



Ymgyrch Diogelu Cymru Wledig Campaign for the Protection of Rural Wales

Cadeirydd Chairman Dr Jean Rosenfeld
Cyfarwyddwr Director Peter Ogden
The Committee Clerk

Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay,
CF99 1NA
November 6th 2014

Dear Sir / Madam,

Planning (Wales) Bill

Response by the Campaign for the Protection of Rural Wales (CPRW)

CPRW key messages to the Committee

We are broadly supportive of the content of the Bill and pleased that the ethos of the Planning system in Wales remains Plan based and Plan lead.

We believe however the Bill should

- **Reflect a clearer and more direct synchronisation between the long term aims of the Planning system and the principles embedded in the Wellbeing of Future Generations Bill and proposed Environment Bill.**
 - **Ensure the role and headline principles of the National Development Framework set out positive framework for change and do not suffer the same ignominious fate of its predecessor, the Wales Spatial Plan.**
 - **Require the National Development Framework to incorporate and spatially reflect the importance of Wales' green infrastructure, in particular the national importance of the various designated Protected landscapes.**
 - **State the formal relationship between the Development Plan system and Natural Resources plans and require clear cross compliance and traceability**
- **include provision which introduces a third party rights of Appeal under legitimate circumstances.**

1. Context

1.1 The manner, credibility and effectiveness of how all aspects of the Planning system operate in Wales is of fundamental importance and direct relevance to the Campaign for the Protection of Rural Wales interests. As a pan Wales charity whose aims are to protect the intrinsic values of the landscape of Wales and guide change in a responsible manner, the organisation has regular and direct involvement in all aspects of the planning system and is recognised as a non-statutory consultee by most Local Planning Authorities in Wales.

1.2 We therefore welcome the opportunity to respond to this important piece of legislation and recognise that any change that it brings could have potentially significant implications, both positive and negative, not only to the way in which the value of Wales' landscapes are perceived, but how they will be used to enable the Welsh Government to achieve its Sustainable Development agenda.

2. Detailed comments

2.1 CPRW supports and are pleased that the overall Plan led approach is recognised as essentially fit for purpose and should be able to provide a solid basis for promoting a sustainable approach to future development.

The requirement to produce a national land use plan: the National Development Framework

2.2 CPRW welcomes the proposals to retain a Development plan-led system in Wales, with its strong focus on the use of up to date Local Development Plans nesting within and conforming to a National Development Framework. In this context we agree that any national planning approaches should promote sustainable development but in so doing we contend they must give clear and equal weight to environmental as well as economic, and social considerations.

2.3 We believe the approaches in the National Development Framework must be spatially expressed and cascade logically into other Plans in a way which was clearly not the case with its predecessor the Wales Spatial Plan

2.4 We are also concerned that there is no indication in the Bill as to how the priority interests of the Future Generations Bill and the emerging proposals of the Environment Bill will relate to or impact upon the Development Plan process across

its various national, regional and local expressions or to the Planning system in general.

2.5 We believe the Bill should be explicitly drafted to refer to the need for the planning system to facilitate sustainable development in ways which foster the economic, social and environmental well-being of Wales, **within clearly defined environmental limits**. We refer to the particular recommendation made by the Independent Advisory Planning Group in respect of the purpose of the Planning system namely

*“the purpose of the town and country planning system is the regulation and management of the development and use of land in a way **that contributes to the achievement of sustainable development**”* (emphasis added)

2.6 We see no reason why this principle should not be included in the Bill. If the Planning system is a tool to deliver the aims of other Bills, the principles of one Bill should be traceable in others, so that their interpretation is properly understood and is fully expressed for instance in the context of the proposed National Development Framework.

National Development Framework

2.7 Whilst welcoming in principle such a Framework, it is clear that its predecessor the Wales Spatial Plan failed because its objectives, role and relevance to Local Development Plans was unclear.

2.8 Whilst supporting the introduction of a well-defined hierarchy for planning in Wales centred on a robust National Development Framework (NDF), this must be an inclusive document incorporating all the elements of WG policy including Sustainable development if it is to ensure cohesive and integrated outcomes.

2.9 To avoid the past weaknesses of the Wales Spatial Plan, the purpose, structure and role of the new National Development Framework must be clear. Similarly its policies and approaches must provide a realistic context for all Local Development plans. For this reason it is important that any issues of national importance must be spatially expressed.

2.10 That being the case, the status of nationally significant Green Infrastructure, including areas designated because of their national environmental or resource importance must feature prominently in the Plan. We would include in this context all Protected Landscapes and natural resources which provide valuable nationally significant public benefits.

2.11 We therefore anticipate the National Development Framework to eventually embed the principles of the national Natural Resource Management Strategy currently being developed by the Welsh Government, the approaches towards marine planning and also the principles of the Environment Bill.

2.12 Whilst we support Local and Strategic Development plans where they are prepared conforming to the NDF, we also believe the same conformity should apply with the Natural Resource Management Plan so there is absolute clarity about how its content will inform national priorities and influence the promotion of sustainable development. The NDF should not only be a plan for economic growth and infrastructure development but one which recognises the relevance of green infrastructure.

2.13 CPRW is also concerned about the process by which this NDF will be prepared and endorsed. We believe this this document should be subject to the same degree of scrutiny as other elements of the Development Plan scheme especially if it is to guide all the proposed Plans in its Hierarchy. At the moment it appears unclear in the Bill whether or how the NDF will be subject to any independent or public scrutiny, other than that by this Environment and Sustainability Committee.

The creation of Strategic Development Plans

2.14 PRW recognises that there may be merit in producing Strategic Development Plans for certain areas of Wales but our position is conditional on three factors

- A clear expression of how these SDPs (and the panels responsible for them) will interlock with the anticipated Wellbeing Plans or combinations of them (and their respective Public Service Boards), as required by the Wellbeing of Future Generations Bill
- How the strategic perspectives of the higher level National Development Framework and the local LDPs will successfully interlock to ensure that there is a clear relationship between their respective approaches, in any area not identified as requiring an needing an SDP

- The opportunity for a Strategic Development plan covering the rural areas of Wales to be prepared. We find it unrealistic that the proposed SDPs might only focus on growth hubs and economic centres. There are many parts of rural Wales where economic deprivation is rife, poverty is increasing and service provision is decreasing. If these areas are to have a sustainable future then their needs must not only be reflected in the complete hierarchy of plans from the National Development Framework through Strategic Developments to LDPs which can focus on implementing local solutions.

We also believe the status of those Strategic Development plans which guide the planning of Wales' Protected Landscapes reflect the Purposes of these designated areas. We would advocate that given the significant areas of Wales covered by the three National Parks, their existing Local Development Plans if not recognised as Strategic Development Plans in their own right should form the core of those regionally based Strategic Development Plans which include these areas.

We also note that there are no reference in the Bill as to how Strategic Development Plans will link with the Marine Planning system. Likewise it is not clear as to the relationship of the SDPs and the evolving Natural Resource Management Plans and Area based approaches as anticipated in the Environment Bill. We believe this relationship is critically important in recognising the value and planning and the future of Wales' Green and Blue infrastructure.

2.15 The Bill should be revised to reflect these three factors

Pre-application services

2.16 CPRW fully supports the increased use of pre-application discussions and the provisions to make this mandatory for Developments of National Significance (DNS). We are pleased that the Bill also require a "pre-application consultation report" to be submitted along with planning applications where pre-application consultation has taken place, as we believe this will increase transparency and the opportunity for the public to understand the critical issues which need to be tested.

Developments of National Significance to be determined by Welsh Ministers

2.17 CPRW notes the introduction of the new category of Developments of National Significance and mandatory pre-application notification and consultation process associated with them. We remain concerned however about the range of potential developments which will be included in this category and that the process of including policies in the NDF which favour and effectively give tacit support for specific proposals which cannot subsequently be challenged locally when the details of schemes are known. We believe this contrary to all the principles of the planning system as an open and democratic process.

2.18 We are also concerned regarding the implications within the Bill that Local Planning Authorities will be responsible for the discharge and enforcement of planning approvals for which they are not accountable.

2.19 We also contend the Bill should make specific reference to and provision for the determination of any Development of National significance proposed within any designated Protected area or in a location which would affect the interests of that area. The Bill should make it clear that any such proposals must continue to be subject to the SILKIN Test

Responsibilities for planning in National Parks

2.20 We welcome the fact that the Bill does not alter the status of National Park Authorities as Planning Authorities and therefore their ability to deliver both their planning and management functions in an integrated and efficient manner. CPRW strongly agrees this is the **only effective way** to protect and promote the active stewardship of the special qualities and range of social and economic benefits which Wales' National Parks provide.

Streamlining the development management system

2.21 Whilst accepting the principle that poorly performing Authorities are unacceptable, we cannot agree to an approach which enables the Minister to determine such applications especially if an Authority was deemed to be poorly performing purely on the basis of the speed it determines applications

2.22 Likewise we are concerned that this alternative approach provides a means for developers to bypass LPAs simply on the grounds that they want their application "fast-tracked", or in order to circumvent requirements for information on

environmental or social impacts to be made fully available to interested parties or to be properly scrutinised.

Design and access statements

2.23 CPRW does not support the complete removal of Design and access statements as we believe Design statements in particular are an important mechanism to ensure that any proposal respects the context of its location. We believe however that too often this procedure is used without any flexibility and in some instances is unnecessary. We would therefore believe an assessment of which schemes should be subject to this arrangement, should remain part of the pre application engagement statement suggested previously.

Third party rights of appeal

2.24 CPRW believes the Bill is deficient in not including provision for the introduction of Third Party Rights of Appeal. We believe it is justified in specific circumstances namely :

- When a development is unjustifiably approved contrary to the provisions of an adopted Development Plan
- When the application is one in which the local authority has an interest.
- When the original officer recommendation was to refuse the application

2.25 We do not accept the current provisions provide the necessary safeguards to ensure these circumstances will not arise. As long as the circumstances by which and when a Third Party Right of Appeal can be utilised are clear, then this would provide the certainty to ensure that this provision is used effectively. We contend the Bill should reflect this approach

Development affecting registered Town and Village greens

2.26 CPRW remains concerned that the provisions of the Bill which will result in local people losing access to land they rely on for exercise, leisure activities and general health and wellbeing, namely their Town and Village Greens

2.27 Whilst we appreciate the emphasis generally on greater engagement and pre-application discussions, it remains a fact that the majority of ordinary members of the public are not sufficiently engaged with the planning system to be involved with

producing a Local Development Plan. Therefore, they may not realise that land they have used as a green for 20 years or more could be taken from them, until it is actually threatened with development. We therefore feel the provisions of the Bill as they stand are unacceptable

2.28 CPRW trusts that our comments prove helpful in the Committee's deliberations

Thanking you in anticipation.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "Peter Ogden". The signature is written in a cursive style with a long horizontal line extending to the right.

Peter Ogden
Director