

Julie James AS/MS  
Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government



Llywodraeth Cymru  
Welsh Government

The Right Honourable Lord Justice Green  
Chairman  
Law Commission  
1<sup>st</sup> Floor Tower  
52 Queen Anne's Gate  
London  
SW1H 9AG

Nicholas.Green@lawcommission.gov.uk

10 November 2020

Dear Nicholas

## **DETAILED RESPONSE TO THE REPORT ON PLANNING LAW IN WALES**

In May 2019, we issued an interim response to your report on planning law in Wales. This focused on the core conclusions set out in Part 1 of the Consultation Paper (issued November 2017) and of the Report. In particular, it set out the Welsh Government's response to the Law Commission's views on the need to simplify and consolidate planning law; the case for a planning code; and the scope of the initial consolidation exercise.

This letter and accompanying table is the Welsh Government's detailed response to the Report. It is clear, having finalised our assessment of it, the considerable task and detailed consideration that your team has undertaken in completing this comprehensive review of planning law. The Report, its recommendations and the consultation responses from stakeholders, demonstrate the complexity of the law and the issues that need to be resolved to ensure Wales has a planning system that is fit for purpose and able to deliver the vision of Wales we want in accordance with the Well-being of Future Generations (Wales) Act 2015.

### Overview of our response

The Welsh Government's position on each of the 192 recommendations, as set out in Part 2 of the Report, is provided in the attached table. As noted in the Government's interim response, the recommendations generally fall under three categories:

- minor technical reforms with little or no changes in policy, to aid consolidation;
- policy reforms with the aim of achieving greater simplification of the law and improving the operation of the planning system, which range from minor to substantial changes in policy effect; and

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- changes to subordinate legislation and guidance.

We have categorised our response into three outcomes – accept, accept in principle and reject. Where we have indicated our position as ‘accept in principle’, whilst we mostly agree with the principle of the recommendation, there may be aspects we will seek to vary to reflect the Welsh Government’s policy position. This could include pursuing an alternative approach to addressing the issue raised, or where we consider further consideration is required to its detailed delivery that can only be achieved during the exercise of drafting the relevant statutory provisions. In some instances, additional consultation may be required.

Detailed justification for the position of the Welsh Government to each recommendation has been provided in the table, including our rationale where we do not agree with a recommendation. In summary, the Welsh Government accepts the majority of recommendations in the Report. Our overall position is as follows:

- Accept – 61%
- Accept in principle – 25%
- Reject – 8%

In addition, there are 14 recommendations (6%) where we have identified a need for additional supporting evidence to inform a future decision on whether to take forward the policy changes proposed. These recommendations, and the information underpinning them, including the responses received from stakeholders, will form part of an evidence base relating to wider reviews or future programmes of work. Further information on this is contained within the table.

We have provided our response to each recommendation in the enclosed table following our detailed consideration of the consultation document, the final report and stakeholder comments. However it is important to note that the ability of the Welsh Ministers to take forward the recommendations may change following more detailed analysis as we prepare and draft the legislation. Issues may arise during the detailed drafting of the legislation that cannot be anticipated at this stage. Where the recommendations require primary legislation, the final Bill provisions will ultimately be governed by the extent of the legislative competence of Senedd Cymru, as is correctly highlighted in your final report. And the ultimate decision about whether to enact those recommendations will of course be for the Senedd.

### Delivery mechanism

Given the majority of the recommended legislative changes constitute minor technical reform to aid consolidation and simplification of the law, I anticipate a planning consolidation Bill will be the main delivery mechanism. You will be aware the final form of a suitable Standing Order for consolidation Bills is currently being considered by the Business Committee of the Senedd, and this will ultimately dictate what can be taken forward through consolidation. Notwithstanding this, it is the intention of the Counsel General and I that a planning consolidation Bill should be brought forward in due course.

The Legislation (Wales) Act 2019 places a duty on the Welsh Ministers and the Counsel General to bring forward a formal programme to improve the accessibility of Welsh law. As the content of the first formal programme will be a matter for the Government of the next Senedd term, this response cannot provide a commitment to the inclusion of a planning consolidation Bill in that programme. However, the Counsel General and I have advised officials to continue the preparation and drafting of the consolidation Bill on the basis that it will form an important part of this first programme for introduction to the Senedd next term.

A small number of recommendations constituting more substantial policy reforms, which we anticipate would be outside the scope of a consolidation exercise, would need to be accommodated in a (separate) law reform Bill. This is a longer term project and will be brought forward when further substantial changes to the planning system are required and can be delivered as part of a package of policy reform. Furthermore, those recommendations we accept, but require amendments to existing or the drafting of new subordinate legislation will follow as part of a future work program. Our primary focus is to deliver the planning consolidation Bill to bring significant benefits to all stakeholders through the simplification and consolidation of the law, which as your review highlights, is urgently needed.

The complex and sizeable task you have undertaken has delivered a detailed, robust and independent evidence base to support the consolidation and simplification of planning legislation. I am pleased you are continuing to work with us during the preparation of the consolidation Bill. I once again, on behalf of the Welsh Government, thank you for the work undertaken and your cooperation with not only my officials but with all stakeholders in Wales who have contributed towards the success of this review of planning law in Wales.

Yours sincerely



**Julie James AS/MS**  
Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government

cc. Jeremy Miles MS, Counsel General and Minister for European Transition