

Voluntary Sector Impact Assessment Planning (Wales) Bill

Introduction

1. The Planning (Wales) Bill ('the Bill') is a set of provisions based on a comprehensive evidence base and extensive stakeholder engagement that will provide a modern legislative framework for the operation of the planning system. The Bill puts in place delivery structures, processes and procedures, to make the planning system fit for the 21st Century. Taken together the provisions will allow the planning system to support the delivery of national, local and community views and needs by creating sustainable places where citizens have improved access to quality homes and jobs whilst supporting our built and natural environments and the use of the Welsh language.
2. The Planning (Wales) Bill will achieve the following key objectives:
 - securing a modernised planning service;
 - strengthening the plan led approach;
 - improving resilience for the planning system;
 - frontloading and improving the development management system; and
 - enabling effective enforcement and appeals.

Consultation

3. On 4 December 2013, the draft Planning (Wales) Bill and supporting paper entitled 'Positive Planning – Proposals to reform the Planning System in Wales' were published for public consultation. The consultation period lasted 12 weeks and closed on 26 February 2014. A total number of 405 responses were received 9 per cent of which came from the voluntary sector. The responses have informed the Bill as introduced to the National Assembly for Wales on 6 October 2014.
4. Following introduction, the Planning (Wales) Bill was remitted to the National Assembly for Wales' Environment and Sustainability Committee for scrutiny. During Stage 1 of the Assembly's scrutiny process (consideration of the general principles) the Committee issued a public consultation on the Bill. It was open to all to submit a response. 56 responses were received to the call for evidence, including key stakeholders such as the WLGA, RTPI, the Open Spaces Society and the Law Commission. The Committee received both written and oral evidence from a wide range of sectors including local authority officers and members, energy organisations, the Law Society, interest groups and the business and voluntary sector. The written evidence along with a transcript of the oral sessions were published to the National Assembly for Wales' website:

Provisions of the Bill

5. A wide range of voluntary sector organisations engage in the planning system and some receive funding from the Welsh Government to support the built environment sector and other users of the planning system in Wales. It is possible that voluntary sector organisations could be affected by the provisions in the Planning (Wales) Bill as the number of users of the planning system seeking their support during the implementation and bedding in of the provisions may increase. Voluntary sector organisations may also be expected to support the provisions in partnership with local planning authorities. It is however considered that the provisions of the Bill as a whole will have neither a positive nor negative impact on the voluntary sector in Wales. Our assessment of the affects of the provisions on the voluntary sector in Wales is outlined below.

Development Planning

6. Plan making is the most important activity undertaken within the planning system and is essential to its effective operation. Plans provide the mechanism for communities, their elected representatives, developers and other interested organisations and individuals to decide, based on available evidence, how places should change in the future. Plans also provide the basis for rational, fair and consistent decisions on planning applications and appeals. The proposals to strengthen the plan led approach will provide clarity to those involved in the planning system and the people of Wales.

National Development Framework

7. The Bill introduces a statutory requirement for the Welsh Ministers to prepare and keep up to date a national development land use plan to be known as the National Development Framework. The National Development Framework will replace the current Wales Spatial Plan setting out the Welsh Government's national land use priorities and policies. It will also provide the policy context for future planning of those development proposals that are considered to be of national importance to Wales. This plan will be regularly reviewed. This will ensure the sustainable future planning of key priority developments for Wales. The National Development Framework will specify the period for which it has effect, after which time the Framework will cease to be a development plan. This time period is anticipated to be between 15 to 20 years. This will provide consistency with other development plans and certainty for users of the planning system including voluntary sector organisations.
8. The draft National Development Framework will be subject to a 12 week public consultation period and the Welsh Ministers will be require to publish a statement following scrutiny by the National Assembly for Wales of the National Development Framework. This will provide interested parties, such as voluntary sector organisations with the opportunity to engage in the preparation of this national-level development plan.

9. The National Development Framework will include a sustainability appraisal requiring assessment of the likely effects of its policies on the use of the Welsh language in Wales; this requirement will ensure that the Welsh language is recognised and properly considered at the outset of the plan-making process and that development plans support the use of the Welsh language.
10. These provisions will help to provide more clarity to users of the planning system and voluntary sector organisations and those who access them. Overall, it is considered that there will be no additional burden on or benefit to the voluntary sector than under the current system. Therefore, the affect overall on the voluntary sector is considered to be neutral.

Strategic Development Plans

11. The Bill introduces a statutory requirement to prepare and keep up to date Strategic Development Plans to tackle larger than local issues, which cut across a number of local planning authorities and could include housing provision, employment areas, infrastructure and Gypsies and Travellers site provision, where required. Strategic Development Plans could also facilitate for appropriate allocation of housing for Gypsy and Traveller sites provision on a cross boundary basis. This provision will allow for such strategic issues to be considered and planned for in an integrated and comprehensive way. We expect to see better planning of infrastructure and economic growth reflecting modern lifestyles and business requirements. Strategic Development Plans will also include a sustainability appraisal requiring assessment of the likely effects of its policies on the use of the Welsh language in strategic planning area. This requirement will ensure that the Welsh language is recognised and properly considered at the outset of the plan-making process and that development plans support the use of the Welsh language.
12. Nominated members will come from organisations representing social economic and environmental interests. Only the local authority members of the Panels will have the right to vote but nominated members from, for example, the voluntary sector organisations will be given an opportunity to have their say in influencing the outcome of the plan but will not be entitled to vote. It is considered that this may have a negative impact upon the voluntary sector by diminishing their status on the panel, however, it is important that the decisions remain with the locally elected members of the panel and that the non elected members have an important advisory role.
13. Where Strategic Development Plans are prepared, the complexity and repetition currently contained in individual Local Development Plans will be reduced resulting in faster preparation and greater clarity for users of the planning system including voluntary sector organisations. The plan will be subject to a public examination allowing interested parties such as voluntary sector organisations to engage in the planning process. It is therefore considered that these provisions will have a positive affect upon the voluntary sector overall.

Local Development Plans Provisions

14. The Bill proposes technical changes to the Local Development Plan process, relating to the way such documents are prepared and used by local planning authorities. The changes to the process will comprise of the following provisions:
 - **Period for which Local Development Plan has effect:** This provision will allow Local Development Plans to have an end date, beyond which they will cease to be the extant development plan in place for that particular area.
 - **Withdrawal of Local Development Plan:** This will allow modified provisions where a local planning authority resolves to withdraw their Local Development Plan prior to submission to the Welsh Ministers; allowing the Welsh Ministers to be notified and to consider whether to use existing reserve powers to progress the plan.
 - **The Welsh Ministers' power to direct preparation of a Joint Local Development Plan:** This provision will allow the Welsh Ministers to direct two or more local planning authorities to prepare a joint Local Development Plan based on evidence.
15. The amendments will mean that Local Development Plans are in place and reviewed and updated by local planning authorities regularly, ensuring they are responsive to local issues and needs. This will ensure that development continues to be appropriately planned for at a local level. Joint Local Development Plans will allow strengthened collaboration between neighbouring local planning authorities and efficiency savings on planning issues of local interest. The cross boundary approach means that matters such as housing supply and Gypsy and Traveller sites provision can be addressed more effectively.
16. Local Development Plans will also include a sustainability appraisal requiring assessment of the likely effects of its policies on the use of the Welsh language in the local authorities' area. This requirement will ensure that the Welsh language is recognised and properly considered at the outset of the plan-making process and that development plans support the use of the Welsh language.
17. It is acknowledged that these new provisions could increase queries to supporting voluntary sector organisations during the implementation period. The provisions strengthen the existing plan led approach and provide clarity for communities and users of the planning system ensuring that a framework is in place to support decision making at all levels. This is expected to have a positive affect on the voluntary sector.

Joint Planning Boards

18. The Bill proposes technical changes to the existing Joint Planning Boards legislation, enabling the Welsh Ministers to use their powers to comprehensively merge two or more local planning authority areas in future by providing the

Welsh Ministers with the ability to merge local development planning functions, including the preparation of a Local Development Plan, if there is an evidenced need to do so. The mechanisms will help to ensure the correct tools are in place to create resilient delivery bodies with access to a full range of technical and political skills and will facilitate resource and cost savings. The Bill allows for the merger of local development planning functions and will ensure that a Joint Planning Board area can efficiently and effectively deliver appropriate planning for local development through the Local Development Plan process. This provision will ensure that development plans will be prepared as quickly as possible for the designated areas and kept up to date, setting a clear basis and rationale for fair and consistent decisions on planning applications and appeals. The Bill also proposes, subject to Assembly approval of regulations, to bring the development management functions of National Park Authorities within the existing Joint Planning Board legislation; the provisions will not extend to the plan-making function of National Park Authorities.

19. It is considered that this will provide certainty for users of the planning system and should therefore have a positive impact on voluntary sector organisations who submit planning applications.

Pre Application Procedure (Pre application Consultation and Pre application Services/Advice)

20. The Bill introduces changes to the planning applications process that will facilitate increased frontloading, providing local communities and statutory consultees with the opportunity to comment on major scale development and Developments of National Significance proposals at the earliest possible stage in the planning application process and before a planning application is submitted to the determining body. The Bill also introduces a requirement for the provision of advice to prospective developers / applicants on their proposals before an application is submitted to the determining body.
21. The emphasis on pre application consultation will increase community engagement at the earliest possible stage in the planning process. This early involvement could reduce the complexity and difficulty planning applicants and communities can encounter at a late stage, when there is little scope to amend the application for planning permission. This will have a positive impact on communities and statutory consultees who will be able to influence developments within their locality. The consultative process will increase awareness of the rights and responsibilities of planning applicants, local planning authorities, the community and statutory consultees and result in increased information being in the public domain, leading to empowerment of communities and statutory consultees and less disputes. Developer / applicant engagement with local planning authorities, local communities and statutory consultees on development proposals at the earliest possible stage of the planning process should also result in higher quality schemes and address services that may be required for communities. The provisions may increase the workload of the voluntary sector organisations with an interest in the planning system; however, overall there will be a positive affect on the voluntary sector as a result of

improved engagement at the appropriate stage of the planning application process and the increased level of information in the public domain.

22. On 6 October 2014 a consultation paper entitled [Frontloading the Development Management System](#) was published by the Welsh Government seeking views from stakeholders on the detailed operation of the pre-application procedure. The responses to the consultation have informed the refinement of the Planning (Wales) Bill and the draft secondary legislation to support the implementation of the provisions of the Bill.

Applications to Welsh Ministers

23. The Bill focuses on ensuring that planning decisions are made at the appropriate level of Government. Therefore in a limited number of specified circumstances the Welsh Ministers will receive and determine planning applications. Firstly applications that are of greatest significance in Wales, 'Developments of National Significance' and for those applications connected to the primary Development of National Significance proposal. In line with those requirements set for local planning authorities, the Welsh Ministers as the determining authority will be subject to a requirement to determine these types of applications within 36 weeks. This new planning procedure will ensure those nationally significant developments to Wales are delivered in an effective and timely manner. Delivering such development will positively impact the people of Wales reducing economic inactivity, improving national infrastructure requirements and promoting homes and jobs growth. It is considered that there will be no disproportionate affect of these provisions on the voluntary sector, given that those with an interest in planning will continue to be consulted and engaged on such applications.
24. Secondly, where a planning authority is designated by the Welsh Ministers under specified criteria to be poorly performing, applicants will have the option to make a planning application for major development direct to the Welsh Ministers for determination, rather than to the local planning authority. This measure should ensure local planning authorities focus on improving their performance, encouraging efficient working in respect of their development management and other planning functions. This will have a positive impact on voluntary sector organisations that submit applications which will be dealt with more efficiently and effectively to deliver their development.

Development Management

25. The planning application process is the primary tool used to manage new development. It plays a critical role in the consideration and authorisation (or refusal) of proposals. Most individuals, organisations and businesses are familiar with this element. In Wales approximately 22,000 planning applications are decided each year with 90 per cent being approved and 70 per cent of planning applications are decided within 8 weeks. The evidence base for the Bill supports the development management system as being essentially sound but identified that it was under strain. The Bill introduces a number of provisions which seek to

improve the planning application process ensuring that applications are dealt with quickly and fairly; streamlining the process and reducing complexity. These changes will positively impact upon voluntary sector organisations who submit applications for planning permission.

Decision Notices

26. The Bill will allow for the decision notice which sets out the determining body's decision on a planning application to be updated as necessary to reflect the current position of the planning permission. Therefore decision notices will become 'live' documents that will not only list the plans and documents associated with planning permission but also record details agreed by future applications to discharge conditions and reserved matters associated with the permission. This will make it easier for developers, local planning authorities, residents and other interested parties to identify the scope of the planning permission and whether or not conditions have been discharged. This will increase clarity, transparency and certainty within the planning process. The provision will mean that more cohesive information will be in public domain which will empower and have a positive impact on groups such as communities, interested parties and the voluntary sector.

Notification of Development

27. At present, there is no legal notification requirement upon the developer before planning permission is implemented. Often, local residents and other members of the public are only aware of any development when activity starts on site. The Bill includes provisions to improve this process. Developers will be required to notify the local planning authority of the date on which the development will begin and the details of the planning permission being implemented by means of a Notification of Development. The developer will also be required to display a copy of the planning permission at or near the site. The provisions will ensure increased clarity, transparency and certainty for all those with an interest in the planning system, including local communities (and the voluntary sector organisations which support them) in the development management process. The provision will result in more information being in the public domain which will have a positive impact on the voluntary sector.

Enforcement

28. The Bill proposes improvements to the enforcement system that will make provision:
- Enabling local planning authorities to issue enforcement warning notices;
 - About circumstances in which a person who appeals against an enforcement notice is deemed to have applied for planning permission;
 - About circumstances in which a person may not appeal against the refusal of an application for planning permission or against an enforcement notice;

- Preventing the variation of certain applications once notice of an appeal has been served;
 - For appeals against notices in respect of land adversely affecting amenity to be made to the Welsh Ministers; and
 - About the procedure for certain proceedings and the payment and award of costs.
29. These proposals are designed to improve the existing enforcement system to secure prompt, meaningful action against breaches of planning control. Their aim is also to limit the possibility of potential offenders delaying enforcement action by exploiting loopholes in the existing process, providing greater clarity. This will assist in maintaining community confidence in the planning system by helping to prevent unlawful development, which could undermine the delivery of development plan objectives and have a negative impact on voluntary sector organisations that support communities. Therefore, the provisions are considered to potentially positively impact on the voluntary sector.

Town and Village Greens

30. These proposals prevent applications being made to register land as a town or village green only where planning permission or development consent is granted, a local development order is adopted by the local planning authority or an order granting development consent is made under the Planning Act 2008. The provisions also enable landowners to submit declarations to the commons registration authority preventing the registration of land as a town and village green, provided that certain criteria are met. The proposals are designed to reconcile two competing regimes to ensure people do not use the current system for registration of land as a town and village green as a means of frustrating the planning process for appropriate new development. The proposals provide a means of striking a better balance between protecting high quality green space valued by local communities and enabling the right development to occur in the right place at the right time. In developing these proposals, the Welsh Government engaged with voluntary sector organisations.
31. The current town and village greens registration system enables applications on sites which have planning permission, on which building work may have commenced or have been completed. This registration system may also undermine development plans, where a town and village greens may be registered on a site which has been previously allocated for development. This proposal will assist in enabling appropriate new development and could facilitate the availability of land for the building of housing and the delivery of essential services and amenities required by communities prompting sustainable economic growth and positively impacting communities.
32. The Bill does not seek to remove green spaces where they are considered to be a vital part of the local community and it is recognised that town and village greens can have positive impacts on communities. These proposals recognise

the importance of a person's right to register land as a town or village green and draws a line where sufficient opportunity to exercise that right has been provided. These provisions aim to ensure that planning and town and village green legislation is consistent and compatible and is not used to frustrate and delay appropriate development. The provision seeks to provide clarity and certainty for business, individuals and communities

33. It is considered that the provisions could have an initial negative impact on the voluntary sector particularly in regard to those organisations with a particular interest in this area. However the proposals are essentially technical procedural matters and therefore it is not expected that they will have a long term affect on the voluntary sector.

Other Planning (Wales) Bill proposals

34. The Bill contains a number of additional provisions covering the following topics:

- Planning appeals system;
- Classes of development;
- Planning committees;
- Statutory consultees;
- Stopping up and diversion of public paths and highways; and
- Validation appeals.

35. The above provisions are considered to be provisions that are technical in nature, relating to the procedures for determining planning applications or for considering planning applications by appeal. They are therefore not considered to have any specific positive or negative impacts on the voluntary sector.

Opportunities to address negative impacts

36. There are minimal negative impacts of the provisions in the Bill on the voluntary sector. However, early engagement and discussions with the groups affected have taken place. In addition the views of key stakeholders have been taken into account as the Bill progresses through the National Assembly for Wales' legislative scrutiny progress, in some cases resulting in improvements to the Bill by way of amendments, and is on-going.

Opportunities to maximise potential positive impacts

37. The positive impacts of the Bill on the voluntary sector can be maximised by effective implementation of the proposals by those organisations with an interest in the planning system. The Positive Planning consultation paper recognises that a culture of change is required in order to effectively implement the proposals. Therefore, the proposals will require buy in from all participants within the planning system to enable their effective delivery and to ensure that the corresponding positive impacts voluntary sector organisations and those who access them are realised.

Additional opportunities to improve the impacts on the voluntary sector

38. It is anticipated that maximising positive impacts on the voluntary sector through effective culture change in the planning system may provide additional opportunities to improve the affects of planning on this sector.

Reducing the impacts on the voluntary sector

39. The negative impacts of the provisions in the Bill on the voluntary sector will be reduced as a consequence of activity to implement the Bill and the post implementation review of the Bill. The effect of the provisions of the Bill will be measured in a number of ways, including research, evaluation and data collection techniques. The proposed programme for monitoring and evaluation of the Bill is outlined in Chapter 9 of the [Explanatory Memorandum](#) which accompanies the Bill. This post implementation review of the Bill will help to further reduce any impact of the provisions on the voluntary sector.
40. The provisions of the Bill will be implemented through secondary legislation and guidance. This secondary legislation will be subject public consultation which will provide opportunities to identify opportunities to further reduce any impacts of the Bill provisions on the voluntary sector.
41. A number of consultation documents were issued for public consultation alongside the Bill including those covering topics such as planning committees, delegation and joint planning boards, frontloading the development management system, design in the planning process and review of planning application fees. The responses to these consultations will help the Welsh Government to further reduce any negative impact on the voluntary sector.

Monitoring / Review

42. The Bill provisions will be monitored as part of the implementation of the primary legislative proposals contained in the Bill and through accompanying subordinate legislation and guidance (please see details in paragraph 39 above). Officials will continue to monitor the specific impacts of the provisions of the Bill on the voluntary sector and should there be any substantial changes, a further revised impact assessment will be undertaken.