



Thank you for your invitation to submit written evidence to the Environment & Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill.

The Planning Officers Society Wales represents the Heads of Planning from the 25 LPAs in Wales. We have considered the questions in the terms of reference and provide our comments below:

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

POSW welcomes the production of a national land use plan. However, POSW disagrees with the proposed 12 week consultation and 60 day consideration by the National Assembly. As the NDF will have Development Plan status along with Strategic Development Plans and Local Development Plans, POSW would like to see all plans being treated equally and therefore the NDF should be subject to a Examination in Public. Without robust scrutiny, the plan will be open to challenge with a resulting loss of credibility and influence. As the NDF will have Development Plan status, further clarification would be welcome on whether the TANs would apply including TAN 20 on the Welsh Language. Clarification is also sought on the links between other plans such as the National Transport Plan, Marine Plan and the Wales Infrastructure Investment Plan and the hierarchy of these plans in relation to the NDF.

Again, for consistency with other development plan proposals, the NDF should have an end date after which it expires and WG should be required to prepare an Annual Monitoring Report or similar.

POSW members have first hand experience of the challenges of engaging with the public during plan preparation. With the introduction of new plans, it is vital that clear, consistent messages are communicated with stakeholders regarding the new plan hierarchy to avoid confusion regarding how, when and at what level to engage. Welsh Government should lead on this message.

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

POSW agrees with the proposals for Strategic Development Plans but has concerns regarding the potential timescale and implications on LDP preparation. The Bill suggests that SDP is to be in conformity with the NDF, implying that the NDF would be the priority in terms of the plan preparation. Likewise the LDPs are to be in conformity with the SDP.

However, Welsh Government has made it clear that there cannot be any delay in the achieving complete LDP coverage for Wales. However we have concern that in some LPAs, a situation could arise where the adoption of an SDP would trigger a LDP rewrite when the LDP may have only recently been adopted. Given that a LDP is a costly plan to prepare, it will be difficult in a time of austerity to embark on a 'light-touch' LDP soon after the LDP adoption. This is a significant undertaking for LPAs and could be perceived by stakeholders as a questionable use of scarce resources.

Changes to Local Development Plan procedures;

POSW would be interested to understand the basis on which the Welsh Ministers would direct two or more LPAs to produce a joint LDP. Would a detailed business case be required setting out the reasons why a joint LDP is preferable to sole LDPs? The Explanatory Memorandum, merely states that "this decision would be based on evidence of the issues that need to be addressed".

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

Many LPAs already offer a pre-application service and would want to see local discretion for LPAs in shaping the service to be provided and the fees to be charged. WG should provide good practice guidance rather than prescribing a mandatory pre-application service and associated national fees. POSW welcomes further guidance on member involvement in pre-application advice. We understand that this should be part of the Planning Committee Protocol being co-ordinated by the WLGA with POSW involvement.

POSW welcomes the requirement for the applicant of a major application to undertake pre-application consultation.

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

POSW would welcome clarity through the scrutiny process on the definitions of Developments of National Significance as the Explanatory Memorandum is not specific on this issue. We note that it is predicted that there will only be about 10 applications per year but there is uncertainty regarding the exact scope given that the number of DNS will be dependent on the NDF.

If numbers are low, the introduction of a new tier of application could add confusion. A more proportional approach could be the upskilling of LPAs (via the new Planning Advisory & Improvement Service) to deal with the larger applications together with changes to ensure timely responses from statutory consultees on these large applications.

POSW would not want to see the scope of DNS extended and would welcome clarity on whether Welsh Government can foresee any circumstances when that this new category would be widened to include application types currently determined by LPAs.

LPAs still have a significant workload associated with DNS proposals including the preparation of a Local Impact Report and discharge of conditions. As the WG is currently consulting on Planning Fees we would have expected to see in this consultation a separate category for a fee for the discharge of conditions for DNS and for the preparation of a Local Impact Report. The proposal is for developers to pay the LPAs direct, however further clarity is required on this. Would there be a maximum threshold for the fee charged or is full cost recovery? Potentially, the preparation of a Local Impact Report could involve commissioning additional evidence, would this cost be borne by the developers or LPA or would it be the responsibility of WG to commission additional evidence if the LPA flagged up a potential impact in the Local Impact Report? A mechanism for recovering costs should be on the face of the Bill or in the Planning Fees consultation.

POSW welcomes the proposal for Ministerial targets for the administration of the DNS process. POSW will be interested to understand how these targets will be set given that historical information will be based on LPA performance.

Streamlining the development management system;

Many of the provisions in the Bill regarding minor changes to the DM system are appropriate.

We do not agree with the proposed national scheme of delegation. There should be a minimum level of delegation (not a uniformity of approach as in consultation draft) – otherwise it will go too far for some Authorities but not far enough for others. Once a minimum standard has been set, Authorities can then use discretion as to what meets their own needs. The current proposals do not allow for local variation and the differences of scale of development in rural and urban areas. The Chief Planning Officer should retain the discretion to call an application to committee.

We are disappointed that the Bill has not adequately addressed the issues that the Minister has termed 'Planning Plus'. This is where the planning system has become overly complex with issues other than land use issues. Planning should focus on planning issues and not get dragged into other things considered to be outside the remit and control of planning.

Changes to enforcement and appeal procedures; and

POSW welcomes the proposed changes to enforcement and appeal procedures, temporary stop notices are well overdue.

Changes in relation to applications to register town and village greens.

POSW welcomes the proposed changes

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

There are a number of proposals in the Planning Bill which require additional resources. It is not appropriate or realistic to expect LPAs to find additional resources. Planning as a non-protected service is facing severe cuts across all LPAs in Wales; for example Flintshire LPA has to find savings of 30% over 3 years, Swansea 40% over 3 years. Also other service areas that Planning rely on e.g. Highways, Ecology are also facing cuts impacting on their ability to support the planning function.

Whether there are any unintended consequences arising from the Bill;

The introduction of additional tiers of plans and additional tiers of application categories could be confusing for the public and thereby have the unintended consequence of disengaging the public from the planning system.

The penalising of poor performing local planning authorities may not drive up performance if it is not accompanied by an agreed plan of action to positively address the issues which contribute to the poor performance. Without this positive intervention, the power for the Minister to designate LPAs as poorly performing will be viewed negatively and is unwelcome. The removal of the fee income if major development applications are determined by WG will only exacerbate the issues possibly leading to job losses and greater resourcing challenges for the LPA. It is vital that there is a process for addressing poor performance otherwise it is hard to see how the LPA can then find itself 'improved' and in a position to be receiving major applications again.

A number of changes proposed take the issues away from local residents. This push for centralisation is in stark contrast to the localism agenda. POSW considers that elements of the Bill are unnecessary micro-management and could have unintended consequences for performance. For example, a national scheme of delegation may result in more applications being determined by committee as an LPA will have to adhere to a 'one size fits all' scheme rather than continuing with a successful local scheme which achieves high levels of delegation.

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);

POSW appreciates the difficulty for WG in costing many of the proposals and has tried where possible to pass information to WG to assist them in the preparation of the RIA. However, we remain concerned over many of the assumptions made due to a lack of robust evidence. We expressed our concerns in a letter to WG in July 2014 during the preparation of the RIA.

Of concern is that the reductions in budgets and resources is likely to result in the "buying in" of services in the future which will alter the historic costings that have been relied on in the preparation of the RIA. In this respect, there is concern that the reliance on historic data was fundamentally flawed and that an assessment of the actual costs of the new regime should be used instead. Furthermore there is an assumption in the RIA that authorities will continue to give the same priority to planning as they have historically; this is a flawed assumption.

Also due to differences between the areas covered by the 25 LPAs the cost of delivering a service varies considerably. As a result the RIA can only be a 'best-guess' of the impacts not a definitive view.