

Environment and Sustainability Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date:

Wednesday, 14 January 2015

Meeting time:

09.15

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

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Agenda

Informal pre-meeting (09:15 – 09:30)

1 Introductions, apologies and substitutions

2 Planning (Wales) Bill: Stage 1 – Evidence session 14 (09:30–11:30)

(Pages 1 – 33)

Carl Sargeant AM, Minister for Natural Resources

Neil Hemington, Chief planner

Dion Thomas, Senior Planning Bill manager

Sarah Dawson, Legal services

3 Papers to note

Planning (Wales) Bill: Correspondence from the Minister for Natural Resources – 10 December (Pages 34 – 39)

E&S(4)–01–15 Paper 1

**Planning (Wales) Bill: Correspondence from the Minister for Natural Resources – 7
January** (Pages 40 – 51)
E&S(4)–01–15 Paper 2

**Planning (Wales) Bill: Correspondence from the Minister for Natural Resources – 9
January** (Pages 52 – 75)
E&S(4)–01–15 Paper 3

Planning (Wales) Bill: Correspondence from the Presiding Officer (Pages 76 – 78)
E&S(4)–01–15 Paper 4

Planning (Wales) Bill: Correspondence from Wales Environment Link (Pages 79 – 80)
E&S(4)–01–15 Paper 5

Planning (Wales) Bill: Additional evidence from the Law Society (Pages 81 – 84)
E&S(4)–01–15 Paper 6

Planning (Wales) Bill: Correspondence from National Parks Wales (Pages 85 – 88)
E&S(4)–01–15 Paper 7

Planning (Wales) Bill: Additional evidence from the Home Builders Federation (Pages
89 – 91)
E&S(4)–01–15 Paper 8

Planning (Wales) Bill: Additional evidence from Gwynedd Council (Pages 92 – 93)
E&S(4)–01–15 Paper 9

Animal welfare: Correspondence from the Deputy Minister for Farming and Food
(Pages 94 – 97)
E&S(4)–01–15 Paper 10

Correspondence from the Minister for Natural Resources in relation to European Commission Reasoned Opinions (Pages 98 – 99)

E&S(4)–01–15 Paper 11

The Well-being of Future Generations (Wales) Bill: Correspondence from the Older People's Commissioner for Wales (Pages 100 – 101)

E&S(4)–01–15 Paper 12

The Well-being of Future Generations (Wales) Bill: Correspondence from the Royal College of Physicians (Page 102)

E&S(4)–01–15 Paper 13

4 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

5 Planning (Wales) Bill: Discussion of evidence (11:30–12:00)

Agenda Item 2

Document is Restricted

Agenda Item 3.1

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref LF/CS/1240/14

Alun Ffred Jones AM
Chair
Environment and Sustainability Committee
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10th December 2014

Dear Alun Ffred Jones AM

Planning (Wales) Bill

Thank you for inviting me to the Environment and Sustainability Committee on 27 November 2014 to give evidence on the Planning (Wales) Bill.

I agreed to provide the Committee with further information on a number of issues raised in your letter. I have provided detailed responses to those questions below:

- 1. The implications of the National Development Framework having 'development plan' status and, specifically, what processes will be necessary to enable the identification of sites as Developments of National Significance through the plan.**

As the National Development Framework (NDF) is proposed to have development plan status, any decisions made under the planning Acts must be made in accordance with the NDF, unless material considerations indicate otherwise. Section 38(6) of the Planning and Compulsory Purchase Act 2004, provides "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan, unless material considerations indicate otherwise."

Sites for Developments of National Significance could be identified through preparation of the NDF. Such proposals would then be subject to the formal preparation process, as proposed in the Bill, be evidence-based and able to stand scrutiny by the National Assembly for Wales. They would also have to comply with any relevant European legislation, such as Strategic Environmental Assessment (SEA)/ Sustainability Appraisal (SA) and Habitat Regulations Assessment (HRA). This mirrors the process for the inclusion of allocations in an LDP. Robust evidence to support the inclusion of such developments will be critical.

2. Whether the NDF will include proposals for infrastructure development where responsibility for consenting of these is not currently devolved – for example the electricity transmission network or over 50 Megawatt energy schemes.

The NDF would need to clearly articulate the appropriate consenting regimes which would apply, what they were and who would make decisions, depending on the scale of application, particularly energy consents over 50 Mw.

Those matters which could have a bearing on Wales will be identified. For example, Wylfa, where the scale of the proposal would have significant implications for housing, local communities and connectivity. Even though the Wylfa project is to be determined by the UK Government under the NSIP consenting regime the consequence of this development and therefore any further actions that may be required in other development plans should be identified. The key is for the NDF to set the scene for other development plans in terms of policy requirements and to be clear as to its role in decision making, whilst also showing connectivity to other parts of the planning process, both in Wales and England (currently).

3. Clarification on the intentions regarding the hierarchy of development plans, in particular:

- **at what stage adopted LDPs will need to be reviewed and amended to take account of the National Development Framework.**

Section 7 of the Planning (Wales) Bill (as introduced) provides that:
“Following the publication of the National Development Framework for Wales or a revised Framework, a local planning authority must consider whether to carry out a review of their Local Development Plan.”

Section 61(1) of the 2004 Act states that:
“The local planning authority must keep under review the matters which may be expected to affect the development of their area or the planning of its development.”

Section 62(5) of the 2004 Act (as proposed to be amended by paragraph 26 of Schedule 2 to the Bill) will provide that:
“In preparing a local development plan the authority must have regard to the (NDF)”.

Section 76 of the 2004 Act, supplemented by regulation 37 of The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 require a local planning authority to publish an Annual Monitoring Report (AMR) stating how policies are being implemented, steps to secure implementation of the policy and whether the local planning authority intends to prepare a revision of the LDP. The AMR should also take into account matters arising from sections 61(1) and 62(5) of the 2004 Act. Consequently, the local planning authority will have to consider the potential implications arising from the NDF if published after adoption of their LDP and whether, or not, their LDP requires amending.

AMRs are submitted to the Welsh Ministers by 31 October each year, for each full financial year following adopting (paragraph 4.42, Local Development Plan Wales 2005). It will be for each local planning authority, through their AMR, to consider how their plan needs to be amended, or not, following publication of the NDF.

- **at what stage adopted LDPs will need to be reviewed and amended if the Local Planning Authority area is subsequently included in a Strategic Planning Area.**

The LDP would remain the adopted development plan until the SDP is adopted. Following adoption of the SDP this would be the most recently adopted development plan and take precedence over the LDP. The local planning authority responsible for preparing the LDP should review its LDP as soon as possible following adoption of the SDP to ensure that the LDP is in conformity with the SDP (see section 7 of the Bill). As long as the LDP policies are not considered to be contrary to the SDP, i.e. so long as they are in general conformity, planning applications should still be determined in accordance with those policies unless material considerations indicate otherwise, thus avoiding a policy vacuum. When an SDP is adopted a light touch LDP will be appropriate, resulting in a quicker preparation time. As the local planning authority will be engaged in preparation of the SDP, there is no reason why preparation of the light touch LDP could not commence in parallel with the SDP, thereby enabling adoption of the light touch LDP as soon as possible after the SDP.

- **the implications for a Local Planning Authority with an adopted LDP when only part of its area is subsequently included in a Strategic Planning Area.**

The Bill enables parts of local planning authority areas to be included in an SDP as it will be for those local authorities to determine the precise boundary of the plan area. It is not for the Welsh Ministers to pre-determine the boundary or prejudice its definition. Enabling part local authority coverage facilitates, but does not prejudice, this potential outcome.

The SDP area should be based on role and function of this area. This could result in only part of a local planning authority area being designated for inclusion. However, issues relating to data collection or broader consistency, are likely to mean that whole LPA areas are included. This could be a more pragmatic solution, rather than increase fragmentation and complexity. The proposed legislation enables this outcome, albeit it would be for those authorities involved in preparation of the SDP to determine.

If the designation of an SDP area results in part of the local planning authority being excluded from an SDP, this 'remaining area would be subject to an LDP. The part area within the SDP would be subject to a light touch LDP, both prepared by the same local planning authority.

- **if at any point in time the different tiers of development plan are not in conformity, which plan has precedence when making planning application decisions.**

The most recently adopted development plan would take precedence. Other development plans could form material considerations when determining planning applications, depending on the circumstances.

4. The circumstances in which the Minister could direct two or more Local Planning Authorities to produce a joint LDP.

The prime reason where the Minister could direct two or more local planning authorities to work together is where there would be benefits from collaborative working, albeit on a formalised basis. There may be cases where common issues transcend boundaries which would be better addressed once, rather than repeated. This would benefit a more consistent policy approach, as well as reducing the financial costs associated with duplicating evidence gathering, process costs when undergoing statutory plan stages and examinations. This mirrors the principle being followed by Anglesey and Gwynedd where they have voluntarily agreed to prepare a joint LDP.

5. The circumstances in which the Minister could decide to create a Joint Planning Board and how this would impact on adopted LDPs.

The Welsh Ministers are likely to use the powers in the circumstances where evidence exists that the establishment of a joint planning board would increase the efficiency and sustainability of local planning services. The provision does not amend the existing power to establish a joint planning board or the process by which it is established; it simply extends the range of planning functions that a joint planning board can exercise. The provision will allow a joint planning board to carry out local planning authority functions in relation to Local Development Plans and the community infrastructure levy.

Adopted Local Development Plans will remain extant for each of the constituent LPA area until replaced by the Local Development Plan produced by the Joint Planning Board.

6. The reasoning behind the decision to propose a planning permission and separate connected secondary consenting regime for Developments of National Significance, rather than a single Development Consent Order regime as currently used for Nationally Significant Infrastructure Projects in England.

A consent by the Secretary of State for a Nationally Significant Infrastructure Project (“NSIP”) takes the form of a Development Consent Order, which is a statutory instrument. This order may grant permission for the development, and any ancillary consents which would normally be required, such as listed building consent and an ability to compulsorily purchase land.

Applications for DNS are those which will normally require planning permission. The provisions require that a decision on that application is made by the Welsh Ministers, rather than by a local planning authority. A planning permission can only be granted for certain development and engineering operations. Other applications, such as listed building consent or compulsory purchase proceedings are decided under different legislation.

It is not considered expedient to create a new consent type for applications for DNS as a further tier of complexity would be added to the existing system. The creation of a new consent type would not be a proportionate solution to infrastructure developments, which are likely to be relatively few in number.

The intention of the proposals at s.18 of the Planning (Wales) Bill (as introduced) is to enable, where appropriate, all of those prescribed secondary consents which have been submitted alongside an application for DNS to be considered at the same time and under the same examination process. It is also the intention for consent or refusal of consent for those secondary consents to be contained on the same decision letter. It is not proposed to change the considerations upon which a decision to a secondary consent is based. To the customer, these proposals will give the appearance of one consent decision being given in place of many, without making fundamental changes to the legislation on which these consents are based.

7. Whether the Minister intends ancillary consents for non-devolved NSIP applications for Development Consent to also be decided by Welsh Ministers, as recommended by the IAG.

This issue was not consulted upon as part of the Positive Planning consultation exercise, which focussed on streamlining the planning processes in Wales. As such, I have not come to a firm view on the recommendation and I would welcome the Committee’s view as to whether it would be appropriate to take it forward. Any potential proposals would of course require further consultation and separate legislation to the Planning (Wales) Bill.

8. Why Section 53 of the Bill has been drafted in such a way to give powers to the Welsh Ministers to change primary planning legislation ‘as Welsh Ministers consider appropriate in connection with the Act’ rather than the more usual provision which would restrict this to ‘amendments consequential to the Bill.

Section 53 does not have the effect that is being suggested. It will not enable the Welsh Ministers to amend primary legislation unless the amendments are consequential, incidental, transitional or savings. While the wording of this provision is slightly simpler than that in some other Bills, it is not conferring any greater powers, and is in fact narrower than some other powers that have been included in Acts recently passed by the Assembly.

The words at the end of subsection (1) also qualify “incidental, transitional or saving provision”. If the words at the end are changed, such provision could only be made so far as it was both incidental etc. and consequential. This would inhibit the natural meaning of those words and the intended legal purpose of such a power, which would severely restrict the practical implementation of the legislation on the ground. As currently drafted, section 53 cannot be used to fundamentally change the principle of the provision but only assist with its practical implementation to enable the ‘nuts and bolts’ of the provision to fit and work together. An incidental provision for example may fill in details, the desirability of which only becomes apparent when preparing the detail of the subordinate legislation or when detailed drafting is undertaken. Transitional and saving provision may be required in connection with the Act in order to be able to provide for a smooth movement from one state of law to another.

I trust that my response to the Committee’s request and the additional information I have supplied will assist Members in their scrutiny of the Planning (Wales) Bill. Should you or any Member have any further queries or require more information on any aspect, please do not hesitate to contact me.

Yours sincerely



Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

Agenda Item 3.2

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LF/CS/1327/14

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7 January 2015

Dear Alun Ffred Jones AM

Planning (Wales) Bill

You wrote to me on 16 December seeking additional information on a number of issues. Please find detailed responses to those questions below:

- 1. Confirm the purpose of the amendment you have suggested making with respect to National Parks. Our understanding is that you are proposing to bring forward an amendment to the Bill that would give the Welsh Ministers the power to create Joint Planning Boards that could, in future, include whole or part of a National Park. Currently such boards can only be created by merging a Local Planning Authority with whole or part of at least one other Local Planning Authority, but specifically excluding any part of a National Park;**

NPAs and local authorities have been encouraged to work collaboratively; however, this has not been effectively embraced to date. In the absence of effective collaboration, and as indicated during the evidence I provided to the Constitutional and Legislative Affairs Committee (10 November) and the Environment and Sustainability Committee (27 November 2014), a legislative approach is required to enable the Welsh Ministers to create and deliver effective, efficient and resilient planning services across Wales, where all local planning authorities are treated equally in order to achieve this.

The evidence indicates that effective collaboration between NPAs and local authorities is mixed. This was particularly highlighted in the report published in January this year by the Commission on Public Service and Delivery and in research undertaken by Land Use Consultants on the Delivery of Planning Services in Statutory Designated Landscapes in Wales.

To address these concerns, it is my intention to explore a Government amendment that will broaden the Welsh Ministers' existing powers in relation to joint planning boards.

The amendment would bring National Park Authorities within the scope of the provisions which allow for the establishment of joint planning boards. In particular the amendment would ensure that:

- the establishment of an area for a joint planning board can include, in whole or in part, the areas of an NPA; and,
- where the NPA is included within the joint planning board area, the planning functions are transferred and exercised by the joint planning board.

If the Welsh Ministers decide to use the joint planning board provisions to secure efficient, effective and resilient planning services across Wales, the proposed amendment will ensure that all LPAs can be treated equally in achieving this objective.

- 2. Clarify how the possible amendment you have suggested in relation to Town and Village Green (TVG) applications (i.e. that a TVG Green application could be submitted up until the point that planning permission is granted) will affect the other proposed "trigger events" in the amended Schedule 1B of the Commons Act 2006. For example, whether identification of a site in a Development Plan (NDF, SDP or LDP) would still be a trigger event that would prevent a TVG application?**

It is my intention to explore a Government amendment to the proposals in the Bill at Section 49 to only restrict applications to register a TVG where consent for development has been granted or has been deemed to be granted.

Therefore, it is my intention that the "trigger events" for a restriction to register a TVG shall only apply where:

- Operational development has been granted in an adopted Local Development Order;
- Planning permission (including urgent Crown development) has been granted by the Welsh Ministers or a local planning authority;
- Planning permission has been deemed to be granted by the Welsh Ministers by a direction associated with the authorisation of works for railways, tramways and inland waterways; and
- A Development Consent Order has been granted by the Secretary of State.

- 3. Provide further information about the formal role of Town & Community Councils in the preparation of the new types of Development Plan (NDF and SDPs).**

Town and Community Councils are already involved in the planning system, I know local planning authorities involve Town and Community councils in the preparation of local development plans and they are also consulted on planning applications when they wish to be. The development plan process should be based on community needs with democratically elected members and local people having a clear voice in

the process, including Town and Community Councils where they are present. LDPs already require a Community Involvement Scheme which sets out who will be engaged and at what stage they will be consulted. This principle will be repeated for SDPs, which will be subject to requirements for community involvement schemes which set out how individuals and organisations can be involved in the preparation of SDPs, ensuring local communities are engaged. Opportunities to engage on the NDF through consultation stages will also be available with targeted engagement with the communities affected by the proposals.

I am also very aware that not all areas of Wales are covered by Town and Community Councils and legislation in relation to their role would create inequality in the process.

- 4. Provide more information about the proposed nomination process for non-elected members of Strategic Planning Panels. In particular the type of bodies that the Welsh Ministers could include on lists of bodies from which the panel can choose to seek nominations and the type of categories that these lists may be divided into.**

Having considered the issues in relation to producing an exhaustive list of all the possible organisations that could be included in a nominated list I have concluded that achieving this would be extremely difficult. This is due to the variety and complexity of such organisations, variations geographically across Wales, as well as some having a multitude of social, economic and environmental functions. It is therefore considered preferable for an illustrative list to be included in guidance, rather than attempt to construct a definitive list, enabling locally elected members to identify those groups/individuals who can add value to the process. It is my intention to explore a Government amendment to the proposals in the Bill to achieve this.

An illustration of the types of bodies and categories that could be included in the guidance is attached at Annex A.

- 5. Provide details of why the Welsh Government has decided to remove the statutory requirement for Design and Access Statements from primary legislation and is also intending to remove it from secondary legislation and whether you would consider as an alternative the approach taken in England (where secondary legislation has been amended to restrict the requirement to major developments only).**

Our research highlights that there is no significant evidence that Design and Access Statements are important in attaining good design and have done very little to broaden applicants' perception of inclusive access.

While Design and Access Statements have benefits as a communication tool, we are not convinced that this is sufficient reason to retain them as a mandatory requirement for many planning applications and consider resources should be focused on alternative ways of securing good design and inclusive access instead.

The Planning (Wales) Bill proposes the removal of the mandatory requirement for Design and Access Statements from primary legislation. However, the requirement for Design and Access Statements will still remain in secondary legislation, so they will still be required to be submitted with planning applications. This approach gives us the flexibility for the future in continuing to require Design and Access Statements

in the short term while we consider more effective ways to raise design standards in the planning process.

We are currently consulting on a range of proposals to assist all new development to meet the objectives of good design and inclusive access. These proposals include the enhanced use of pre-application consultation and advice; more detailed guidance; further training opportunities; and changes to the planning application form.

We are aware of the approach taken in England and are seeking views of stakeholders through the consultation on the benefits of retaining the requirement for Design and Access Statements for particular applications.

The consultation runs until 16th January 2015. At the committee meeting of the 27 November I stated that I would provide a note to the committee on the way forward once the consultation has ended.

6. Clarify what is meant by “specified persons” (statutory consultees) in Section 15 and 35 of the Bill, whether the Bill’s provisions will apply equally to all statutory consultees or if not, how these requirements will differ. Also whether the proposal to commence Section 54 of the Planning and Compulsory Purchase Act 2004 in Wales will apply to the same statutory consultees.

For the purposes of section 15 and 35 of the Bill, and section 54 of the Planning and Compulsory Purchase Act 2004 (PCPA), “specified persons” and “statutory consultees” are the same “statutory consultees” that are listed in the Town and Country Planning (Development Management Procedure) (Wales) Order (DMPO). The list of statutory consultees currently includes bodies such as Natural Resources for Wales, the Health and Safety Executive and the Coal Authority.

I have issued a consultation paper, “Frontloading the development management system”, that seeks the views of stakeholders on the proposed new duties that are placed on statutory consultees by sections 15 and 35 of the Bill, and section 54 of the PCPA.

You also ask for further clarity in relation to the Well-being of Future Generations (Wales) Bill, the Planning Bill and the Environment Bill. Specifically you ask if it is my intention to amend the Planning Bill using the Environment Bill to make explicit the links between Natural Resource Planning and Development Plans.

Dealing with the specific question first, I can confirm that it is not my intention, at this time, to use the Environment Bill to make amendments to the Planning Bill.

With regard to the relationship between the three Bills more broadly, building on the information given to the Committee to date, I have asked my officials to prepare further information outlining how the planning system will accommodate the changes being introduced by the Well-being of Future Generations Bill and I intend to share this with the Committee before 14 January.

Ahead of receiving that information, please find the following description of the key interaction between the Bills:

The Well-being of Future Generations (Wales) Bill provides six well-being goals to be achieved, and five sustainable governance approaches. The sustainable governance approaches which will need to be at the heart of the planning system, something I believe has been happening since the introduction of Planning Policy

Wales in 2002. The well-being goals will need to inform the programme of work, going forward, to improve planning in Wales so that the planning system can help contribute to the achievement of the well-being goals for Wales. Development plans at all levels either directly, in the case of the NDF, or indirectly through national planning policy or the setting of local well-being objectives in the case of SDPs and LDPs. The NDP, SDP and LDP will need to be designed to contribute towards the achievement of the well-being goals, reinforcing the long established practice of ensuring that the objectives in these development plans are set in accordance with the sustainable development principles. This means looking to the long term, taking an integrated approach, involving people and communities, collaborating with partners and identifying opportunities for preventative action.

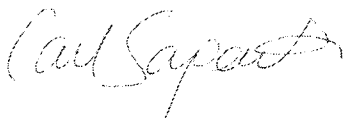
The Well-being of Future Generations (Wales) Bill will reduce a number of current strategies and plans into one single integrated local well-being plan. Only one statutory plan is therefore being created by the Well-being of Future Generations (Wales) Bill – the local well-being plan. These are strategic plans which look at how the environmental, economic and social well-being of an area can be improved over time.

The Environment Bill will require the preparation of Area Statements, aligned to national goals and informing the local objectives, which summarise key information in relation to the natural resources within an area – the local needs, opportunities and challenges for natural resource management – and this evidence will inform the well-being plans and development plans. The intention is for Area Statement to provide a stronger evidence base to feed in to the preparation of the local well-being plan including the local well-being assessment and inform the sustainable management of natural resources, which is key for sustainable development and the achievement of the well-being goals. Consequentially, it is our intention for the Environment Bill to amend the Well-being of Future Generations (Wales) Bill to require each Public Service Board to take into account the area statement in preparing its well-being assessment. The Committee will of course have the opportunity to scrutinise these aspects at the appropriate time when the Environment Bill is introduced next year.

There will be a legal requirement for Local Planning Authorities to have regard to the local well-being plan in the preparation of a Local Development Plan. The Well-being of Future Generations (Wales) Bill does this by amending the Planning & Compulsory Purchase Act 2004, in Schedule 4 of the Bill.

I trust that my response to the Committee's request will assist Members in their scrutiny of the Planning (Wales) Bill. I look forward to providing further oral evidence to the Committee on 14 January.

Yours sincerely



Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

Strategic Development Plans: Strategic Planning Panels

The Panel will be a corporate body with one third of the total partnership made up from economic, social and environmental sectors.

The list below is draft and not definitive but provides an example of the types of organisations that could be included. The organisations listed below are national organisations however, the nominations will have to have a regional remit and will represent the interests of the region. More localised organisations could be identified, where appropriate.

(Please note that some groups may be relevant to more than one sector but the groups in total represent the social, economic and environmental sectors)

Learning, Skills, advice and Business Support
Citizens Advice Bureau
University Vice-chancellors
C/Plan Cardiff University/ Geography Department Swansea University
Job Centre Plus
Phoenix social Enterprise
British Urban Regeneration Association
Job Centre Plus
Voluntary and Community Sector
Wales Council for Voluntary Action
Business in the Community
Communities First
Cymdeithas yr Iaith
Cymuned
Prince's Foundation
The British Red Cross
NACRO
Salvation Army
Neighbourhood initiatives Foundation
One voice Wales
Equalities Sector
Disability Wales
Race Equality First
Accessibility Groups (local branches)
Shaw Trust
Age Concern Cymru (and regional branches)
All Wales Ethnic Minority Association
Black Environment Network (BEN)
Women's Institute
Merched Y Wawr

Advisory Council for the Education of Romany and Other Travellers (ACERT)
British Romany Union
Consortium of Romany and Traveller Groups
Gypsy Council for Education, Culture, Welfare and Civil Rights
National Association of Teachers of Travellers
National Gypsy Council
National Romany Rights Association
The Romany Guild
Romany Institute
Society of Travelling People
Friends, Families and Travellers
Irish Traveller Movement
Traveller Law Reform Coalition
Health and social wellbeing Sector
NHS Trusts
Health and Safety Executive
NHS Wales Shared Service Partnership (formerly Health Estates)
The Chartered Institute of Environmental Health Wales-Cymru
Fire Authorities
Police Authorities (including architectural liaison officers)
Welsh Ambulance Service NHS Trust
Home Office Crime Team in Wales
Development Sector
Private
Confederation of British Industry
Construction Industry Council Wales
Federation of Master Builders
Regional Chambers of Commerce
Federation of Small Businesses Wales
British Retail Consortium
Town Centre Management Partnerships (where relevant)
British Independent Retailers Association (bira)
CCAB
CEMEX UK
National Federation of National Demolition Contractors
National House Building Council
House Building Federation
Crown Estate Office
Environmental Services Association (Waste)
Public (Housing)
Housing Associations
Rural Housing Enablers
Llamau
Shelter
Crisis
Public Transport Users Sector

Disabled Persons Transport Advisory Committee			
CPT Wales (public transport)			
Rail Passengers Council			
Rail Passengers Committees			
Local bus operators			
Campaign for Better Transport			
Business Sector			
Tourism Sector	Transport	Infrastructure	Minerals
Regional Tourism Bodies (but these will no longer be funded from my understanding)	CILT Cymru	Association of Electricity Producers	Coal Authority
British Holiday and Home Park Association	BAA Plc	National Grid	Mineral Products Association
National Caravan Council	Other airport operators	National Grid Property Holdings	Quarry Products Association
	Cardiff International Airport Ltd	Energy Providers	British Aggregates Association
	Ynys Mon airport	Association of Energy Suppliers	
	Associated British Ports	British Wind Energy Association	
	Association of Inland and Navigation Authorities	Local Energy Support Teams (regional)	
	British Ports Association (and specific geographical port companies)	Telecommunication network providers Dwr Cymru	
	Road Haulage Association		
	British Motorcyclists Federation		
	Association of Train Operating Companies		
	Network Rail Infrastructure Ltd.		
	Frist Great Western		
	Arriva Wales (Bus and Rail)		
	Firstgroup Plc		
	Great Western Train Company Limited		

	Virgin trains		
	DB Schenker (UK) Ltd.		
	Freight Transport Association		
	Rail Freight Group		
	Coach Operators Federation		
	National Federation of Bus Users		
	Network Rail		
	Sustrans		
	Cyclists Touring Club		
	Satgecoach		
	National Express Ltd.		
	Breakdown recovery organisations (e.g. The AA; RAC; Green Flag; Britannia etc.)		
	Traws Cymru		
Agriculture and Rural Business Sector			
Wales Rural Observatory			
Countryside Alliance Wales			
Royal Welsh Agricultural Society			
County Surveyors Society			
Campaign for the Protection of Rural Wales			
Youth Sector			
Prince's Trust Cymru			
British Youth Council			
Urdd Gobaith Cymru			
Childline			
Cardiff YMCA (also Housing association)			
National Society for the Prevention of Cruelty to Children			
Culture, Media and Sport Sector			
Sport and Recreation Alliance			
Promo Wales			
Art Council for Wales			
Theatr Genedlaethol Cymru			
National Theatre Wales			
National Museum Wales			
Faith Community Sector			
Church in Wales			
Interfaith network			
Interfaith Council for Wales			
Cytun			
British Council (Faith) Wales			
Church Commissioners (responsibility for estates)			
Union Sector			
Trade Unions		Farmer's Unions	

PCS	NFU
UNISON	Farmers' Union of Wales
TUC	
Prospect	
Amicus	
Environmental Sector:	
Carbon Trust	
Energy Saving Trust	
Wales Environment Link	
AONB Management Bodies	
(Civic Trusts no longer exists but some have remained in place under another name)	
British Trust for Conservation Volunteers	
Coed Cadw	
Woodland Trust	
Greenspace	
Living Street Wales	
Council for British Archaeology in Wales	
NPFA Cymru	
Fields in Trust	
Soil Association	
Welsh Historic Garden Trust (local Groups)	
Wildlife Trusts	
World Wide Fund for Nature	
Arboriculture Association – Wales WA	
Ramblers Association	
Cymdeithas Edward Llwyd	
British Mountaineering Council	
Clwb Mynydda Cymru	
Keep Wales Tidy (Encams)	
Heritage Lottery Fund	
Royal Society for Protection of Birds	
Institute of Historic Building Conservation	
Recycling Consortium	
Rounded Development	
Protected Landscape Forum	
National Trust	
Greenpeace	
Friend of the Earth	
Forum for the Future	
Centre for Alternative Technology	
Centre for Sustainable Energy	
Country Land and Business Association	
Canal and river Trust	
Land use Organisations/ Institutes	
Royal Institute of British Architects	
Town and Country Planning Association	
Royal Commission of the Ancient and Historical Monuments of Wales	
Royal Town Planning Institute	

Royal Institute of Chartered Surveyors
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Law Society

Agenda Item 3.3

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref:
Ein cyf/Our ref: LF/CS/0011/15

Alun Ffred Jones AM
Chair
Environment and Sustainability Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

9 January 2015

Dear Alun

PLANNING (WALES) BILL

Following my letter of 7 January to the committee, please find attached three documents that provide further information outlining how the planning system will accommodate the changes being introduced by the Well-being of Future Generations (Wales) Bill. These documents are:

- **Planning Prospectus Overview.** This outlines the alignment of the planning system with the Well-being of Future Generations (Wales) Bill.
- **Planning Policy Prospectus.** This outlines how national policy as set out in Planning Policy Wales will be revised to align with the proposals outlined in the Well-being of Future Generations (Wales) Bill.
- **Development Plans Prospectus.** This outlines how the development plan proposals in the Planning (Wales) Bill align with the current development plan process and the Well-being of Future Generations (Wales) Bill.

These documents will be made available on the Welsh Government website in due course.

I trust Members will find these documents helpful and I look forward to providing evidence to the Committee on 14 January.

I am copying this letter to the Chair of the Constitutional and Legislative Affairs Committee and the Chair of the Finance Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carl Sargeant', with a stylized flourish at the end.

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

Cc: Chair of the Constitutional and Legislative Affairs Committee
Chair of the Finance Committee

Planning Prospectus Overview

How will the planning system complement The Well-being of Future Generations (Wales) Bill?

The Well-being of Future Generations (Wales) Bill proposes six well-being goals:

A prosperous Wales	A resilient Wales	A healthier Wales	A more equal Wales
A Wales of cohesive communities		A Wales of vibrant culture and thriving Welsh language	

And five governance principles:

Long term	Integration	Collaboration	Prevention	Involvement
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Sustainable Development has been at the heart of the planning system, its policies and practices, since the introduction of Planning Policy Wales (PPW) in 2002. The six well-being goals and five governance principles are already delivered when plans are prepared and decisions on planning applications made. The Welsh Government remains committed to a plan led approach to development with planning decisions being made on a rational, consistent and fair basis with sustainable development at their heart.

This document provides an overview of the future relationship between the planning system and The Well-being of Future Generations (Wales) Bill. Further details on the relationship are provided by the two accompanying documents:

- Planning Policy Prospectus
- Development Plan Prospectus

Our proposals

Our proposals include:-

- A reinvigorated pan-Wales planning framework comprising of Planning Policy Wales (PPW) and the National Development Framework (NDF);
- Addressing strategic cross boundary issues through Strategic Development Plans (SDPs) in those areas of Wales where they are required;
- Strengthening the Local Development Plan (LDP) system;
- Supporting the delivery of Place Plans (PPs) through existing Supplementary Planning Guidance (SPG) procedures to add detail and support local community aspirations.

The six well-being goals will inform and provide structure to our programme of work going forward to revise PPW (for further details see the Planning Policy Prospectus). PPW and the NDF will provide the mechanism to translate the well-being goals into the proposed national planning framework and ensure SDPs and LDPs are shaped by them. Local Well-being Plans and the local well-being objectives that they contain, will inform SDPs. LDPs will help further embed well-being goals and objectives across the planning system. The preparation of all development plans (NDF, SDPs and LDPs) will require a Sustainability Appraisal to test the plan's policies against sustainability objectives. This will ensure that all planning decisions, including Ministerial decisions on Developments of National Significance (DNS), are taken in the context of sustainable development.

Overall, we do not want to see more plan making activity, rather we want to see better plan making with a redistribution of activities to the most appropriate tier of plan. We want to do this to maximise beneficial planning outcomes in terms of economic opportunities, housing provision, investment, community aspirations and making the best use of our natural resources. A summary of the existing and proposed development plan system and the linkages to the Well-being of Future Generations (Wales) Bill is set out in this document. Further detail is provided by the Development Plan Prospectus.

Key Questions

Can the proposals in the Planning (Wales) Bill accommodate local government reform?

The proposals are 'future proofed' and can complement local authority reorganisation. It is recognised that fewer, but better resourced LPAs may result in a reduced need for SDPs.

Why are SDPs not proposed across the whole of Wales?

SDPs are only necessary for those areas subject to significant cross boundary issues where planning outcomes such as jobs and homes can be improved by the proposed approach. Examples where this may come forward are Cardiff, Swansea and the A55 Corridor.

How can local communities and stakeholders engage in the development plan process?

The **NDF** process will include public consultation and involvement. The **SDP** process and procedures will mirror the current LDP process, requiring the publication of a Community Involvement Scheme setting out who will be engaged and at what stage they will be consulted. This will ensure that communities and businesses have significant opportunities to engage in the development of the SDP.

Place Plans will ensure that local communities have a key role in shaping their area.

Will SDPs dictate matters best left to local authorities?

SDPs will build upon existing LDPs. Locally elected members on the strategic planning panels will ensure the views of their local communities are taken into account.

Will the introduction of SDPs delay LDP production?

The preparation of an SDP will not prevent the production of an LDP. The SDP does not introduce additional requirements to plan but rather redistributes the consideration of planning issues to the most appropriate tier. Full LDP coverage is anticipated prior to the adoption of an SDP.

What are the implications for an adopted LDP when either a new SDP or NDF is published?

Local planning authorities should review their LDP as soon as possible following the publication either an SDP or NDF to ensure it is in general conformity, particularly where new policy or issues have arisen. If the LDP is not in general conformity it will need to be revised.

The Development Plan Framework

	Aim	Lead	Date
NDF Purpose: To identify national scale areas of growth and new investment, setting out key Welsh Government land use policies Coverage: All Wales Period: 20 years Review: Every 5 years	To set out national spatial planning priorities and provide direction for SDPs and LDPs	Welsh Government	Approved National Assembly 2019
SDP Purpose: To provide strategic vision and allocations across a cohesive region Coverage: Areas with strategic issues covering a number of LPAs Period: 15-20 years Review: AMR. Full review every 4 years	To address strategic planning issues and provide strategic direction for LDPs	Strategic Planning Panel	Adoption 2021
LDP Light Purpose: To set out local policies and allocations not considered by an SDP Coverage: LPAs covered by SDPs Period: 10 to 15 years Review: AMR. Full review every 4 years	To meet local needs and provide a framework for LPA development management	Local planning authority	In parallel with the SDP. Adoption 2021
LDP Purpose: To set out local policies and allocations Coverage: LPAs not covered by SDPs Period: 10 to 15 years Review: AMR. Full review at least every 4 years	To meet local needs and provide a framework for LPA development management	Local planning authority	Full LDP coverage 2018
Place Plan Purpose: To provide detailed thematic or site specific guidance to supplement the policies and proposals presented in a LDP Coverage: Community area Period: 10 to 15 years Review: At same time as LDP	To reflect local distinctiveness and address local, specific community scale issues	Town and Community Councils with support from LPA	Post adoption of LDP

What is the National Development Framework?

The NDF will be a national development plan for Wales. The NDF will identify the key locations for growth and new infrastructure and set out our key planning policies to provide clear direction to all levels of the development plan framework. The NDF will build on the first national land use plan – the Wales Spatial Plan – and take forward the lessons that have been learned over the last decade.

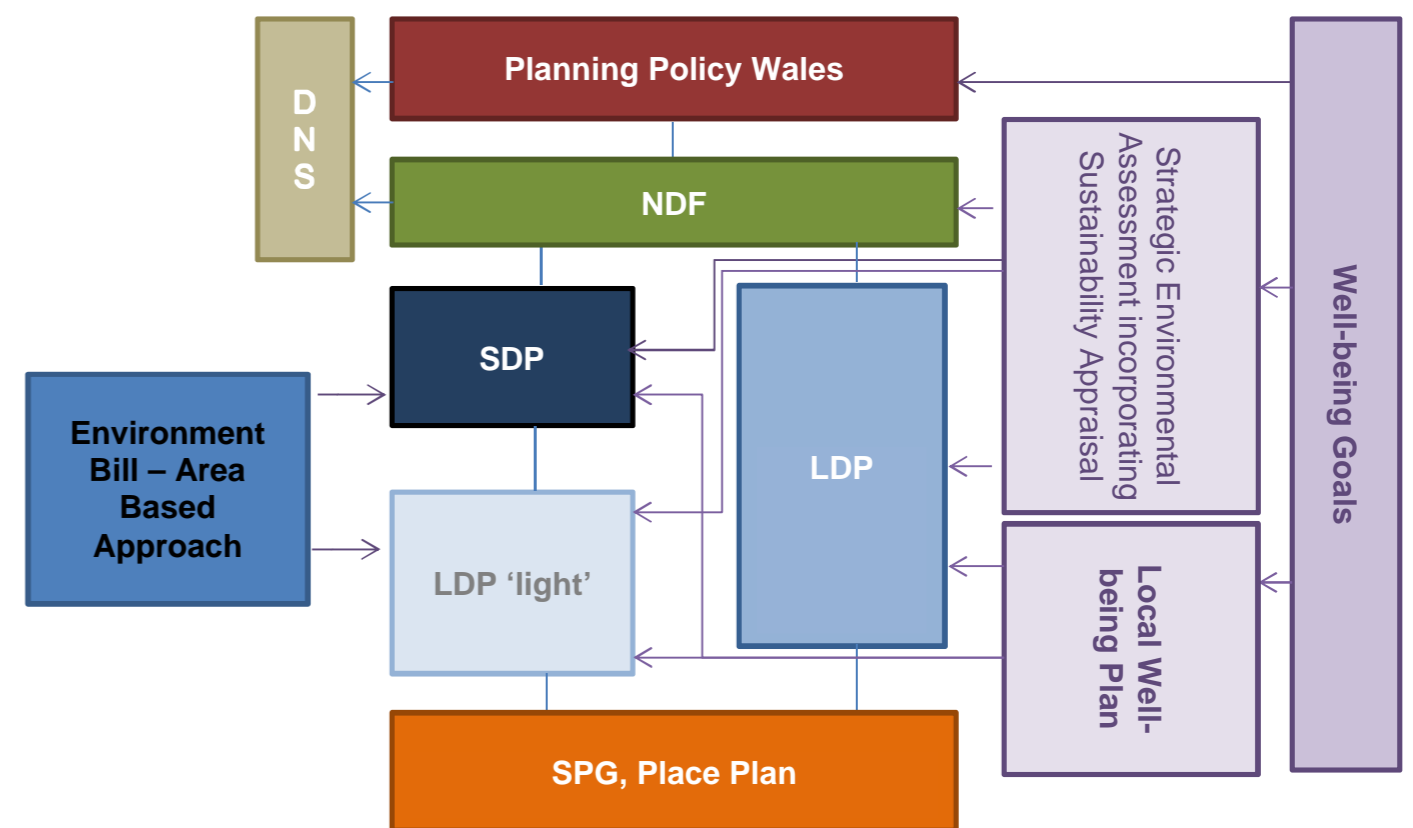
The NDF will reflect the well-being goals, the five governance principles and PPW ensuring that the principles of sustainable development continue to be at the heart of the planning system. It will draw on national policies covering areas such as natural resources and transport and will help to maximise the potential benefits from funding streams, support the delivery of infrastructure plans and provide a context for Ministers' decisions on DNS.

How will issues be dealt with by different plans?

We do not want each plan to cover all planning issues. For example, issues such as design and local distinctiveness are best considered at the local level (LDP and Place Plan) whilst others such as economic development or housing, could be considered at each level. This joined up approach will support the delivery of the best planning outcomes. The following table gives an example of how an issue will be considered at each tier:-

Economic Development & the Planning Framework	
NDF	Identify key national growth areas, growth sectors and infrastructure to support their growth.
SDP	Identify strategic employment sites across region to support growth areas and key sectors.
LDP	Identify local employment sites.
Place Plan	Set out design & layout principles for sites at neighbourhood level.

Future relationship between Plans



Planning Policy Prospectus

Prepared for Environment and Sustainability Committee (14 January 2015)

Planning Policy Prospectus

Contents:

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The Planning (Wales) Bill	4
Review of Planning Policy Wales	5

Overview: Planning Policy Wales

Since 2002, Planning Policy Wales (PPW) has set out the land use planning policies of the Welsh Government. PPW, together with Technical Advice Notes (TANs), circulars and policy clarification letters comprise national planning policy.

PPW has sustainability at its heart. Planning policy is about making choices for the future on how the need for our communities to develop and flourish should be satisfied and our natural resources managed.

PPW is structured so that each chapter is dedicated to one or more theme or topic. These chapters: outline the Welsh Government's strategic objectives for these areas; set the policy context and describe key issues; identify areas which LDPs should address locally; and outline matters which should be taken into account when planning applications are decided.

The chapters are grouped as follows:

- Planning for Sustainability (including climate change, settlement strategies, managing urban form, brownfield and agricultural land, design, sustainable buildings and the Welsh language)
- Natural Heritage and Coast (including landscape and biodiversity)
- Historic Environment
- Economic Development
- Transport
- Housing
- Retailing and Town Centres
- Tourism, Sport and Recreation
- Infrastructure and Services (including water, waste, energy and telecommunications)
- Environmental Risks and Pollution (including flood risk, contaminated and unstable land, air and water quality, and noise and light pollution)

Planning for Sustainability

Chapter 4 (Planning for Sustainability) establishes links between planning and sustainable development. It describes the existing legislative background and framework as well as setting out the planning system's presumption in favour of sustainable development.

The key themes of sustainability, according to paragraph 4.1.6 of PPW, are:

- Living within environmental limits
- Ensuring a strong, healthy and just society
- Achieving a sustainable economy
- Promoting good governance
- Using sound science responsibly

Every local planning authority (LPA) in Wales must prepare a Local Development Plan (LDP). Regard has to be had to the development plan for the purposes of any determination made under the Planning Acts. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

In the preparation of LDPs, LPAs are required to undertake a Sustainability Appraisal. This tests the plan's policies against sustainability objectives. The purpose of the appraisal is to assess the

economic, environmental and social effects of the plan and this is undertaken at several stages of its preparation. Undertaking this process ensures that decisions taken in accordance with the plan are made in the context of sustainable development.

PPW should be taken into account by LPAs, Welsh Ministers and Planning Inspectors when LDPs are prepared and planning applications are decided.

The planning system provides for a presumption in favour of sustainable development as: in preparing a development plan and taking decisions in accordance with that plan, LPAs are exercising their planning functions with the objective of contributing to the achievement of sustainable development.

Where a plan is not in place or is out of date, PPW contains sustainable development principles and objectives which the decision-maker should take into account when justifying their decisions on planning applications using appropriate evidence.

These sustainable development principles and objectives demonstrate how sustainable development is woven into the very core of PPW and thus national planning policy.

Sustainable Development has therefore been at the heart of the planning system, its policies and practices, for more than a decade, since the introduction of Planning Policy Wales.

Well-being of Future Generations (Wales) Bill

The Well-being of Future Generations (Wales) Bill was introduced into the National Assembly for Wales on 7 July 2014. The overall purpose of the Bill is to ensure that the governance arrangements of public bodies for improving the well-being of Wales take the needs of future generations into account.

3 of the key specific purposes of the Bill are to:

- set a framework within which specified Welsh public authorities will seek to ensure the needs of the present are met without compromising the ability of future generations to meet their own needs (the sustainable development principle);
- put into place well-being goals which those authorities are to seek to achieve in order to improve well-being both now and in the future; and
- set out how those authorities are to show they are working towards the well-being goals.

The sustainable development principle seeks to ensure that all decisions by public bodies are taken in the context of “*seeking to ensure the needs of the present are met without compromising the ability of future generations to meet their own needs*”.

Requiring public bodies to have regard to sustainable development in their business planning and decision making processes is effectively requiring them to carry out a process corporately which local planning authorities and other planning decision makers have been doing for over 10 years in the context of Planning Policy Wales.

The Planning (Wales) Bill

The Planning (Wales) Bill was introduced to the National Assembly for Wales on 6 October 2014. The Bill seeks to ensure Wales has a planning system which supports the delivery of homes, jobs and infrastructure for the benefit of communities across Wales.

This Bill, if enacted, will introduce a National Development Framework (NDF) and Strategic Development Plans (SDPs).

The NDF will have development plan status and will focus on land use issues of national significance including energy, transport, economic development, housing and natural resources. Through the NDF, the Welsh Government will provide a positive steer for development and investment and give direction to other parts of the planning system.

SDPs will be prepared for those parts of Wales which have planning issues that are wider than the local level and which affect more than one local planning authority area. The NDF will provide the strategic direction for SDPs and ensure Welsh Government's priorities are carried through to the regional level. Both the NDF and SDPs will be subject to a Sustainability Appraisal.

Together PPW, setting out the Welsh Government's land use policies, and the NDF, setting out the spatial priorities for growth and infrastructure, will ensure that the Welsh Government provides leadership for the planning system at all levels across Wales.

Review of Planning Policy Wales

Planning Policy Wales must reflect the new legislative framework whilst continuing to provide an appropriate context within which development plans are prepared and decisions on development proposals are taken.

To take this forward we propose a progressive work programme with short, medium and longer term actions. Planning policy will need to keep up with this important change in the legislative framework and clarification and guidance are likely to be called for, particularly from local planning authorities, on how the Well-being of Future Generations (Wales) Bill goals should be taken into account in plan preparation and planning decisions. Agreeing and communicating this work programme now will ensure that our actions are well-prepared, clear and stakeholders are informed of our future intentions.

**Short Term Action: By Spring 2015:
Light Touch Review of PPW to take into account provisions of the Well-being of Future Generations (Wales) Bill**

We will revise the opening chapters of PPW (most notably Chapter 4 which presently discusses sustainable development) to incorporate information on the Well-being of Future Generations (Wales) Bill and how the goals should be taken into account by local planning authorities in plan preparation and planning decisions.

Sections 4.1 – 4.4 of PPW will be rewritten to include information on the Bill in the context of the wider sustainable development (4.1) and planning for sustainability sections (4.2). These sections will be expanded with advice and guidance on LDPs and Development Management in a similar fashion to the other topic-based chapters. The sustainable development principles and objectives (4.3 and 4.4), will also be grouped and re-ordered to align with the Well-being of Future Generations (Wales) Bill goals.

These changes will be prepared and issued after the Bill receives Royal Assent and the relevant provisions of the Bill come into force, firstly in the form of a policy clarification letter and then as part of a scheduled refresh of PPW.

This initial work would provide essential information and guidance to developers and local planning authorities, whilst keeping national planning policy in Wales up-to-date in the context of the new legislative background.

Medium Term Action: By End of 2015:

Review of PPW which highlights the policy statements and relates these to the goals within the Well-being of Future Generations (Wales) Bill.

Detailed work will begin to examine PPW in more detail to demonstrate the linkages with the goals contained within the Bill.

This will see PPW comprehensively examined to highlight and make cross-references to the goals contained in the Bill, thereby intrinsically linking the two and enabling decision makers to justify their decisions within the context of the Well-being of Future Generations (Wales) Bill goals.

Longer Term Action: During 2016:

Align the structure of PPW and NDF with the goals within the Well-being of Future Generations (Wales) Bill.


In the longer term we will refresh PPW to align the present chapters with goals set out in the Well-being of Future Generations (Wales) Bill. This structuring will assign a policy topic to one or more goals.

Likewise, the NDF will be structured around the Well-being of Future Generations (Wales) Bill goals, ensuring that the principles of sustainable development continue to be at the heart of the planning system.

This work will be scheduled to co-ordinate with other ongoing work associated with PPW including the incorporation of Minerals Planning Policy Wales (MPPW) as well as the updating and formulation of revised policy which is ongoing (including retailing and built heritage etc.).

Once the system has been introduced, the Welsh Ministers will also need to demonstrate that they have taken the Well-being of Future Generations (Wales) Bill goals into account in taking decisions on Developments of National Significance (DNS) .

Although the goals of the Well-being of Future Generations (Wales) Bill will be set in legislation; they can be added to, deleted, or changed by the Welsh Ministers through secondary legislation. It will therefore be necessary for PPW to be flexibly structured and published in order that it can be adapted to any changes.



Development Plan Prospectus

Prepared for Environment and Sustainability Committee (14 January 2015)

Development Plan Prospectus

Contents:

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Strategic Development Plan (SDP)	6
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The current Local Development Plan (LDP) Process	9
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Overview

The Proposed Development Plan Framework

The Welsh Government remains committed to a plan-led approach to development. This is necessary to ensure that development is sustainable and that planning decisions are made on a rational, consistent and fair basis. The Planning (Wales) Bill (Part 2) proposes an evolution of the current development plan system, seeking to make improvements based on experience gained since The Planning and Compulsory Purchase Act 2004. A reinvigorated pan-Wales planning framework, comprising of Planning Policy Wales (PPW) and the National Development Framework (NDF) for Wales will be produced. Strategic Development Plans (SDPs) will provide a coherent approach to the consideration and reconciliation of strategic cross boundary issues. This will provide a more coherent, effective and efficient approach to dealing with cross boundary issues.

To complement this approach, LDPs in their current form will no longer be required within areas covered by an SDP, rather an LDP 'light', primarily dealing with site allocations and development management policies will be prepared. SDPs will not be necessary across the whole of Wales, only in those locations subject to strong cross boundary issues. In all other areas LDPs will remain in their current form. This does not mean that places 'miss out' if they are not covered by an SDP. To complement the approach and empower local communities, local planning authorities will work with town and community councils to prepare Place Plans (PPs) using existing Supplementary Planning Guidance (SPG) procedures to add fine grain detail where local communities consider it appropriate.

Alignment with The Well-being of Future Generations (Wales) Bill

The principle that connects the Planning (Wales) Bill, the Well-being of Future Generations (Wales) Bill and the Environment (Wales) Bill is our commitment to sustainable development as the best way to improve the well-being of Wales now and for future generations. The 5 key connections are:

- Working to a single unifying definition of a sustainable Wales;
- How we tackle larger than just local issues;
- Involving people in the decisions that affect them;
- Tackling climate change; and
- Welsh Language

The Well-being of Future Generations (Wales) Bill proposes six well-being goals:

- A prosperous Wales;
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh Language

Five governance principles are also proposed:

- Long term
- Integration

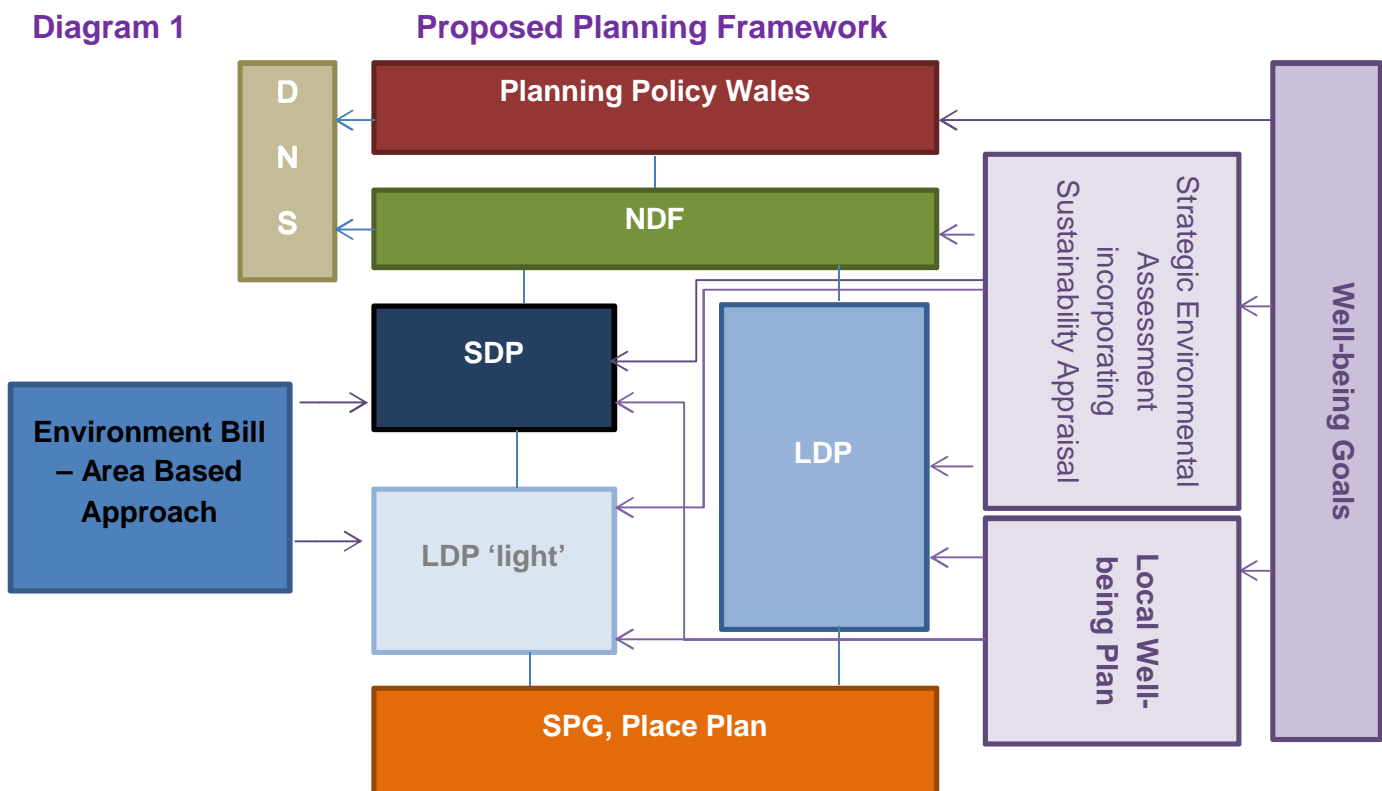
Collaboration
Prevention
Involvement

Sustainable Development has been at the heart of the planning system, its policies and practices, since the introduction of PPW in 2002. The six well-being goals and five governance principles are already delivered when plans are prepared and decisions on planning applications made. The 6 well-being goals will inform and provide structure to our programme of working going forward to revise PPW.

PPW and the NDF will provide the mechanism to translate the well-being goals into the proposed national planning framework and ensure SDPs and LDPs are shaped by the well-being objectives. Local Well-being Plans will further shape LDPs and help embed the well-being goals across the planning system. The preparation of all development plans (NDF, SDPs and LDPs) will require a Sustainability Appraisal to test policies against sustainability objectives. This will ensure that all planning decisions, including Ministerial decisions on Developments of National Significance (DNS), are taken in the context of sustainable development.

A summary of the proposed development plan system and the linkages to the Well-being of Future Generations (Wales) Bill is set out below in Diagram 1.

Diagram 1



The proposed structure does not introduce additional requirements to plan, rather a redistribution of work, achieving a more effective and efficient mechanism to maximise economic opportunities, investment and community aspirations. These proposals are 'future proofed' and can complement future local authority reorganisation. In parallel to the Bill, a refinement of the LDP process, building on lessons learnt, will align with this approach.

National Development Framework for Wales

Why are we proposing to introduce a National Development Framework (NDF) for Wales?

To provide effective leadership, the Welsh Government will prepare an NDF covering the whole of Wales. The NDF will fulfil the following principal roles:

- To set out the Welsh Government's land use priorities by identifying key locations for change and infrastructure investment over a 20 year period;
- To provide a national land use framework for Strategic and Local Development Plans
- To coordinate and maximise the potential benefits from both public and private funding and investment;
- To provide the development plan context for the Welsh Ministers to make decisions on Developments of National Significance (DNS).

What area will be covered by the NDF?

The National Development Framework will be a national development plan covering the whole of Wales.

Who will be responsible for preparing and delivering the NDF?

The Welsh Government will be responsible for preparing the NDF and keeping it up to date. It will be delivered through the actions and direct investment of the Welsh Government; investment from the private and public sectors; through strategic development plans and local planning authorities.

How will communities and businesses be engaged?

Public engagement will include a 12 week statutory consultation period, combining with other more focused mechanisms to capture evidence and views. The Welsh Ministers will be required to publish a statement of public participation for the NDF setting out:-

- The form of the consultation;
- When consultation will take place;
- The steps that will be taken to involve the public.

In addition, there will also be extensive engagement through the parallel SA/SEA process, which will incorporate a Welsh Language Impact Assessment and will underpin the development of the NDF.

What issues and topics could the NDF cover?

- Housing – Key areas of change
- Economic Development – Sector growth and implications for places
- Energy – Renewable energy opportunities
- Natural Resources – Areas of significant natural resources
- Transport – Electrification of rail lines, Cardiff Airport, road schemes and connectivity
- Infrastructure – development of national significance
- Welsh Language

What status will the NDF have?

The NDF will have development plan status. It will provide direction and certainty for the preparation of SDPs (where produced) and LDPs ensuring all plans are in conformity with the national approach.

When will the NDF be prepared?

The preparation of the NDF will take place over a period of approximately 3 to 4 years from when the Planning (Wales) Bill is enacted. The NDF will be kept under review and every five years from publication the Welsh Ministers must either undertake a revision, or publish an explanation of why they have decided not to revise it.

How will the NDF link with The Well-being of Future Generations (Wales) Bill?

The NDF will be structured around the six well-being goals identified in The Well-being of Future Generations (Wales) Bill, ensuring that the principles of sustainable development continue to be at the heart of the planning system.

Strategic Development Plans (SDPs)

Why are we proposing to introduce SDPs?

There is an identified need to improve how the planning system addresses issues that cross local authority boundaries, to reflect how people live their lives today and in the future.

Strategic development plans will provide a consistent, cost effective and efficient approach, with key decisions taken once at the strategic level. This will allow larger than local issues such as housing numbers, strategic housing allocations, strategic employment sites and supporting transport infrastructure which cut across a number of local planning authority areas and often frustrate the LDP process, to be considered and planned for in an integrated and comprehensive way.

What areas will be covered by an SDP?

SDPs will only be required in areas where there are matters of greater than local significance. The Welsh Ministers will direct a 'responsible authority' to submit a proposal for an area to be designated as a strategic planning area. To allow for future flexibility, primary legislation will not specify where SDPs should be prepared.

Who will be responsible for preparing and delivering a SDP?

In areas where an SDP is required, an independent, Strategic Planning Panel (SPP) will prepare and keep under review the SDP. The SPP will be comprised of two thirds elected members from the LPAs within the area and one third representation from social, economic and environmental partners. The inclusion of social, economic and environmental partners will ensure that those with relevant interests have the opportunity to contribute to the production of the SDP.

The SPP will have decision making powers so that ratification from their parent authorities will not be required. Such powers will be limited to the specific action of preparing an SDP and conformity of other plans to the SDP. An SPP will not make decisions on planning applications.

How will communities and businesses be engaged in the preparation of SDPs?

The SDP process and procedures will mirror that of the current LDP process, so communities and businesses will have the same opportunities to engage in the SDP process as they currently do for an LDP. The SPP will be required to prepare a delivery agreement setting out how and when stakeholders and communities can engage in the plan preparation process.

What issues and topics will the SDP cover?

Issues including housing, employment, transport, infrastructure, minerals and waste which cut across a number of local planning authorities will be addressed in the SDP to ensure they are planned for in an integrated and consistent way. These are issues which have regularly frustrated the LDP process and local authorities have found difficult to address at the local level. Housing provision for LDPs will be set at this level, including the identification of strategic allocations for uses over certain thresholds, dependent on the issue and location.

What status will SDPs have?

The SDP will have development plan status and together with the NDF and LDP will form the development plan for any area. SDPs will be required to be in general conformity with the NDF

and the LDP 'light' will have to be in general conformity with the relevant SDP. The SDP will provide a framework for the preparation of local authority's LDP 'light', by providing a strategic vision, strategic allocations and part of the evidence base.

When will SDPs be prepared?

The timescale for establishing the SDP areas and Panel by regulations is likely to take approximately 2 years. Once regulations are made, the preparation of the SDP can commence. In line with the LDP process, the SDP process should be capable of completion in 4 years. It is anticipated that the earliest SDP could be adopted in 2021.

Local Development Plan Light (LDPL)

Why are we proposing a Local Development Plan 'light' (LDPL)?

Where SDPs are prepared, the LDP will be streamlined so that it focusses on local matters, particularly site specific allocations in accordance with the scale and location of growth set out in the SDP, and development management policies. It may be possible to present this information as a single map or plan with limited supporting information. This should result in a much slimmer LDP in scope and content and therefore be quicker and cheaper to produce.

What areas will be covered by a LDPL?

An LDPL will only be required in areas covered by the SDP. In areas where an SDP is not required, the current LDP format will remain.

Who will be responsible for preparing and delivering an LDPL?

The duty to prepare an LDPL will remain with the local planning authority.

How will communities and businesses be engaged in the preparation of an LDPL?

The LDPL process and procedures will mirror that of the current LDP system, so communities and businesses will have the same opportunities to engage in the process. The local authority will be required to prepare a delivery agreement setting out how and when stakeholders and communities can engage in the plan preparation process. The reduced level of information will make it easier for communities to engage in what is most important to them – the scale and location of future development.

What issues and topics will the LDPL cover?

Due to the elevation of strategic issues such as housing provision, employment provision, transport, minerals and waste, the content of the LDPL will be significantly reduced. The LDPL will focus on local matters, particularly site specific allocations in accordance with the scale and location of growth set out in the SDP and development management policies.

What status will the LDPL have?

The LDPL will have development plan status. The LDPL will have to be in general conformity with the relevant SDP.

When will a LDPL be prepared?

The LDPL should be prepared alongside the SDP. Due to the elevation of strategic issues to the SDP, the LDPL will be slimmer in scope and content and therefore quicker to produce. The first LDPL could be adopted by 2021.

The current Local Development Plan (LDP) process

Why are we proposing to retain the current LDP system?

With 15 adopted LDPs in Wales and several more in the pipeline, the LDP system is essential to ensuring sustainable development for current and future generations.

What areas will be covered by an LDP?

There will be areas of Wales where there are no cross boundary strategic issues that need to be addressed other than through the LDP. The current LDP system will remain in areas where an SDP is not required.

Who will be responsible for preparing and delivering a LDP?

The duty to prepare an LDP will remain with the local planning authority.

How will communities and businesses be engaged in the preparation of an LDP?

The LDP process and procedures for engaging communities and businesses will remain. The local authority will be required to prepare a delivery agreement setting out how and when stakeholders and communities can engage in the plan preparation process.

What issues and topics will the LDP cover?

The LDP will be a comprehensive plan covering all the relevant issues and topics at a local level, site allocations and development management policies.

What status will the LDP have?

The LDP will have development plan status. The LDP will have to be in general conformity with the NDF.

When will a LDP be prepared?

The current LDP process should be capable of completion in 4 years. It is anticipated that there will be full LDP coverage in Wales by 2018.

Are there any proposals to change the LDP process?

LDP preparation has been taking too long with delays arising from resolving cross boundary issues. The LDP preparation process, is being refined to be more efficient and effective to facilitate the preparation and maintenance of up-to-date plans. For example, removing the alternative sites stage and the provision of a short review option will reduce the time and cost of reviewing their plans.

Alongside the refinement process the Bill includes 3 provisions to improve the LDP process. These are;

A requirement for LPAs to notify the Welsh Ministers of any resolution to withdraw an LDP. The notification period will allow the Welsh Ministers the opportunity to use their intervention powers to progress an LDP if it is deemed appropriate and it is supported by

robust evidence. It will support a plan-led approach and ensure public money is not wasted.

A requirement for LDPs to specify an end date, beyond which they are no longer the development plan for the area. This will support a plan-led approach, ensuring LDPs are kept up to date and responsive to local issues.

Provision for the Welsh Ministers to direct two or more local planning authorities to produce a joint LDP. This will ensure that issues of larger than local scale are properly addressed, particularly important in those areas of Wales not subject to an SDP. Resilience can also be realised through sharing of skills and resources and commissioning joint technical studies.

Place Plans (PPs)

Why are we proposing to introduce 'Place Plans'?

Place Plans are proposed as Supplementary Planning Guidance (SPG) that must be consistent with the LDP. They will not have development plan status, instead 'status' will be achieved by the link to the LDP.

Place Plans will encourage greater community engagement in local planning decision making by allowing communities to shape their localities. Place Plans will set out the more detailed thematic or site specific guidance to supplement the policies and proposals presented in an LDP. Town and Community Councils will be able to work pro-actively with LPAs so that resources are used more effectively.

Who will be responsible for preparing and delivering Place Plans?

Town and Community Councils will engage with local communities, business and the LPA to deliver Place Plans. We wish to identify pilot projects to demonstrate practical approaches.

How will communities and businesses be engaged in the preparation of Place Plans?

Place Plans should be prepared with consultation with the communities, businesses, and other interested consultees. All views will be taken into account and any changes made as a result, documented before the plan is finalised. It should then be approved by LPA Council resolution and formally adopted by the LPA (following adoption of the LDP).

What issues and topics will Place Plans cover?

Place Plans could specify the finer details of planning proposals to ensure that they reflect local distinctiveness. This could take the form of a development brief, a more design orientated master plan or provide the location for small scale development where this was not already addressed by the LDP.

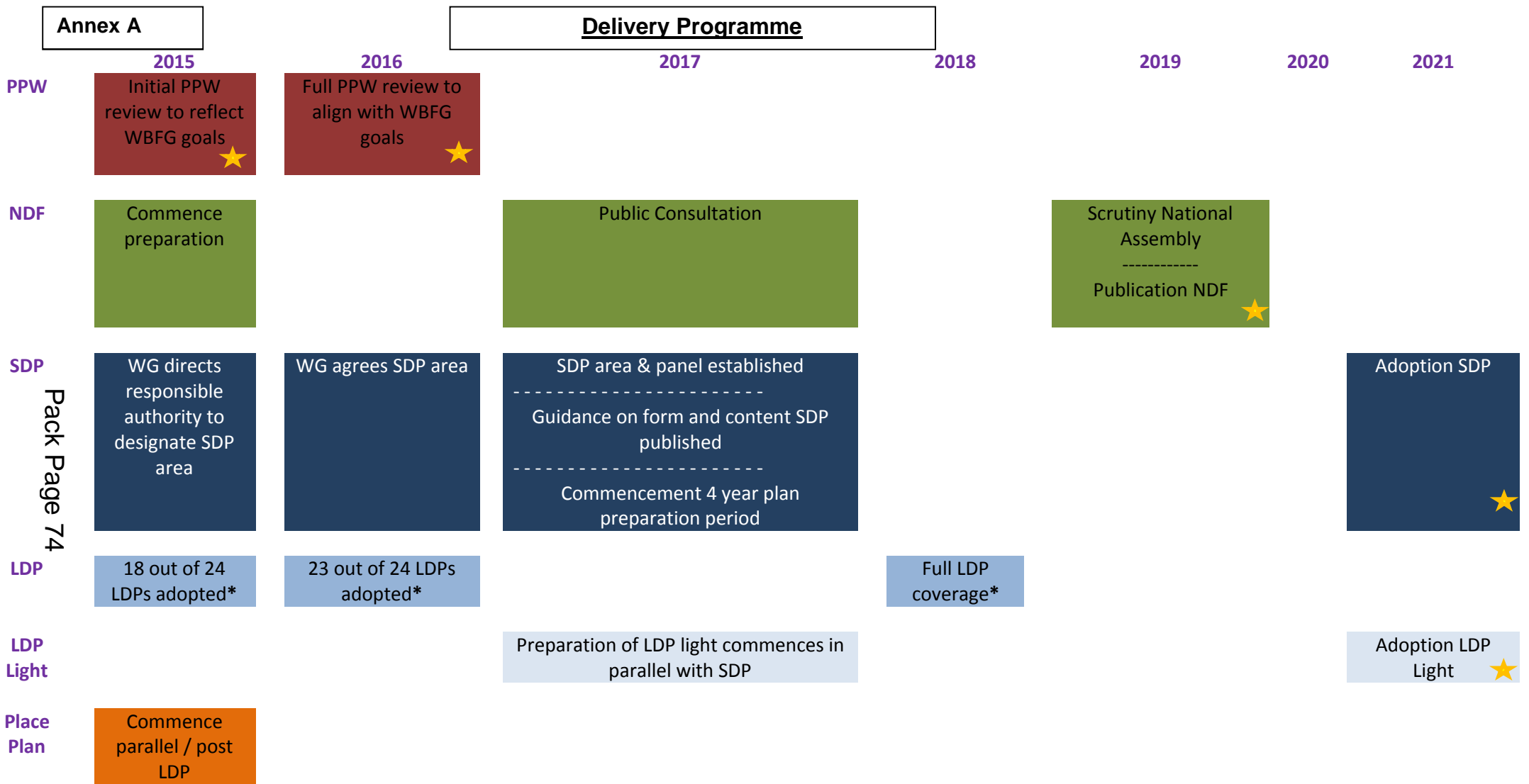
They could also provide a steer to distribute funding raised from a Community Infrastructure Levy, potentially accessing 15% of funds to support local 'infrastructure'.

Will Place Plans have development plan status?

Place Plans will be Supplementary Planning Guidance (SPG) to the adopted Local Development Plan and must be in conformity with it. A Place Plan where produced in the way described above will be a material consideration when deciding planning applications.

When will they be prepared?

Place plans may be prepared in parallel or after adoption of the LDP. They can only achieve SPG status once the LDP is adopted. The LDP delivery agreement should provide an indication of when Place Plans will be prepared.



★ Ensuring General Conformity - When national guidance is updated or a higher level development plan is adopted - the lower tier plan must be reviewed to ensure it is in 'general conformity'. The most recently adopted development plan would take precedence.

* Forecast

List of Abbreviations

CIL – Community Infrastructure Levy

DNS – Development of National Significance

LDP – Local Development Plan

LDPL – Local Development Plan Light

LPAs – Local Planning Authorities

NDF – National Development Framework

PCPA 2004 – Planning & Compulsory Purchase Act, 2004

PP – Place Plans

PPW – Planning Policy Wales

SA/SEA – Sustainability Appraisal/Strategic Environmental Assessment

SDP – Strategic Development Plan

SINC – Sites of Importance for Nature Conservation

SLA – Special Landscape Areas

SPG – Supplementary Planning Guidance

SSAs – Strategic Search Areas (identified in TAN 8)

TAN – Technical Advice Note

WBFG Bill - Well-being of Future Generations (Wales) Bill

WIIP – Wales Infrastructure Investment Plan

Alun Ffred Jones AM
Chair
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Your ref:
Our ref: PO928/RB/TJ

8 January 2015

Dear Alun Ffred

Thank you for your letter of 11 December 2014 regarding your Committee's consideration of the Planning (Wales) Bill, and specifically the Bill's implications for the National Assembly for Wales in scrutinising the National Development Framework for Wales (NDF).

As a general principle, I believe the Assembly itself should have power to determine its own scrutiny arrangements, through the application of its Standing Orders. The Assembly's Standing Orders already include time-limits for its scrutiny of particular matters. However, I am conscious that I would not wish to pre-empt your Committee's specific consideration of whether the arrangements for scrutiny of the NDF, as set out in the Bill, are sufficiently robust. Instead, I would be grateful if your Committee would consider a number of issues in developing its conclusions:

- first, whether a 60-day time limit for the Assembly's consideration of the NDF provides sufficient opportunity for engagement with the people of Wales in the scrutiny process;
- second, whether a 60-day time limit may constrain the Assembly in its consideration of different options for scrutinising the NDF, thereby limiting its capacity to hold the Welsh Government to account; and

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

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- third, whether the scrutiny arrangements set out in the Bill will diminish the Assembly's influence over planning decisions in Wales.

On the first of these issues, I note that the Bill's proposals are similar to those already in place for scrutinising the Scottish National Planning Framework (NPF), and that the Scottish Parliament's Rural Affairs, Climate Change and Environment Committee has recently reported that:

“stakeholders were concerned that the period of 60 days was insufficient to enable effective scrutiny of the draft NPF3... The Committee recommends that the Scottish Government reviews the process for consideration of the NPF with a view to extending the timescales for future parliamentary scrutiny to a minimum of 90 sitting days.”¹

On the second of these issues, I note that a 60-day time limit may be incompatible with appointing a technical expert to assist a committee, in scrutinising the NDF. By contrast, it is notable that existing regulations made under the Planning and Compulsory Purchase Act 2004 require an independent inspector (appointed by Welsh Ministers) to be responsible for the scrutiny of Local Development Plans. This includes an assessment of public objections to any site-specific proposals in these plans. The Bill and associated secondary legislation will introduce a similar requirement for the new Strategic Development Plans.

On the third of these issues, I note that the Planning and Compulsory Purchase Act 2004 currently requires the Welsh Ministers to prepare a Wales Spatial Plan (WSP) and for this plan to be approved by a resolution of the Assembly. The Planning (Wales) Bill would remove this requirement and replace it with a requirement for a National Development Framework (NDF) to be prepared by the Welsh Ministers. Whereas the WSP must be approved by a resolution of the Assembly, the NDF will not. The Planning (Wales) Bill will instead require Welsh Ministers to lay a draft of the NDF before the Assembly and subsequently “have regard to” any resolution passed by the Assembly about the framework or any recommendation made by an Assembly Committee. The Bill does not state that future Welsh Ministers would have to explain how they have taken the views of the Assembly into account.

¹ 2nd report, 2014 (session 4): Report on the proposed National Planning Framework 3.



Llywydd
Presiding Officer

In your correspondence, you also asked whether the Welsh Government had engaged in discussion with either Assembly Commission staff or myself on the Bill's procedural and financial implications for the Assembly. As is customary, the Welsh Government provided me with a draft copy of this Bill ahead of its introduction, so that I could give my view on legislative competence for the Bill, and to ensure that it complied with my determination on the proper form of drafting legislation in Wales. However, the Welsh Government has not had any discussion with Assembly Commission staff, or myself, on this Bill's financial and procedural implications for the Assembly itself.

You also asked whether the scrutiny of the NDF would incur additional costs to the Assembly Commission. The scrutiny of the NDF would certainly involve financial costs, although it would not be possible to quantify such until the Assembly has determined a specific mechanism that it considers appropriate for scrutinising the NDF.

Best wishes,

Dame Rosemary Butler AM
Presiding Officer



Alun Ffred Jones AM
Chair of the Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

10 December 2014

Dear Alun Ffred,

Planning (Wales) Bill

Wales Environment Link has written to the Minister for Natural Resources, Carl Sargeant AM, to raise a concern about the statements he made when giving evidence on the Planning (Wales) Bill to the Constitutional and Legislative Affairs Committee on 10th November and to the Environment and Sustainability Committee on 27th November. The Minister stated at both sessions that he intends to bring forward an amendment at a future point in the Planning Bill process, which would give National Parks the same regulatory power as other Local Planning Authorities. In the session on the 10th November, the Minister also suggested this might require an amendment of policy for National Parks.

WEL is extremely concerned that such a significant amendment could be made after the stage where the Environment and Sustainability Committee is able to fully scrutinise its implications. Whilst scrutiny of the Planning Bill is currently ongoing, the Independent Review Panel established to review the future role and governance of Designated Landscapes is also in the process of deliberating on matters which have a direct bearing on this issue. In this latter context, we understand that the Minister will make an announcement about the future status of National Parks as Planning Authorities before Phase 2 of the Panel's work commences, sometime prior to the end of February 2015.

The proposed timing of this announcement would be unfortunate, in that it would mean that a significant amendment to the Bill would be made almost immediately after the Environment and Sustainability Committee has completed its scrutiny of the Bill.

WEL, along with many others, strongly supports the continuation of National Parks as planning authorities. The evidence in the responses to the Positive Planning consultation clearly shows this view is supported by 67% of respondents to that document¹. Likewise, the Welsh Government's own research² provides ample evidence to confirm the benefits of NPAs retaining their planning powers within their respective areas.

¹ *Welsh Government : Positive Planning: Summary of Responses, Page 12 Q24 October 2014*)

² *The Delivery of Planning Services in Statutory Designated Landscapes (October 2012)*

We urge the Environment and Sustainability Committee to write to the Minister to ask that details of any proposed changes to the Bill in respect of National Parks' planning powers are brought forward so that the Committee can scrutinise the impacts fully.

Please do not hesitate to contact me, or our Policy Coordinator, Karen Whitfield, on Karen@waleslink.org or 029 2049 7509, if you require further information.

Warm regards,



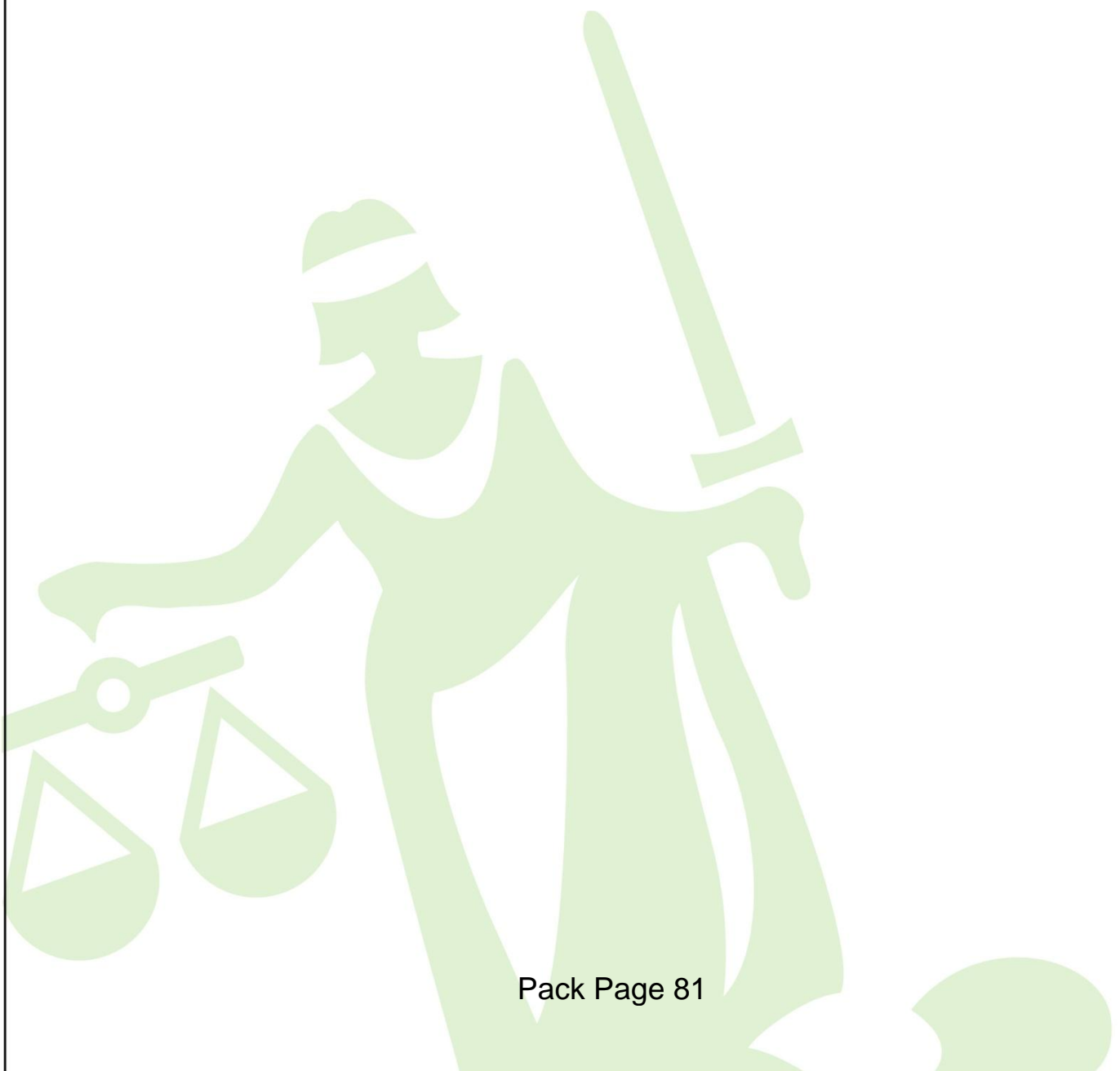
Mike Webb
Chair of WEL Planning Working Group



Cymdeithas y Cyfreithwyr
The Law Society

General Principles of the Planning (Wales) Bill
Supplemental submission to the Environment and
Sustainability Committee of the National Assembly for
Wales on Town and Village Greens

December 2014



Introduction

1. The Law Society is the representative body for solicitors in England and Wales. The Law Society negotiates on behalf of the profession and lobbies regulators, governments and others.
2. This submission has been prepared by the Law Society's Planning & Environmental Law Committee ('PELC'). The PELC comprises nineteen practitioners specialising in planning and environmental law, drawn from a cross-section of the profession, public and private sectors and covering both England and Wales.

Planning (Wales) Bill – Part 7 Town and Village Greens

3. This submission supplements the Law Society's submission (PB 55) to the Environment and Sustainability Committee ('the Committee') on the principles of the Planning (Wales) Bill. It addresses the points made by the Open Spaces Society ('OSS') in its submission to the Committee (PB 15). The Law Society offered to make this further submission during the evidence session on 3 December 2014.
4. The Law Society disagrees with the OSS's view that there is no evidence that the town and village green ('TVG') process is undermining the planning system. The PELC has nineteen members, seventeen of whom are either in private practice in England and Wales, or lawyers in local government. Attempts to register a TVG in order to render sites effectively immune from development are an experience common to all of those members.
5. The frontloading and public engagement requirements of the Local Development Plan ('LDP') system have been criticised. Those criticisms are being addressed through the LDP refinement process that forms part of the Welsh Government's programme of planning reform and the current consultation on Local Development Plans Process Review. Furthermore, these criticisms are an argument for further examination of the LDP process and the arrangements for public engagement, not reasons for allowing the present disruptive effects that can flow from TVG applications to continue.
6. The Law Society was represented on the Independent Advisory Group ('IAG'). The OSS interpretation of paragraph 5.8 of the IAG report is, in our view, inaccurate. Paragraph 5.8 was directed towards those parallel applications that, as a matter of law (for, example applications to stop-up highways or rights of way) or well-established administrative practice, cannot be started until planning permission is in place. Such applications are under the control of the party applying for planning permission. A TVG application is completely different; it is made by third parties and can be made at any time before or after planning permission is granted, or even once development has started.
7. The Law Society's evidence to the Committee explained that, although applicants may put significant effort - in their own time and (possibly) at their own cost - into assembling the evidence for a TVG application, the cost of holding a non-statutory inquiry¹ then falls on the registration authority. This cost can be significant as senior barristers or Queen's Counsel are usually appointed to conduct the inquiry and to report. The landowner is left with little option but to resist the claim due to their

¹ While there are no statutory rules for such inquiries, the practice of holding them on a non-statutory basis has been repeatedly endorsed by the Courts.

investment in the planning application to date and are obliged to instruct lawyers and experts accordingly to prepare their case. There are no powers to award costs against unreasonable or vexatious applicants. The absence of statutory rules means that cases can take months, or longer, before the registration authority makes its decision.

8. The Law Society considers that the OSS places too much emphasis on the Penfold Report in England.² That report was concerned primarily with non-planning consents that are required before development can begin. A TVG application is not a 'consent'; its effect is to stop development in its tracks. Penfold was concerned to ensure that TVG applications should not disrupt development once everything else is in place.
9. The OSS refers to the consent rate for planning permissions in Wales. The Committee will be aware that the vast majority of these permissions are householder or small commercial applications. In the experience of the PELC, TVG applications are resorted to in order to stop larger schemes which, while small in number, command a disproportionate share of the resources of the planning system. By the time a developer achieves permission for a major development, they will have made an investment of tens or even hundreds of thousands of pounds. In the Law Society's view, the potential for a TVG application to emerge through a separate legal process to jeopardise such an investment is a threat to the balance and fairness of the planning system.
10. The Law Society strongly supports the principles of the proposed reform, namely:
 - a) That landowners can maintain public access to land, while protecting themselves against a future TVG application, by depositing a declaration of non-dedication; and
 - b) That there is immunity from TVG registration once land has entered the planning system, with the immunity coming to an end if an allocation of the land by a statutory plan is not accepted when the plan is adopted or planning permission is refused, but continuing while a statutory plan allocation and/or planning permission remains in place.
11. When the Law Society gave evidence to the Committee, it was suggested that immunity should only be given once planning permission was granted. This would perpetuate the present situation where a developer is "at risk" throughout the period when costs are being incurred in progressing the application.
12. The Law Society invites the Committee to reflect on the historic development of the present statutory protection of common land and TVGs. The Victorian legislation³ protecting commons and TVG from development was part of the same movement that saw the foundation of the OSS and was aimed at preserving open land for public access for the benefit of the populations of the expanding towns and cities. It pre-dates the modern and comprehensive system of town and country planning, which is able to ensure that development is carried out in the public interest generally, and in a manner that makes appropriate provision for publicly accessible open space.
13. Providing certainty through the public registration of land ownership and rights over land has long been an aim of government. The modern system of land registration in

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31621/10-1027-penfold-review-final-report.pdf.

³ Principally, in relation to TVG, the Inclosure Act 1857 (section 12) and the Commons Act 1876 (section 29).

England and Wales dates from 1925. In the case of TVGs and common land, registration gives certainty to landowners, the owners of common rights and members of the public. This was recognised by the Royal Commission, whose recommendations led to the Commons Registration Act 1965, the policy intent of which was to create certainty about the extent of commons, commoners' rights and TVG, with finality of registration resolving arguments over their nature and extent.

14. However, the development of the law on prescriptive rights in relation to TVG and the use of registration applications as a type of "satellite litigation" has created a new and surely unintended, area of uncertainty. The degree of uncertainty is exemplified by the fact that in the last fifteen years TVG registrations have come before the House of Lords or the Supreme Court on no fewer than five separate occasions.⁴
15. The proposed reforms in Wales (and the prior reforms in England) go some way to re-establishing certainty about the position in relation to the existence of TVGs when applications enter the planning system. The reforms would permit public access to be allowed without landowners being at risk of TVG claims arising in future. They also preserve the right of local inhabitants, where there is no declaration or land is not within the planning system, to assert that 'new' TVGs have arisen through use by local inhabitants for over twenty years "*nec vi, nec clam, nec precario*: not by force, nor stealth, nor the licence of the owner,"⁵ and to seek registration on that basis.
16. Finally, the Law Society notes that the OSS submission also proposes some procedural changes to the handling of TVG applications. The Law Society believes that there is a good case for establishing statutory rules for TVG inquiries, which are currently held on a non-statutory basis with no framework of rules for timetabling the case or any basis for awarding costs. One possibility might be for TVG applications to be handled by the Planning Inspectorate and allocated to legally-qualified inspectors to report to the registration authority on a binding basis. However, any such further reform should be subject to a full, public consultation on the options prior to any further legislation.

⁴ *R v Oxfordshire County Council, ex p Sunningwell Parish Council* [2000] 1 AC 335 ('Sunningwell'); *R (Beresford) v Sunderland City Council* [2004] 1 AC 889 ('Beresford') and *Oxfordshire County Council v Oxford City Council* [2006] 2 AC 674 ('Oxfordshire'); *Regina (Lewis) v Redcar and Cleveland Borough Council (No 2)* [2010] UKSC 11 ('Cleveland') and, most recently *Regina (Barkas) v North Yorkshire County Council* [2014] UKSC 31 (which ruled that *Beresford* was no longer to be relied upon - a rare instance of the highest tribunal overruling its own prior decision).

⁵ See speech of Lord Hoffman in *Sunningwell*.



NATIONAL PARKS WALES
Britain's breathing spaces

Peter Hill
Scrutiny Manager
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF991NA

24th December 2014

Dear Peter,

**Environment & Sustainability Committee – National Park Wales Evidence
Session 28th November 2014**

On behalf of the three National Park Authorities (NPAs) we would like to thank the Members of the Environment and Sustainability Committee for the opportunity to give evidence on the scrutiny of the Planning Bill.

It will be clear to you from our evidence session, that we are supportive of the overall aims and objectives of the Bill. We believe it will help deliver a more positive, resilient and consistent planning system equipped for the big challenges of the future. The 3 NPAs are currently among the best performers on planning performance indicators, and we look forward to playing a significant role in delivering the outcomes that the Bill seeks.

During the session we were asked a question relating to the following contribution by the Minister for Natural Resources earlier in the session:

"I think that it is worth placing on record as well for committee that I am seeking at a later stage to place an amendment into the Bill, which will allow all planning authorities across Wales to have the same regulatory power, which will be all of the 22 local authorities and the national parks authorities. I will be seeking to amend that piece of legislation."

We were unaware of what the Minister had said therefore felt that our response to the question was not as comprehensive and considered as we would have liked. We are therefore providing the following information for Members of the Committee to consider.

/cont...

Parciau Cenedlaethol Cymru
National Parks Wales

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SA72 6DY

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ask@nationalparkswales.gov.uk



BRECON BEACONS
NATIONAL PARK



Parc Cenedlaethol
Arfordir Penfro
Pembrokeshire Coast
National Park



SNOWDONIA
NATIONAL PARK

Pack Page 85

1. The statutory basis of the town and country planning powers of National Park authorities in Wales is:-
 - 1.1 the Environment Act 1995 (the "1995 Act");
 - 1.2 the National Park Authorities (Wales) Order 1995 (the "1995 Order");
and
 - 1.3 the Town and County Planning Act 1990 (the "1990 Act").

2. Under section 63 of the 1995 Act the Secretary of State was permitted, by order, to establish for a National Park an authority, known as a "National Park authority", to carry out the functions conferred on such an authority by or under Part III of that Act. Part III of the 1995 Act, amongst other things, inserted a new section 4A into the 1990 Act, which provided for a National Park authority to be a local planning authority. Part III of the 1990 Act also conferred, amongst other statutory functions, functions under the National Park and Access to the Countryside Act 1949; the Countryside Act 1968; and the Wildlife and Countryside Act 1981.

3. The 1995 Order was made pursuant to section 63 of the 1995 Act and came into force on 23 November 1995. Pursuant to Article 3 of the 1995 Order, on 23 November 1995, a National Park authority was established for Pembrokeshire Coast, the Brecon Beacons and Snowdonia National Parks. Pursuant to Article 5 of the 1995 Order, section 4A of the 1990 Act was made to apply to the NPAs with effect from 1 April 1996.

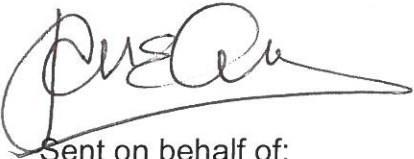
4. Section 4A of the 1990 Act provides that a National Park authority is the sole planning authority for the area of the National Park. This means that it is the planning authority for both development plan preparation and development control and management. Accordingly:
 - 4.1 functions conferred by or under the Planning Acts on a planning authority shall, in relation to the Park, be functions of the National Park authority; and
 - 4.2 to the extent that the area of any other authority is included in the National Park, that other authority shall not be treated as the planning authority for that area.

5. While the statutory basis of the town and country planning powers of National Park authorities in Wales stems from the 1995 Act and secondary legislation made pursuant to it, namely the 1995 Order we believe that a National Park authority already has the same planning powers as other local planning authorities.

/cont...

In conclusion, we consider that in practice all 25 Local Planning Authorities in Wales currently have the same regulatory powers. We would be grateful if we could receive any further information on this issue to enable us to consider the potential impact on our work.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M. Buckle', with a long horizontal flourish extending to the right.

Sent on behalf of:

Martin Buckle, Brecon Beacons National Park Authority
Jane Gibson, Pembrokeshire Coast National Park Authority
Jonathan Cawley, Snowdonia National Park Authority



Additional evidence to the Wales Environment and Sustainability Committee Thursday 11 December 2014 – Impact of Village Green Appointments.

Barratt Homes Land at Merton Green Caerwent, Monmouth

The Council disposed of the land to Barratt on 15 October 2007.

Outline permission was issued on 23 June 2006 (reference MM09253).

Full planning permission was granted by the Council on 18 June 2008 (under reference DC/2007/00986) for the development of 147 new dwellings

On 1 February 2010 the Council issued an 'Approval of Reserved Matters' (reference DC/2009/00725) thereby authorising a substitute scheme encompassing the construction of 132 dwellings and associated works on the site.

An application, signed by Mrs Spooner, was submitted on 23 July 2009 by the Merton Green Action Group.

A public inquiry was held at Caerwent Village Hall on 16 and 17 November 2010.

Decision 7 July 2011 village green status granted.

Decision taken to the High Court and judgment received in February 2011.

The planning permission was lawful notwithstanding the registration of the land as a TVG so the development was able to go ahead.

In summary a delay of four years, total cost unknown but interest payments on the cost of the land were £2m.

Meadow Street, Treforest, Pontypridd.

The following example is not on a scheme with planning approval but does show how protracted tvg applications can be and frustrate future development potential of sites.

Site history.

The site area is approximately 20 acres and was subject to a Master Plan for a larger area of 34 acres for expansion by University of Glamorgan as it was known at the time. This Master plan was a comprehensive development of student accommodation, teaching facilities, incubation units and office earmarked for CADW.

We purchased the site in October 2004 with a view to developing student residential accommodation of up to 1,000 beds. Discussions took place with the University over the potential to provide the student beds and a JV agreement was entered into by ourselves and Macob Projects Limited.

In February 2010 we received an approach from RCT asking if we would consider selling some of the land for the Tonteg to Treforest Community Cycle Route. Discussions took place over several months and an agreement was reached early 2011 for the route across our land. The scheme was sponsored by the Big Lottery Fund in the sum of £1m and to be undertaken by Sustrans with the full support RCT. In addition the University fully supported the scheme as they saw the potential benefits of pedestrian and cycle links from the development site to the University. Furthermore there was a fully prepared scheme and programme to build the bridge.

We welcomed the bridge and saw it as an integral step towards bring forward the development proposals on our land for the university. This was a multimillion pound development scheme, providing untold number of local jobs, finance into the local economy, enhanced education and faculty space.

Subsequently a tvg application served by Treforest Residents' Association dated 3rd March 2011 and was stamped as received by RCT CBC on 23rd March 2011. The application was lodged as follows:-

- 1) It was made under s.15(2) of the Commons Act 2006.
- 2) The justification was stated to be that The Bute is a pleasant open space.
- 3) 20 years of use was claimed by local people.

The main objective was to prevent the cycle route being delivered and coming into Meadow Street on its journey through this south Wales valley.

On 9th October 2012 , 19 months after the application was lodged we heard from RCT that there were initial legal issues which had been raised needed to be resolved. I will not go into the legal arguments but an Inspector was finally appointed and a Public Enquiry was set for 15th-18th October 2013; 12 months later.

On 21s April 2014 the Inspectors decision was made and recommended the application be rejected because the available evidence does not demonstrate that all the statutory conditions have been met , in particular the use has not shown to be "as of right" for a 20 year period between 23 March 1991 to 23 March 2011.

Please note that the Record of Delegated Officer Decision was made on 17th June 2014 when we were notified.

In summary:-

Date of tvg 23rd March 2011

Date of Enquiry 15-18th October 2013. Delay of 32 months.

Decision date 17th June 2014

Decision issued by RCT 19 th June 2014. Delay of 8 months

Overall time period - 3 years and 4 months.

The 40 month delay has had the following effect;-

- 1) Our development plans were sterilised.
- 2) The JV agreement with Macob Projects expired.
- 3) The funding for the Community Cycle Route was lost and spent elsewhere.
- 4) Lost opportunity to work with the university to bring forward the development scheme.
- 5) Lost jobs and revenue to the local economy. The list goes on.

Cost.

A conservative figure of £100,000 to defend the application.

Mark Harris

Planning and Policy Advisor Wales HBF

Agenda Item 3.9

PLANNING BILL CYNGOR GWYNEDD – BIL CYNLLUNIO [YR IAITH GYMRAEG]

Fel rhan o'r broses ymgynghori ar y Bil Cynllunio, mae Cyngor Gwynedd o'r farn bod hyn wedi bod yn gyfle i bwysleisio'r angen i'r iaith Gymraeg chwarae rhan hanfodol yn y maes cynllunio yng Nghymru. Mewn amgylchiadau o'r fath, ac yn dilyn trafodaethau'n fewnol, gan gynnwys derbyn cyngor gan ein Hadran Gyfreithiol, rydym wedi ystyried diwygiadau posib i'r Bil i ymgorffori'r iaith Gymraeg fel ystyriaeth bwysig o fewn y Bil. Credwn y byddai'r diwygiadau hyn yn darparu'r sylfaen am ystyriaeth gyson, yn seiliedig ar dystiolaeth, o faterion sy'n ymwneud â'r iaith Gymraeg oddi mewn i ddeddfwriaeth gynllunio. Byddai hyn yn cyd-fynd â'r dull sydd ar waith gyda materion iaith mewn meysydd polisi eraill megis addysg, yn cydymffurfio ag amcanion y Llywodraeth o ran cymunedau cynaliadwy ac yn gymorth i ategu amcanion y Llywodraeth i gynnal, cefnogi a gwella defnydd yr iaith Gymraeg trwy Gymru gyfan. Darparwn yr awgrymiadau drafft a ganlyn:

As part of the consultation process in respect of the Planning Bill, Gwynedd Council are of the opinion that this presented an opportunity to emphasise the need for the Welsh language to play a vital role within planning in Wales. In such circumstances, and following discussions internally, including taking advice from our Legal Department, we have considered possible amendments to the Bill to encompass the Welsh language as an important consideration within the Bill. We believe that these amendments would provide the basis for consistent and evidenced consideration of issues relating to the Welsh Language within planning legislation. This would complement the approach taken with language issues in other policy areas such as education, conform with the Government's sustainable communities objectives and help underpin Government objectives to sustain, support and enhance the use of the Welsh Language across the whole of Wales. We provide the following draft suggestions:

"Rhan/Part 2

60 (2) (cymal newydd/ new clause)

(2) In preparing the Framework the Welsh Ministers must have regard to the effect of the policies of the Welsh ministers on the Welsh Language

60G (6) (f) (cymal newydd/ new clause)

(6) In preparing a strategic development plan, the strategic planning panel must have regard to -

(f) the Welsh Language and the effect of the of the strategic development plan on the character and social fabric of an area

60G (7) (a)

(7) The Panel must also –

(a) carry out an appraisal of the sustainability of the plan. The appraisal shall have regard to

(i) the Welsh Language

(ii)(bydd angen i'r llywodraeth ystyried ychwanegu materion eraill dylid eu hystyried/ Welsh government may wish to consider adding other matters)

SYLWADAU CYNGOR GWYNEDD – BIL CYNLLUNIO [YR IAITH GYMRAEG]

Rhan/Part 3

61ZA (3) (c) (ychwanegiad i ddiwedd y cymal/ addition to the end of the clause)

61 ZA (3) (e) (Cymal newydd/ new clause)

(3) Regulations under this section may (among other things) make provision –

(c) for information.....Welsh Ministers and such information and documents to be provided in both Welsh and English

(e) that pre-application services should be provided through the medium of Welsh if requested by the applicant”

Mae Cyngor Gwynedd yn pwysleisio mai cynigion drafft yn unig yw'r rhain, ac efallai y bydd gofyn cael newidiadau eraill yn y Bil er mwyn hwyluso unrhyw ddiwygiadau.

Hoffem ddatgan hefyd nad yw swyddogion Cynllunio a Chyfreithiol yng Ngwynedd yn ddrafftwr deddfwriaethol sydd wedi'u hyfforddi, ac o'r herwydd efallai y bydd angen diwygio'r awgrymiadau ar ôl i ddrafftwr Llywodraeth Cymru eu hystyried.

Fodd bynnag, credwn yn gryf fod yr uchod yn darparu sail ymarferol i sicrhau bod yr iaith Gymraeg yn chwarae rhan arwyddocaol yn ein cyfundrefn gynllunio newydd yng Nghymru.

Os caiff yr awgrymiadau hyn eu hymgorffori yn y Bil newydd, byddai Cyngor Gwynedd yn croesawu'r cyfle i weithio gyda'r Llywodraeth a Phwyllgor yr Amgylchedd a Chynladwyedd i ddatblygu'r cysyniad ac i sicrhau bod dogfennau a chanllawiau polisi pellach gan gynnwys Polisi Cynllunio Cymru, NCT 20 a hefyd y Fframwaith Cynllunio Cenedlaethol a'r canllaw ar gyfer Cynlluniau Datblygu Strategol newydd yn rhoi ystyriaeth lwyr i faterion sy'n ymwneud â'r iaith Gymraeg yn ystod eu paratoi.

Gwynedd Council emphasise that these are draft proposals only, and that other changes may be required within the Bill in order to facilitate any amendments.

We would also wish to state that Planning and Legal officers in Gwynedd are not trained legislative draftsmen and accordingly, there may be a need to amend the suggestions following consideration by Welsh Government draftsmen.

However, we firmly believe that the above provides a workable basis to ensure that the Welsh language plays a significant part within our new Welsh planning regime.

If these suggestions are incorporated into the new Bill, Gwynedd Council would welcome the opportunity to work with the Government and the Environment and Sustainability Committee to develop the concept and ensure that further policy documents and guidance including the Planning Policy Wales TAN 20 and also the National Planning Framework and the guidance for emerging Strategic Development Plans take full account of issues relating to the Welsh language in their preparation.

Agenda Item 3.10

Rebecca Evans AC / AM
Y Dirprwy Weinidog Ffermio a Bwyd
Deputy Minister for Farming and Food



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Alun Ffred Jones AM
Chair of the Environment and Sustainability
Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

23 December 2014

Dear Alun

Thank you for your letter of the 25th November following your roundtable discussion on animal welfare with key stakeholders on the 5 November 2014. I will respond on the points in the order in which you raised them.

Control of Dogs

You will be aware the Welsh Government was satisfied that the Anti-social Behaviour Crime and Policing Act 2014 (ASBCP Act) would deliver many of the provisions that the draft Control of Dogs Bill would have met. To help local authorities to understand the dog control aspects of the ASBCP Act more easily, my Officials have been involved in developing the guidance for local authorities. It was the collaboration between Welsh Local Authority Trading Standards, Environmental Health and Welsh Government Officials that resulted in the enforcement flow diagram being developed as well as helping to proof the text of the guidance. This was issued to the Welsh Local Government Association (WLGA) who advised they would disseminate the guidance and I enclose a copy for your information.

In terms of general training in relation to the ASBCP Act, I understand there has been training available to local authorities. It is my intention to ensure we make the connections between our domestic and UK legislation so that we have a cohesive approach. Under the Animal Welfare Act 2006, it is the responsibility of local authorities to ensure that their staff are properly trained to deal with offences under that legislation.

I note your comments on responsible dog ownership in Wales and I am still minded to have this work undertaken. My Officials are in the process of drawing up proposals for my consideration and I will update the Committee in due course. I can confirm that I would expect any engagement via the review work to be cross cutting and include key stakeholders in the third and public sectors.

As part of these proposals, I will be seeking a consideration of the rapid review report produced by the Public Health Wales "Rapid Review of Death of Children from Dog Bites or Strikes" which was finalised in the summer.

Electric Shock Collars

We are in discussion with the Wales Animal Health and Welfare Framework Group on a range of animal welfare issues. It will include seeking their view on the existing legislation of using electronic collars on dogs and cats. A paper is being submitted to the Framework Group in the New Year and it will be on their agenda for their meeting in March.

Dog breeding

You will know that the Regulations were made on the 9th December. They will come into force on the 30th April 2015. We have and will continue to work closely with local authorities and the third sector in the fulfilment of these Regulations.

We are committed to raising the welfare standards of dogs and puppies kept in breeding establishments and a review of the staff:adult dog ratio and the effectiveness and enforcement of the Regulations will be carried out after a full year of operation.

I can advise that I met with key stakeholders on the 5th and 6th November, prior to the dog breeding Regulations being made, and this included local authorities and other relevant organisations.

Microchipping

In my statement on the 22nd September, I commented that the previously stated date of 1 March 2015, by which all dogs in Wales should be microchipped, is unlikely to be achieved. The work on drafting the Regulations is ongoing. When finalised, but before they are laid in the National Assembly, they will be submitted to the European Commission under the Technical Standards Directive for consideration. A standstill period for a period of three months will then apply. Therefore, at this time, I cannot give you a specific timetable but I have committed to providing updates on progress.

Circus animals

In response to an oral question on 26 November, I gave reassurances that I would support a ban on the use of wild animals in circuses. I am due to meet with Lord de Mauley to discuss progress on proposed UK legislation in the New Year.

Animal Sanctuaries

I recognise the good work that has take place on in preparing the report "the case for the Regulation of Animal Welfare Establishments in Wales". I will be writing shortly to the chair

of the Animal Welfare Network Wales and to the Petitions Committee about this and I will copy my response to you for information.

Resources for local authorities

I note what you say on the adequate resourcing of local authorities to deliver animal welfare enforcement functions effectively. I recently raised this with a Welsh Local Government Association representative who did not identify resourcing issues. I was advised that local authorities are working in closer collaboration to make better use of resources and expertise. I would be willing to look at this in more detail but local authorities have responsibility for animal welfare functions where they may enforce action.

Non-stun slaughter

The Council Regulation 1099-2009 - Protection of Animals at Time of Killing, requires animals to be stunned before slaughter. This principle can be “disapplied” in relation to animals killed to meet religious requirements, at the discretion of competent authorities within each Member State. This provision has been implemented into domestic Regulations in Wales (Welfare of Animals at Time of Killing (Wales) Regulations 2014), Scotland and Northern Ireland, whilst England have yet to introduce the EU Regulations into domestic legislation and are using earlier legislation that permits non stun slaughter in England. Now that the EU Regulation 1099/2009 has been implemented in Wales, Welsh Government will give further consideration to the welfare of animals at time of killing.

There is no legal obligation to gather specific non-stun data from abattoirs in Wales. However, these data have been commissioned from the Food Standards Agency (FSA) to inform the Welsh Government of the numbers of animals slaughtered by the non-stun method in Wales. The Welsh Government has no plans at this time to make this data available to the public due to the sensitivities surrounding the publication of commercial data. Welsh Government will review the data and consider its publication at an appropriate time in the future. There are two slaughterhouses in Wales approved to conduct non stun method of slaughter to meet religious purposes.

Animal welfare is one aspect of this complex and sensitive policy area. The Welsh Government is also obligated to take account of legal duties and responsibilities under the Human Rights Act 1998 and the Equality Act 2010. To date, the Welsh Government has not held discussions with external stakeholders.

The Welsh Government is not aware of any scientific reviews that are being undertaken by the European Commission specific to the subject of non-stun slaughter. However, the Welsh Government is aware of a European Commission study on the opportunity to provide consumers with the relevant information on stunning of animals. That includes the feasibility of method of slaughter labelling. It is understood through communications with UK representations in Brussels that the Commission is considering the study.

The findings of the study, once known, may provide Member States with recommendations for future labelling provisions. The relevant departments within Welsh Government responsible for Animal Health and Welfare, Food Policy, Health and Communities and Tackling Poverty can then consider the recommendation presented.

I trust that that I have addressed all your questions and I will update the Committee in due course.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca". The letters are cursive and connected.

Rebecca Evans AC / AM
Y Dirprwy Weinidog Ffermio a Bwyd
Deputy Minister for Farming and Food

Agenda Item 3.11

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref SF/CS/3885/14

Alun Ffred Jones AM
Chair
Environment and Sustainability Committee
National Assembly for Wales

10 December 2014

Dear Alun,

Thank you for your letter of 25 November about European Commission reasoned opinions on the matters of protection for harbour porpoises and reducing the emissions from Aberthaw Power Station.

Protection of harbour porpoises

On 16 October 2014, the UK received the European Commission's reasoned opinion about the number of Special Areas of Conservation (SACs) for harbour porpoise in the UK under the EU Habitats Directive.

I assure the Committee that the Welsh Government is committed to the full implementation of the Habitats Directive, and to proposing sites for harbour porpoise where they can be identified in accordance with our obligations under the Habitats Directive. The Joint Nature Conservation Committee continues to work to identify potential SACs for harbour porpoise, using the best available evidence and in accordance with the criteria set out in the Directive. The latest analysis of data for harbour porpoise in the UK waters, with the aim of identifying possible sites for SAC designation, is due to report before the end of the year.

The Welsh Government is working with the other UK administrations in considering the EC correspondence and replying to the Commission. In the interests of resolving this matter with the Commission, and the confidential nature of the discussions, it would not be appropriate for me to comment further at this stage.

Emissions from Aberthaw power plant

Through the European Commission reasoned opinion in relation to the UK's implementation of Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants, or the LCP Directive, the Commission has taken the view that a requirement of this Directive - emission limit values for nitrogen oxides - has not been properly implemented at Aberthaw coal-fired power station in the Vale of Glamorgan.

The LCP Directive sets general maximum emission limit values for certain pollutants. The general values for nitrogen oxides are set out in Annex VI to the LCP Directive. Aberthaw power station is a coal-fired power station with a rated thermal input of 4,135MWth. The Annex prescribes that the maximum general emission limit value applicable to coal-fired combustion plants with a rated thermal input of over 500MWth is 500mg/Nm³. Note (3) to Part A of the Annex contains an derogation from that general emission limit value for combustion plants of a certain type; the maximum emission limit value for nitrogen oxides for these plants is 1,200mg/Nm³.

The derogation was included in the LCP Directive specifically with the unusual design of Aberthaw power station in mind. Its environmental permit has therefore always reflected the derogation provision. The emission limit value currently contained in Aberthaw power station's environmental permit is 1,050mg/Nm³, reflecting advancements in the application of best available techniques.

The Welsh Government has been in discussions with the European Commission about the application of the derogation and those discussions are ongoing. The Welsh Government and UK Government are considering the reasoned opinion that has been received from the European Commission and will be responding to that opinion within the specified two month period.

In the light of the ongoing legal proceedings, it would be inappropriate for me to provide specific details on this matter at this time, but I would like to reassure the Committee that the Welsh Government is committed to ensuring compliance with all EU requirements. These proceedings have significant implications for the UK, and for Wales in particular, and the Welsh Government continues to seek an acceptable resolution.



Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



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Alun Ffred Jones AM
Chair, Environment and Sustainability Committee
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8 December 2014

Dear Alun Ffred,

Well-being of Future Generations (Wales) Bill

As you will be aware, one of my statutory functions under the Commissioner for Older People (Wales) Act 2006 is to review the adequacy of the law affecting older people in Wales, alongside a statutory duty to ensure that the interests of older people are safeguarded and promoted.

As I did not have an opportunity to provide oral evidence to the Committee, and having now seen the Committee's report on the Bill, I thought it would be helpful, as the statutory Older People's Commissioner, to share my formal position on the Bill.

I was very clear when I published my Framework for Action, which sets out my priorities as Commissioner, that I wanted and expected to see wellbeing sitting at the heart of public services, detailing what this should look like. There is significant read-across between my expectations on behalf of older people and the intent of the Well-being of Future Generations (Wales) Bill and I have therefore been clear in my strong support of its intent and its importance to the 800,000 older people that I act on behalf of as the independent Older People's Commissioner.

The Committee report makes a number of detailed recommendations aimed at strengthening the Bill. As Commissioner, my focus, on behalf of older people, is on several specific areas, which I thought it would be helpful for you to be aware of.

- There is a need to provide a stronger, clearer statement of intent and sense of direction for public bodies.
- There is a need to clarify the definition of wellbeing on the face of the Bill.
- The wording of the national wellbeing goals and their descriptors must be clarified and strengthened to ensure that they fully relate to the needs and priorities of older people.
- There is a need to review the approach to local wellbeing planning, particularly in relation to the 'health in all policies' approach.
- The Bill should not undermine the current duties to protect and safeguard unpaid carers. I do not consider that the combined effect of the Social Services and Wellbeing (Wales) Act and the Well-being of Future Generations (Wales) Bill, as currently proposed, are sufficient to safeguard the position of carers, and those they care for, or ensure that the action now being taken under the Carers Measure can be guaranteed to continue.

I have raised these issues with the Minister for Natural Resources and the Minister for Health and Social Services, and I have also sent a briefing to Assembly Members to assist in the debate during the passage of this bill.

Notwithstanding the above issues, in particular the need to address the issue in respect of carers, the potential of this Bill from the perspective of older people's health and wellbeing is very significant and I would be happy to provide any further assistance to the committee as you feel might be helpful.

Yours sincerely,



Sarah Rochira
Older People's Commissioner for Wales



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Environment and Sustainability Committee
National Assembly for Wales
Cardiff CF99 1NA

cc Health and Social Care Committee

08 December 2014

Dear Alun Ffred Jones AM,

In November 2014, the UK Health Forum, the Royal College of Physicians in Wales (RCP) and the Royal Society for Public Health (RSPH) partnered with University of Wales Trinity St David to host a policy development roundtable looking at the proposed aims, objectives and outcomes from the Well-being of Future Generations Bill and its impact on public health.

The group welcomes the Stage 1 report of the Environment and Sustainability Committee and we urge the Welsh Government to accept its recommendations, especially the need to provide a stronger, clearer statement of intent and sense of direction for public bodies.

However, we would also welcome the involvement of other committees in the scrutiny of this Bill. More specifically, we would suggest that the Health and Social Care Committee should be invited to scrutinise the potential impact of this Bill on the health of the people of Wales. We feel very strongly that this wide-ranging Bill has a clear opportunity to make a real difference to health outcomes, and we believe it would be extremely helpful to invite the perspective of another committee on this subject.

On behalf of the UK Health Forum, the RCP in Wales, and the RSPH, if you have any questions, please do contact my colleague Lowri Jackson, RCP senior policy and public affairs adviser for Wales, at Lowri.Jackson@rcplondon.ac.uk or on 029 2050 4540.

I look forward to hearing from you.

With best wishes,

Dr Alan Rees
RCP vice president for Wales