future in respect of habitat standards, environmental impact assessment, or climate mitigation and adaptation. Being alert to and making provision for these issues helps reduce ambiguity and fragmentation in the law. However, given that the Consequential Provisions Bill anticipated this need, UKELA considers that that future changes in UK environmental law will be addressed appropriately.

## **Conclusion**

**21.** In conclusion, UKELA welcomes the introduction of the Bills, there are many strengths. However, without substantive changes to the status quo, opportunities to further improve planning's contribution to climate mitigation and biodiversity targets may be missed. We consider that both provisions are faithful consolidations in line with Standing Order 26C.2 and that they will materially improve the accessibility of planning law, benefiting practitioners, decision-makers, community groups and environmental organisations alike.

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