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Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LF/CS/0053/15

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

21 January 2015

Dear Alun Ffred Jones AM

Planning (Wales) Bill

Thank you for inviting me to the Environment and Sustainability Committee on 14 January 2015 to provide further evidence on the Planning (Wales) Bill.

I made a number of commitments to provide the Committee with additional information on the Planning (Wales) Bill. Please find below detailed information on the following matters:

1. Further information on how training opportunities for planners on strategic planning will be delivered;

Annex 1 to this letter provides a short summary of the work we are undertaking with Royal Town Planning Institute Cymru (RTPI Cymru) to address limitations in skills and knowledge on the delivery of strategic planning in Wales.

2. To provide information on the different Local Planning Authority processes for consideration of a planning application with specific reference to differences between National Park Authority decisions and Local Authority decisions;

There are 25 Local Planning Authorities in Wales, 3 of which are National Park Authorities. National Park Authorities are the planning authority for their areas i.e. within the boundaries of the National Park area. However other important local authority functions, including economic development, transport and housing remain with the constituent Local Authorities

within the National Park area. When planning applications are considered by a National Park Authority the division of responsibility can frustrate sustainable planning outcomes with local communities being unclear whether the National Park Authority or Local Authority lead on a particular issue.

The report 'Delivery of planning services in statutory designated landscapes in Wales', 2012, highlights a perception of a lack of partnership working between the bodies, particularly when there are more than two constituent authorities. It also raises the issue of consistency when determining planning applications, in particular small scale developments where there is seen to be a lack of consistency in approach for example on deciding which specialists to involve and how to "judge the appropriateness of engaging with the relevant constituent authority in reaching a decision."

For example, I am aware of some concerns where the delivery of market and affordable housing has been frustrated by lack of collaboration between the National Park Authority and local authority and the failure of local authorities to release land which it owns to deliver housing sites in the National Park Local Development Plan. I am also aware of concerns of others including Members of this Assembly regarding the deliverability of market and affordable housing in National Parks when housing is the responsibility of the Local Authority.

3. Further information on links to statutory transport planning and marine planning;

Annex 2 to this letter provides a summary of how the transport and marine planning regimes will be dealt with through the proposed changes to the development planning system.

4. A summary of the outcome of the consultation on Design in the Planning Process;

Annex 3 to this letter provides a summary of the responses received to the Design in the Planning Process¹ consultation and our broad thinking. A more comprehensive summary and analysis of responses, contained in a full consultation report, will be published on the Welsh Government website in due course.

Finally, responding to the Environment and Sustainability Committee Clerk's request for a **note of the responses from the Welsh Government's consultation on Planning Fees;**


Annex 4 to this letter provides an initial summary of the responses received to the Review of Planning Application Fees² consultation paper. A more comprehensive summary and analysis of responses, contained in a full consultation report, will be published on the Welsh Government website in due course.

¹ <http://wales.gov.uk/consultations/planning/design-in-the-planning-process/?lang=en>

² <http://wales.gov.uk/consultations/planning/review-of-planning-application-fees/?lang=en>

I trust that the information provided in this letter will assist Committee Members in their scrutiny of the Planning (Wales) Bill. I look forward to receiving the Committee's report on the general principles of the Bill and working with the Committee as the Bill progresses through the Assembly's scrutiny process.

Yours sincerely

A handwritten signature in black ink, appearing to be 'CS', written over a faint horizontal line.

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

Strategic planning: up-skilling and development opportunities

Background and issue

The Planning (Wales) Bill introduces a system of Strategic Development Plans (SDP) that will provide an overarching strategy for an area and tackle larger than local issues. Strategic planning on a statutory basis has not been undertaken by LPAs in Wales for a number of years. There has also been limited desire in some areas for LPAs to collaborate on LDP preparation to address cross boundaries issues and consequently the planners of those authorities have not necessarily practised planning for larger than local issues.

To support the proposed statutory system of strategic planning, Welsh Government is looking to support the development of these necessary skills and knowledge.

The proposal

The Welsh Government is working with RTPI Cymru to develop an awareness raising and training package to support the introduction of strategic development plans. This work has not been finalised, however it will look to deliver the following:

Part 1 - Introduction and dissemination of information on strategic planning

Given that engagement with strategic planning in Wales is not consistent, there is a need for general information dissemination about strategic planning and the issues it raises. The initial work will focus on professional planners from LPAs that will raise understanding and work towards a common level of knowledge on strategic planning.

The event will allow officers to understand the concepts behind strategic planning, and what potential issues they will need to overcome. The content may include:

- Identifying and the role of the responsible authority
- Setting boundaries
- Developing a vision for an area
- Identifying issues for inclusion
- Political issues such as how to achieve stakeholder buy-in to strategic proposals

Part 2 - Further development opportunities

We will be working with the RTPI over the next few months to develop a series of detailed training and support opportunities that will further develop strategic planning skills and to facilitate the process and ensure the timely delivery of sound plans. The support process will need to cover all stakeholders, including professional officers, councillors, senior management, developers and their agents and the community.

Planning (Wales) Bill – Further Information Request (E&S Committee 14 January 2015)

Details of how transport and marine regimes will be dealt with through development plans

Current Local Development Plan (LDP) system

The Planning and Compulsory Purchase Act 2004 requires each authority in Wales to prepare an LDP for its area. Under section 62 of the 2004 PCPA, LDPs are required to have regard to national policy, including the Wales Spatial Plan in the preparation of LDPs. In addition they must have regard to the Regional Spatial Strategy for any adjoining region of England (now revoked) and the community strategy or strategies for the area of the plan.

The LDP Regulations prescribe that LDPs must also have regard to the following (Regulation 13):

- i. Waste Strategy for Wales and Regional Waste Plans (replaced by The Collections, Infrastructure and Markets (CIM) Sector Plan)
- ii. Local Transport Plans and other policies prepared under section 108 of the Transport Act 2000
- iii. Local Housing Strategies

Guidance contained in LDP Wales lists existing cross boundary work by various groups and how their work should be integrated into LDPs. Specifically listed are; the Regional Waste Plan (replaced by The CIM Sector Plan), the Regional Technical Statement for Aggregates, economic development and regeneration strategies, Agenda 21 or environmental strategies, Local Biodiversity Action Plans, Local Housing Strategies and Local Transport Plans. The guidance will be updated to refer to any new plans which are prepared on a statutory or non statutory basis in due course.

National Development Framework for Wales (NDF)

The Planning (Wales) Bill states that the NDF must set out such of the policies of the Welsh Ministers in relation to the development and use of land in Wales as the Welsh Ministers consider appropriate. Therefore the NDF will need to take into account national policies and strategies, which will include the National Transport Plan and the Welsh National Marine Plan. It is not considered appropriate to specify an exhaustive list of national plans and strategies on the face of the Bill as this approach is considered to be too detailed and prescriptive and would not allow for change. Scrutiny by the National Assembly for Wales will ensure regard has been given to national policies and strategies. No regulations on the NDF will be prepared.

Strategic Development Plans (SDP)

The Planning (Wales) Bill states that in preparing an SDP, the Strategic Planning Panel must have regard to:

- (a) current national policies;
- (b) the NDF for Wales;
- (c) the SDP for any strategic planning area that adjoins the panel's area;
- (d) the LDP for each area all or part of which is included in the panel's area;
- (e) the resources likely to be available for implementing the SDP;
- (f) any other matters prescribed by the Welsh Ministers in regulations.

The SDP Regulations will prescribe a list of plans and strategies that the SDP will be required to have regard to, with guidance (similar to that contained in LDP Wales) further amplifying this position.

Design in the Planning Process

The consultation sought the views of stakeholders on how we can facilitate the delivery of good design through the planning system without the need for Design and Access Statements. The responses highlighted mixed views on whether the planning system is currently effectively delivering the objectives of good design.

Overall our range of proposals has been largely positively received by most of the respondents. Once we have fully analysed the consultation responses we will be developing work programmes to take forward the measures identified to assist new development to meet the objectives of good design and inclusive access in partnership with stakeholders.

Skills, Training and Resources

A key theme in the consultation responses is the importance of local planning authorities having the resources and skills to enable good quality development and raise the standard of design. The importance of the skills and knowledge of elected members and the private sector was also identified by a number of the respondents. The responses agreed that there is scope for local planning authorities to work differently or more collaboratively on design issues and highlighted areas of good practice.

The consultation responses highlighted the important role of the Design Commission for Wales (DCFW), in particular in providing training, advice and guidance on design. In addition, the Planning Advisory and Improvement Service (PAIS) was also identified as having a key role in the provision of training, disseminating good practice and facilitating collaborative working.

Policy and Guidance

The ability of planners to undertake effective site analysis at the beginning of the development process was highlighted as an issue. The responses largely agreed with the benefits of the use of area and site specific plans, such as masterplans, to plan positively for key development. However, the responses identified that they are not currently being used effectively throughout Wales. The production of practice guidance on the process of site analysis to inform the development of well designed proposals was supported.

The responses to the proposal for a national development management policy on design were generally supportive. While it was largely agreed that this could provide consistency across Wales, as well as streamline Local Development Plans and speed up the review process, it was suggested that such a policy would need to be flexible and provide scope for locally specific issues to be addressed at the local level.

Development Management

The majority of responses agreed with the benefits of pre-application discussions, in ensuring design and access issues are identified early in the planning process, and

as a key way to improve the design quality of schemes. The responses also highlighted examples of good practice. We have consulted separately on the processes associated with pre-application discussions.

Access

The majority of respondents were undecided on the proposal to amend the 1APP planning application form to include information on inclusive access. The responses highlight that access arrangements need to be considered early in the process before a planning application is submitted. The responses identify additional ways in which inclusive access can be improved, including through greater engagement with disabled people and access groups, guidance and Building Regulations.

Design and Access Statements

The final part of the consultation sought the views of stakeholders on the benefits of retaining the requirement for Design and Access Statements for particular applications if the above proposals were implemented. There has been substantial support for the retention of the requirement for Design and Access Statements for larger developments and those in sensitive locations. The responses also highlighted the benefits of Design and Access Statements as a communication tool.

The Planning (Wales) Bill removes the specific requirements for Design and Access Statements in primary legislation but they will be specifically retained in secondary legislation. This approach gives us the flexibility to consider the future role of Design and Access Statements along with other ways to raise design standards in the planning process. Amending the circumstances when a Design and Access Statement is required would need changes to secondary legislation which would be subject to further consultation.

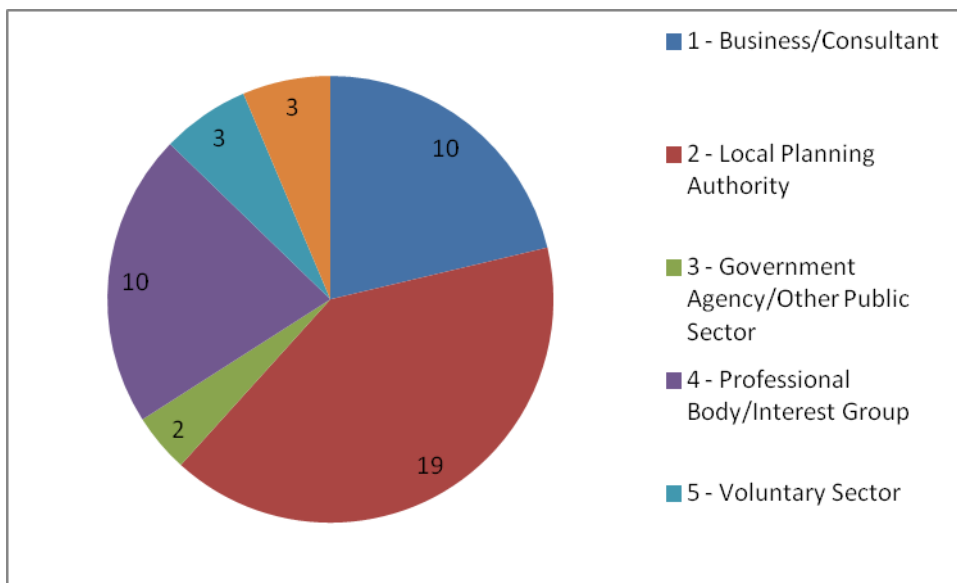
We will now consider the future role of Design and Access Statements in light of the significant weight of support for their retention for particular applications. However, this would be taken forward via secondary legislation and would not require any amendments to the provisions in the Planning (Wales) Bill.

1. Introduction

- 1.1 The “Review of Planning Application Fees” consultation document was issued on 06 October 2014 and was open for responses until 16 January 2015. A total of 14 questions were set out in the consultation document, with a standardised form provided for ease of response.
- 1.2 The following document provides a summary of the responses analysed at 19 January. The details will be subject to amendment as extensions of time have been agreed with a number of respondents.

2. Responses

- 2.1 In total, 45 responses were received to this consultation paper. The breakdown of respondents is provided in the graph below:



3. Increase planning application fees

Q1a	Do you agree with the proposed 15% increase in fees?
Q1b	If not, what do you consider to be a more appropriate change, if any?

- 3.1 Of those who responded to the question, the majority (75%) agreed that an increase in planning application fee levels is required.
- 3.2 Overall, it was felt that an increase in planning application fees is long overdue as the existing fees have not been increased since 2009. This proposed increase was considered to come at a much needed time for local planning authorities (LPAs). LPA respondents stated that although increase in fee levels by 15% was a positive step forward, it was considered planning application fees should be reviewed on a regular basis to ensure that LPAs receive the money necessary to achieve cost recovery.

- 3.3 Some respondents considered that any increase in planning fees should be linked to a clear improvement by LPAs, including a commitment to adhere to prescribed timescale and adequate quality standards in processing deciding planning applications.

4. Refund of the planning application fee

Q2a	Do you agree that introducing a refund will improve LPA performance?
Q2b	If you do not agree, what other options are available?
Q3a	Do you agree with the proposed time period of 16 and 24 weeks?
Q3b	If you do not agree, what do you consider to be an appropriate time?

Question 2a

- 4.1 The initial analysis shows that there is some support (49%) for the proposal to refund the planning application fee as a means to drive up performance.
- 4.2 Nearly all LPAs strongly oppose the proposal to refund the application fee. They consider that the introduction of a refund would have a negative impact on the planning system as it would drive unintended behaviours, such as authorities forced to refuse applications to avoid refunding the fee or developers prolonging negotiations or withholding information to get their fee back. Concern was raised that these would lead to a reduction in the speed of the planning service and would lead to poor design and customer service.
- 4.3 Other respondents considered that the refund of the planning fee may lead to LPAs delaying or avoiding the validation of an application to delay the process.

Question 2b

- 4.4 Other options to help drive up performance standards identified by respondents were:
- The introduction of harsher ‘special measures’ provisions that would trigger the proposed optional direct application;
 - The provision of support and best practice to poorly performing LPAs ;
 - The removal of the time limit to make an appeal for non-determination;
 - The provision of penalties on applicants who submit (or repeatedly submit) invalid applications; and,
 - Greater frontloading of applications, including local validation lists.

Question 3a/b

- 4.5 Those respondents who opposed the principle of refunding the planning application fee, also objected to the time period for the refund of the fee. There was a small amount of support for the proposed time period provided, with 36% supporting the proposals.
- 4.6 One respondent commented that the time period should reflect the complexity of the application, and that this was not achieved by having a single time period that would cover all ‘non-householder’ applications. Others commented that the suggested time period was too long.

5. Fee for the discharge of conditions

Q4a	Do you agree with the proposed fee levels to accompany the discharge of planning conditions?
Q4b	If you do not agree, what do you think constitutes an appropriate amount?
Q5	Do you agree with our proposed time period of 16 weeks after which the fee to accompany a discharge of condition would be refunded?

Question 4a/b

- 5.1 There was strong support for the introduction of the fee (76%) to accompany the discharge of conditions.
- 5.2 LPAs considered that the introduction of the fee was important as the discharge of conditions can generate significant work and time on behalf of the LPA, and is currently processed without any fee. Further to the additional income, some LPAs considered the introduction of the fee was seen as a means to encourage applicants to submit information upfront which would enable information to be considered at the same time.
- 5.3 Some of those respondents from the business community welcomed the proposals to improve the efficiency for the discharge of conditions. It was commented that as a fee is payable, this should be accompanied by an efficient service, as delays in conditions can slow the development process. Others from this sector did not support the proposal, as it was considered the cost of processing and determining conditions should be covered by the planning application fee.
- 5.4 Other technical issues that were raised over on the fee levels or method of calculation included :
- Concerns over how the partial discharge of conditions would occur in practice;
 - there should be a maximum number of conditions submitted on a single application;
 - the proposed categories should be expanded to provide a higher fee for large scale applications;
 - fees should be required for each condition that is to be discharged. This fee could be a smaller amount that the levels proposed.

Question 5

- 5.5 Only 25% of respondents support the proposal to refund the fee.
- 5.6 Businesses supported the proposals as this provides the onus on LPAs to act in a reasonable time frame in discharging conditions, and that mutually agreed extension measures can benefit both parties. Certain respondents considered that the time period for a refund was too long, and that this should be reduced. Overall, they consider this would reduce delays in development.

6. Fees for confirmation of discharge.

Q6	Do you agree with the introduction of a standardised fee to accompany a confirmation that conditions have been discharged?
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- 6.1 There is widespread support (78%) for the introduction of a fee to accompany the introduction of a fee for the discharge of conditions.
- 6.2 Some LPA Respondents considered that the introduction of a fee would help to cover the cost of the LPA in processing these requests. In commenting on the question, some LPAs considered that the fee set should be based on the current charging arrangements that LPAs use for these requests.
- 6.3 Some respondents noted that as the work is discretionary, LPAs have the opportunity to charge for these requests and therefore there is not a requirement to introduce new legislation.
- 6.4 Some respondents consider that the need for these requests will reduce as the proposals set out in the Planning (Wales) Bill for the introduction of a live decision document will simplify the process. In the meantime, should an applicant want confirmation they are able to submit a Lawful Development Certificate.

7. Planning obligations under section 106

Q7a	Do you agree with the proposals for the introduction of a set fee to accompany the drafting of a Section 106 planning obligation?
Q7b	If you have answered yes, how should this fee be calculated? If not, what are your reasons?

- 7.1 Overall there was general support (59 %) for the payment of a fee to the LPA to cover the drafting costs of the S106 agreement.
- 7.2 Many respondents commented that LPAs currently charge for the drafting of Section 106 Agreements, and these charges reflect the complexity of the application. Further, some respondents commented that with an existing mechanism that allows charging to be undertaken on a cost-recovery basis, it is not certain how the system would improve with the introduction of a standardised fee.
- 7.3 There was concern that with the diverse range of 106 agreements and the associated variation in costs that a flat rate charge may lead to development subsidising the drafting costs of other developments.
- 7.4 One respondent considered that further transparency on how LPAs charge (such as the introduction of a standard formula) would assist the Section 106 charging process. Another respondent also commented that standardised or guidance on monitoring fees should also be introduced.

8. Enforcement fees

Q8	Do you agree that the fee to accompany a ground (a) appeal should only be payable to the LPA?
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- 8.1 There was strong support (67%) for the fee accompanying a ground (a) appeal to be paid to the LPA. The fee was considered to cover the costs associated with handling the enforcement case. One respondent considered it would act as a disincentive to carry out development without necessary planning permission.

9. Advertisement on broadband

Q9a	Do you agree that advertisements on broadband cabinets in a specified area should be treated as a single site for the purposes of charging a fee?
Q9b	If you have answered no, please explain why.

9.1 There was limited support (33%) for the proposals.

9.2 Some respondents considered that there was no justification to single out advertisements for broadband providers, and that the issue is time limited. There was concern that the need to consider diverse locations, context and the impact of each site would not be covered by a single fee. Further to this, there were concerns over the definition of specified area and how many separate sites could be included in a single application. Some respondents considered that express consent could be given for these advertisements.

10 The free go following approval of a reserved matters application

Q10a	Should the applicant be entitled to a free go following approval of a reserved matters application?
Q10b	If you have answered no, please explain why

10.1 There was limited support (31%) for the retention of the free go following approval of reserved matters.

10.2 Those from the business community who supported the free go considered that it provides flexibility to the planning system to accommodate changes as the process unfolds and that the process is time constrained.

10.3 Respondents who welcomed its removal commented that allowing a free go would mean that LPAs would process and determine applications without receiving the relative fee. This was considered as inappropriate as applications can be complex and time consuming on behalf of the LPA. Further, if amendments are required, other processes may be more appropriate.

11 Renewable and low carbon energy

Q11a	Do you agree that applications for renewable energy development should have a separate fee schedule to Section 5, Plant and Machinery?
Q11b	Do you agree that wind turbines should also have a separate system of fee calculation?
Q11c	What factors, or combination of factors, should be taken into account when is calculating the fee for wind turbines?

11.1 The majority of respondents (62%) agreed that renewable and low carbon energy generation should be separated into a dedicated fee category. In addition, there is support

(62%) to further separate wind turbines into a separate category. The respondents identified a number of factors that should be taken into account when calculating the fee.

12 Cross-boundary planning applications

Q12a	Do you agree that fees for cross-boundary planning applications should be addressed, with all constituent LPAs receiving fee income?
Q12b	If you have answered yes, how should this matter be addressed?

- 12.1 The majority of respondents (74%) support the separation of fee for cross boundary applications.
- 12.2 Most respondents who commented on the method considered that the fee should be split by the:
- Proportion in each LPA
 - Type of development in each LPA
 - Calculated as a single application and split pro-rate on the amount of development in each LPA.
- 12.3 Further comments were made on the method of calculation, specifically that there should be a minimum amount payable to a single LPA and the fee should be no more than if an application is submitted to a single LPA.