

National Assembly for Wales
Environment and Sustainability Committee
PB 24
Planning (Wales) Bill
Response from Royal Town Planning Institute



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e-mail response sent to: ES.Comm@wales.gov.uk

Dear Sir/Madam,

Response to: The Environment and Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

The following response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

We welcome the opportunity to provide evidence to the Environment and Sustainability Committee on the Planning (Wales) Bill. We support the evidence based approach taken by the Welsh Government and the general thrust and spirit of the proposals set out in the earlier Positive Planning consultation. We were pleased that many of those provisions were carried through into the Bill. We strongly believe there is a need to embed a new proactive and confident culture within planning in Wales, to boost well-being and sustainable economic prosperity and to create better places for our communities to live and work. Planners, politicians, consultees, developers, and the general public, all have a role to play in achieving this.

Our evidence follows the Committee's terms of reference and is set out below. In addition we would draw the Committee's attention to [our response to the draft Planning \(Wales\) Bill and Positive Planning consultation](#).

We are also conscious of the series of parallel consultations that the Welsh Government have published relating to supporting secondary legislation and approaches and we will be responding to these.

If you require further assistance, have any queries or require clarification of any points made, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott MRTPI
Director
RTPI Cymru

A. RTPI Cymru's views on the general principles of the Planning (Wales) Bill including the need for legislation in the following areas:

1. *The requirement to produce a national land use plan, to be known as the National Development Framework;*

- 1.1 We support the principle of a National Development Framework (NDF). We believe it is currently a missing part of the system in Wales and is required as a matter of expediency.
- 1.2 RTPI Cymru believes that the NDF should set out an express vision reflecting general national goals with stated outcomes. The NDF would need to be evidence based, deliverable, and validated. It should be a coherent national development strategy whose policies and proposals are integrated with the Wales Infrastructure Investment Plan (WIIP) and Natural Resources Policy (NRP) and with the National Transport Plan (NTP). We believe that the WIIP, NRP and NTP should be incorporated within the NDF to ensure a cohesive and integrated approach, and with a consistent set of consultation arrangements. Together these can provide an effective strategic framework which can gain widespread acceptance and be linked to investment and funding priorities.
- 1.3 We note para 3.18 (pg 14) of the Explanatory Memorandum (EM), sets out the principle roles of the NDF, and we support these roles.
- 1.4 It is unclear how the NDF will fit with other plans and policies, including those mentioned above or and how it will take account of sustainable development goals and outcomes and link to the Well-being of Future Generations Bill and other Bills. This is a fundamental weakness of the Bill, and could expose the NDF to risks of ineffectiveness in the future.
- 1.5 The NDF should be based on evidence and therefore should be the starting block to spatially influencing national policy, as well as seeking to interpret and apply national policy spatially.
- 1.6 Para 3.21 of the EM sets out the process for agreeing the NDF, including the consultation process, however it is not clear on how matters will progress if the National Assembly for Wales scrutiny disagrees with the proposals made by the Welsh Government. Who will arbitrate at this stage?
- 1.7 In developing the role of the Assembly in the approval of the NDF, there will be a need to ensure that Assembly Members are given access to the training that will ensure that they have the full set of skills required to fulfil a decision-making role on planning matters. They will need to be supported in these processes by individuals with the competences that will ensure the soundness of the proposals in the NDF, much in the

same way that officers of the Planning Inspectorate work with Local Planning Authorities (LPAs) in the preparation and adoption of their Local Development Plans (LDPs).

1.8 It is important that the NDF new system enables sufficient flexibility for regional and local circumstances to be considered at the Strategic Development Plan (SDP) and LDP level.

2. *The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues;*

2.1 RTPI Cymru believes that there is a need for strategic planning on a scale between national and local. We support more joined-up thinking both across, and between, tiers of Government.

2.2 Paras 3.29 and 3.35 of the EM explain that SDPs would “allow larger than local issues such as housing demand, search areas for strategic employment sites and supporting transport infrastructure, which cut across a number of local planning authorities, to be considered and planned for in an integrated and comprehensive way”. (para 3.29) Para 3.35 states, “where an SDP covers an LDP area, the LDP should be rationalised so that it only focuses on local matters, particularly site specific allocations, in accordance with the scale and location of growth set out in the SDP. Issues such as the overall level of housing, employment and retail provision will have already been addressed and do not need to be repeated.”

2.3 While this para sets out the proposals to rationalise the LDP where an SDP covers an LDP area, it does not explain how local considerations will then be taken into account such as local retail (not strategic) and small housing sites etc. It also does not explain how the LDP will be handled if only part of an area is included with an SDP area.

2.4 Transitional arrangements for the adoption of the new set of plans, needs consideration. For example, should it be possible to produce an SDP before the NDF has been adopted? Also, what happens to the current LDPs once an SDP is adopted? Do they have to be rationalised at the same time, to avoid contradictory policies?

2.5 Para 3.3.1 (pg15) of the EM explains that “for each area a Panel will be established to prepare and keep under review the SDP. It will have sole responsibility for approval and adoption of the plan and some minor incidental duties. The Panel will comprise locally elected members from the LPAs within the area and one third representation from social, economic and environment organisations.” We believe that how Panel members are appointed is important and for those other than LPA nominees, a process mirroring that followed for public appointments in Wales would seem appropriate, open and transparent and consistent with the Nolan principles - with vacancies advertised, an interview process, and appointments ultimately made by the Minister. We believe transparency in selecting Panel Members will be important to maintain trust and buy-in from local communities, local authorities and businesses. This type of model would encourage a focus on competencies rather than a focus solely on the inclusion of specific bodies. We believe that Members recruited in this way would invariably be high and would help to maintain a focus on delivery and on statutory purposes.

2.6 A requirement is also required to ensure that a balance of interests from the economic, environmental and social sectors are recruited to the Panels, to avoid dominance by one particular interest.

2.7 You may also be interested our briefing paper, [Strategic Planning in Wales \(November 2013\)](#).

3. *Changes to Local Development Plan procedures...*

3.1 *Notification of LDP withdrawal*

In relation to the notification of LDP withdrawal, paras 3.42/3 sets out that LPAs can withdraw at any time before submission, however it is unclear what would happen if the LDP was in the early stages or still required work to be done, and Ministers disagreed with the withdrawal, who would then carry out the work to get the LDP to a standard for approval/examination?

3.2 Welsh Ministers' power to direct preparation of Joint Local Development Plans

We believe that joint plans should be prepared only where there is organisational and political will. Otherwise there is a risk that plans will be viewed as 'imposed'. The Williams report and the subsequent Devolution, Democracy and Delivery White Paper – Reforming Local Government is moving this debate forward. [Our response to the reforming local government consultation](#) is available on-line.

3.3 Joint Planning Boards

3.3.1 Ultimately, the new planning system should reflect the principle of subsidiarity with decisions always being taken at the lowest appropriate level in organisational hierarchies. Powers of direction should focus on key priorities and used only exceptionally.

4. Front-loading the development management process by making provision for pre-application services;

4.1 Requirement to carry out pre-application consultation

4.1.1 We support a national approach to a pre-application consultation service, there is a need for greater consistency between LPAs across Wales in terms of the pre-application service they offer.

4.1.2 We support the principle of a statutory requirement for pre-application engagement with specified persons, likely to include the public and statutory consultees in the planning application process, where a development is of a description specified in a development order under subordinate legislation, including Developments of National Significance (DNS) and major developments.

4.1.3 However, we raise concerns regarding the resourcing of this service and would welcome confirmation of how this would be managed, particularly in relation to statutory consultees.

4.1.4 Paras 3.56 – 3.61 discuss the role of communities and statutory consultees in this process however, the role of the LPA in this process is unclear and further clarification is required.

4.2 Requirement to provide pre-application services

4.2.1 Charging for pre-application services has already been introduced by a number of LPAs, leading to significant improvements in service resources and quality. It is essential that proposed legislative changes build on this experience to achieve similar improvements across the whole of Wales.

4.2.2 In our response to [Realising the potential of pre-application discussions \(2011\)](#) we commented that clarity is needed over the status of pre-application advice, in particular the disclaimer which is often attached by Local Authorities, i.e. that the advice is offered without prejudice to the formal consideration of an application. We recognise that the ability of the LPA to make firm commitments will always be limited by the statutory process to follow once an application is submitted. However, all parties need to be open and realistic about the process and their expectations and required outcomes of the process.

5 Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;

- 5.1 RTPI Cymru supports the introduction of a new category of Developments of National Significance (DNS). The NDF will be the principal Development Plan guiding decisions on these applications which places a significant onus on the NDF being evidence based and robust.
- 5.2 Performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 5.3 The RTPI Cymru briefing paper on [Infrastructure Decisions \(November 2013\)](#) can be viewed online.

6. Option to make applications direct to Welsh Ministers

- 6.1 Where an authority is deemed to be poorly performing, the areas of poor performance and the root causes of the poor performance need to be established and then an appropriate response should be developed and implemented. There needs to be a range of options available. The option to make applications direct to Welsh Ministers should be an option of last resort and discouraged. Any decision made by a Welsh Minister should be done in accordance with the LDP and local consultations carried out. As with decisions for DNS, performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 6.2 The Planning Advisory and Improvement Service (PAIS) could act as peer support.
- 6.3 Our briefing paper on [Culture Change \(November 2013\)](#) can be viewed online.

7. Streamlining the development management system;

7.1 Planning Committees and Delegation

- 7.1.2 RTPI Cymru supports the recommendations set out in the report on Planning Committees, commissioned by ourselves, which would lead to a more consistent and efficient approach.

7.2 Decision Notices

- 7.2.1 We support the reason for this proposal. However detailed regulations and guidance will be required on how to handle this efficiently and effectively so that it does not become a burden and a process targeted for stopping or slowing development.
- 7.2.2 In April 2014 we responded to the Welsh Government consultation on the "[Review of Planning Conditions Circular and Model Conditions](#)" In response to Q6 we supported a more structured decision notice but highlighted some of the conflicts and problems that arise round decision notices. Q7 may also be of interest as it deals with some of the issues raised at 3.92 of the EM - identifying approved plans in a condition.

7.3 Statutory Consultees

- 7.3.1 We support these proposals in principle, however, we believe that statutory consultees must be properly resourced to respond to requests for pre-application advice and in relation to planning applications. It is essential that they are able to deliver on the pre-application services and respond to LPAs and Welsh Government consultations.

7.4 Design and Access Statements

- 7.4.1 RTPI Cymru supports the use of Design and Access Statements (DAS), however we do support their removal in relation to more basic applications in order to focus their use on more significant planning applications where they can add value. We did not support their complete removal from the system in our response to the draft Bill, and would continue to recommend they remain for at least Major Development applications and ideally for all applications except for minor ones, such as householder applications.

8. Changes to enforcement and appeal procedures

8.1 We support in principle the proposed changes.

B. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.

9.1 There are two principal and interlinked areas which are potential barriers to the implementation of these provisions:

9.1.1 The first relates to resource allocation. Public services are facing hard choices in how to deploy their resources. Unfortunately resources for planning services are often given a low priority compared to other competing areas. We believe this is a false economy. Planning services need to be appropriately resourced in order to deliver for communities. Planning plays an important role in ensuring the right development goes to the right locations. Those wishing to invest in an area, which can range from a householder improving their home through to employment investment or a large housing scheme, need to have a service which can direct them appropriately to fulfill the Wales' ambition of well-being.

9.1.2 The second relates to the culture of those operating with the planning system; this is not just the LPA officers and councillors, but all involved. Whilst legislation can set the tone, it cannot guarantee players will engage in a positive manner. Creating an improved understanding of what the planning system at a national and local level is trying to achieve and trust of all involved, would help with this.

C. Whether there are any unintended consequences arising from the Bill.

We have not identified any unintended consequences at this stage.

D. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill).

Please see our comments in paragraph 9.1.1 above.

E. The appropriateness of 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, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).

We consider these powers to be appropriate.

F. The measurability of outcomes from the Bill, i.e. what arrangements are in place to measure and demonstrate the fulfilment of the Welsh Government's intended outcomes from making this law.

We consider these to be proportionate.

We welcome the inclusion of a statement relating to Ministerial targets for the administration of the DNS process and would like to see more detail of this intention contained in secondary legislation.