

Infrastructure 44, Wildlife Trusts Wales

Senedd Cymru | Welsh Parliament

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

Bil Seilwaith (Cymru) | Infrastructure (Wales) Bill

Ymateb gan Ymddiriedolaethau Natur Cymru | Evidence from Wildlife Trusts Wales

General principles

What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

- Speeding up and simplifying the consent regimes for infrastructure must not come at the expense of biodiversity protection, even if that infrastructure is for renewable energy. The Senedd has declared a conjoined Nature and Climate Emergency, and damaging development must not be permitted merely in the interests of simplicity and speed.

Indeed, Wildlife Trusts Wales considers that there is a very strong argument, in the interests of co- production, pursuant to the Well-being of Future Generations Act, for more time to be devoted to the consideration of major infrastructure projects, not less. As an NGO which works closely with communities throughout Wales in opposing damaging development, we have seen at first hand that it is virtually impossible for communities to gain a full appreciation of the scale and complexity of large infrastructure projects, or their likely adverse impacts on the environment. The draconian and inflexible timescales established in existing infrastructure consent regimes make this very much worse. For example, over 160 documents were uploaded to the PDW portal in respect of the Garn Fach windfarm in Powys. This is fundamentally inequitable.

-Wildlife Trusts Wales is concerned at the way in which the rationale behind the proposed legislative changes is set out. Infrastructure planning is characterised as a tick-box exercise, with only one possible outcome - the granting of consent, no matter the scale and severity of likely damaging impacts. Success or otherwise is expressed solely in terms of the speed with which such consents are given out, and there is no location, in the consultation documentation, where the idea that damaging development might be refused appear. Success is defined solely in

terms of a “hit rate” of consents applied for, rather than quality of outcome. Pursuit of such a “dash for infrastructure” has the potential to be profoundly damaging, and one which future generations could live to regret.

It is vitally important that any new legislative arrangements have at their heart the concept that consent is not always granted.

-Cutting corners with regard to infrastructure consenting undermines public faith in the Welsh town and country planning system, by rendering pointless supposed key stages in the consent process. For example, the developers of the Rush Wall solar DNS project in Newport had a maximum of 23 working days between pre-application and application stages, during which, according to the DNS legislation, the developer had to log all responses at the pre-app stage, set out the ways in which they have responded to them, including any changes in the nature of the application itself, build in any physical changes to the built construction of the project, and any attendant consequential impacts arising from this, and set out how it is proposed that these in turn would be mitigated and/or compensated for.

It was clearly impossible for the developer to carry out these supposedly crucial stages in the DNS consenting regime, and it is difficult to avoid the conclusion that the pre-application stage, for example, is merely a tokenistic and hoop-jumping exercise on the part of infrastructure developers. An additional shortening of timescales would further exacerbate this problem. This needs to be urgently addressed.

-Wildlife Trusts Wales if of the view, the best means by which to speed up and simplify the infrastructure planning system is to introduce (and in some cases reintroduce) a proper strategic approach, consisting of identifying sustainable zones as “Areas of Search” on a Wales-wide scale, through a multi-sieving process which sieves out sensitive locations. This would greatly speed up and simplify the process, and properly caveated with a robust policy context, significantly reduce adverse environmental impacts.

For example, the main reason why there have been so many applications for solar DNS projects on the Gwent Levels SSSI (all but one of which have been refused by the Minister after Hearings have taken place) is the deletion of the solar Pre-assessed Areas from the 2019 version of the National Development Framework, Future Wales. If such areas had not been deleted, developers would have directed their proposals to more appropriate locations, with much greater success with these infrastructure projects being permitted much more smoothly.

What are your views on the Bill's provisions (set out according to parts below), in particular are they workable and will they deliver the stated policy intention?

Part 1 - Significant infrastructure projects

None.

Part 2 - Requirement for infrastructure consent

It is so important in order to avoid delays in the process that all the necessary consents, licenses and permissions to be considered at the same time as the infrastructure consent. In addition, this information should be made available to all stakeholders and the general public at the outset.

Part 3 - Applying for infrastructure consent

It is most important that the pre-application consultation phase is considered as an essential way to engage with stakeholders and the general public. Developers should not treat this as a PR exercise but as a key opportunity to help determine what form the development will take in order to minimize the impact on the environment and bring forward any mitigation measures needed. The level of information provided at this phase though can be lacking and it is vital that high standards are set to ensure that all the necessary information is of a sufficiently high quality to enable a thorough examination of the proposed development. In particular it is important to stress the cumulative assessments of any development in combination with already existing or additional planned developments as this is often overlooked.

Wildlife Trusts Wales believes it is most important that a national register of ALL Strategic Infrastructure Projects is maintained on the Welsh Government website that is readily available for all stakeholders.

Part 4 - Examining applications

The method of examination needs to reflect the development under discussion and there should be ample opportunity for engagement with the local community impacted. Stakeholders must have suitable opportunities to become involved in the examination process. All the information involved in determining an application should be available when an application is submitted by a developer – at the moment this is often not the case. If some information arrives after the application has been submitted, it is important that the examination is paused so the new information can be properly assessed. In addition, stakeholders must have the opportunity to scrutinize and respond to any new information.

Part 5 - Deciding applications for infrastructure consent

None.

Part 6 - Infrastructure consent orders

None.

Part 7 - Enforcement

The Infrastructure Bill requires Natural Resources Wales (NRW) to submit a marine impact report for applications in the Welsh marine area and the Bill also contains the provision to grant deemed consent under a marine license. However, the Bill does not say whether NRW is responsible for overseeing the discharge of the license and clarification from the Welsh Government is needed on this matter.

Part 8 - Supplementary functions

None.

Part 9 - General provisions

None.

What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

None.

How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

None.

Are any unintended consequences likely to arise from the Bill?

None.

What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

None.

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

None.
