

Y Pwyllgor Amgylchedd a Chynaliadwyedd

Lleoliad:

Ystafell Bwyllgora 3 – Senedd

Dyddiad:

Dydd Iau, 11 Rhagfyr 2014

Amser:

09.15

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



I gael rhagor o wybodaeth, cysylltwch â:

Alun Davidson

Clerc y Pwyllgor

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Agenda

Rhag-gyfarfod anffurfiol (09:15 – 09:30)

1 Cyflwyniad, ymddiheuriadau a dirprwyon

2 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 9 (09:30 – 10:30)

(Tudalennau 1 – 68)

Josh Miles, Cynghorydd Polisi, Ffederasiwn y Busnesau Bach Cymru

Ben Francis, Aelod, Ffederasiwn y Busnesau Bach Cymru

Mark Harris, Cynghorydd Polisi a Chynllunio Cymru, Ffederasiwn yr Adeiladwyr
Cartrefi

David Morgan, Rheolwr Polisi, RICS Cymru

John Pockett, Cyfarwyddwr, Cydffederasiwn Cludiant Teithwyr Cymru

Matthew Williams, Swyddog Polisi ac Ymchwil, RenewableUK

E&S(4)-31-14 Papur 1

E&S(4)-31-14 Papur 2

E&S(4)-31-14 Papur 3

E&S(4)-31-14 Papur 4

3 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 10 (10:30 – 11:00) (Tudalennau 69 – 81)

Dyfan Sion, Cyfarwyddwr Polisi ac Ymchwil, Comisiynydd y Gymraeg

Huw Gapper, Uwch-swyddog Polisi ac Ymchwil, Comisiynydd y Gymraeg

E&S(4)-31-14 Papur 5

4 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 11 (11:00 – 11:30) (Tudalennau 82 – 105)

Colin Nosworthy, Swyddog Cyfathrebu a Chyswllt y Cynulliad, Cymdeithas yr Iaith Gymraeg

Tamsin Davies, Cadeirydd Grwp Cymunedau Cynaliadwy, Cymdeithas yr Iaith Gymraeg

Emyr Lewis, Dyfodol i'r Iaith

Meirion Davies, Mentrau Iaith Cymru, yn cynrychioli Dyfodol i'r Iaith

E&S(4)-31-14 Papur 6

E&S(4)-31-14 Papur 7

5 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 12 (11:30 – 12:00) (Tudalennau 106 – 112)

Naomi Luhde-Thompson, Cynghorydd Cynllunio, Cyfeillion y Ddaear

E&S(4)-31-14 Papur 8

Egwyl (12:00 – 13:00)

6 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 13 (13:00 – 13:45) (Tudalennau 113 – 127)

Nicola Hodgson, Swyddog Achosion, Y Gymdeithas Mannau Agored

Beverley Penney, Y Gymdeithas Mannau Agored

Elwyn Thomas, Prif Weithredwr, Cymorth Cynllunio Cymru

Matt Hemsley, Cynghorydd Polisi a Chyfryngau, Sustrans

Lindsey Curtis, Rheolwr Ardal De-Orllewin Cymru, Sustrans

E&S(4)-31-14 Papur 9
E&S(4)-31-14 Papur 10
E&S(4)-31-14 Papur 11

7 Papurau i'w nodi

Bil Cynllunio (Cymru): Gohebiaeth gan y Gweinidog Cyfoeth Naturiol i Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol (Tudalennau 128 – 141)
E&S(4)-31-14 Papur 12

Ymchwiliad i effeithlonrwydd ynni a thlodi tanwydd yng Nghymru: Rhagor o wybodaeth gan SSE yn dilyn sesiwn 13 Tachwedd (Tudalennau 142 – 143)
E&S(4)-31-14 Papur 13

Bil Llesiant Cenedlaethau'r Dyfodol (Cymru): Gohebiaeth gan BMA Cymru (Tudalennau 144 – 145)
E&S(4)-31-14 Papur 14

8 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

9 Bil Cynllunio (Cymru): Trafod y dystiolaeth (13:45 – 14:00)

10 Trafod Blaenraglen Waith y Pwyllgor ar gyfer 2015 (14:00 – 14:15)
(Tudalennau 146 – 152)
E&S(4)-31-14 Papur 15

11 Ymchwiliad i ailgylchu yng Nghymru: Trafod yr adroddiad drafft (14:15 – 14:30) (Tudalennau 153 – 170)
E&S(4)-31-14 Papur 16

12 Ymchwiliad i effeithlonrwydd ynni a thlodi tanwydd yng Nghymru: Trafod y prif faterion (14:30 – 14:45) (Tudalennau 171 – 176)
E&S(4)-31-14 Papur 17

13 Ymchwiliad i gynhyrchu organig a labelu cynhyrchion organig: Trafod

Ilythyr drafft i'r Comisiwn Ewropeaidd (14:45 – 14:55) (Tudalennau 177 – 185)

E&S(4)-31-14 Papur 18

Eitem 2

Mae cyfyngiadau ar y ddogfen hon

FSB Wales

Planning
(Wales) Bill

7th November 2014





Planning (Wales) Bill

FSB Wales

FSB Wales welcomes the opportunity to present its views to the Environment and Sustainability Committee on the general principles of the Welsh Government's Planning (Wales) Bill. FSB Wales is the authoritative voice of businesses in Wales. With 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees; FSB Wales is in constant contact with business at a grassroots level. It undertakes regular online surveys of its members as well as a biennial membership survey on a wide range of issues and concerns facing small business.

Executive Summary

In response to the consultation FSB Wales makes the following headline observations:

We would call on the committee to examine why the following have been omitted from the Bill:

- A proper assessment of the impact of the Bill on micro, small and medium-sized businesses
- Any mention in the explanatory memorandum of the Planning Advisory and Improvement Service (PAIS)
- Further consideration of Permitted Development Orders for change of use - the biggest reason for SMEs engaging with the planning system
- A requirement for planning authorities to submit an Annual Performance Report outside of Strategic Development Plans
- Any reference to the role of National Parks in the planning process. FSB Wales is of the opinion that planning powers should be removed from Wales' National Parks and returned to local planning authorities

In reference to provisions found in the Bill as currently drafted we suggest:

- The Welsh Government should articulate a vision for developments in Wales and clearly set out what will be considered a Development of National Significance
- The committee should examine the governance arrangements for the proposed Strategic Development Panels to prevent a lack of accountability and to ensure the views of SMEs are represented
- The proposals to front-load the development plan process and for Ministers to be able to direct local authorities to produce a joint LDPs, where appropriate, are to be welcomed
- Proposals around community engagement in the LDP process should include an emphasis on engaging with the local business community
- Pre-application advice remains a key area of concern to FSB members and we call for the call for the implementation of recommendations of our 2008 report Small Businesses and the Planning System in Wales. We believe charges for pre-application advice should only be levied where an application proceeds
- The proposal to remove the requirement for mandatory design and access statements is welcome
- A move to ensure the role of statutory consultees is defined more appropriately in legislation is appropriate
- Proposed reform of planning committees and the delegation process is to be welcomed.



- Additional enforcement powers for planning authorities need to be accompanied by oversight from PAIS to ensure their use is fit, proper and proportionate
- Changes to the planning appeals process are welcome, and we would like to see the creation of a Commercial Appeal Service.

Introduction

FSB Wales warmly welcomes the introduction of the Welsh Government Planning (Wales) Bill to the National Assembly for Wales. FSB Wales has taken part in numerous work streams in anticipation of the Bill that helped form a part of the evidence base. Our response to the Committee's inquiry is split into two sections. Firstly, our response considers issues that are not considered in the Bill. Secondly, we discuss the proposals included in the Bill and their likely impact on Wales' micro, small and medium sized businesses.

This is the first opportunity for a Wales specific Bill in relation to the planning system, following legislative devolution confirmed in the 2011 referendum. This provides a fantastic opportunity to streamline the planning system to make it easier for development opportunities to be managed positively to fruition. As such, FSB Wales largely agrees with the need and general principles of the Bill as introduced to the National Assembly for Wales.

Omissions from the Bill

There are a number of issues that are mentioned in the previous Positive Planning consultation document that have not been included in the Bill as laid in the National Assembly for Wales¹. While FSB Wales recognises that the reason for this is that some policies do not require primary legislation to be implemented, we have focused here on issue that we believe pertain to the legislation. We would call upon the committee to explore why these issues have been omitted from the Bill, despite their inclusion in the Positive Planning consultation.

Impact Assessment and SMEs

FSB Wales welcomes the detailed impact assessment that accompanies the Bill. However, we are concerned that there is little attention paid to the impact on micro, small and medium sized businesses. Rather, businesses are categorised as 'developers'. This makes the assumption that the nature and type of planning applications are homogenous and the impact is therefore the same. FSB Wales believes this isn't the case. For instance, the vast majority of planning applications submitted by FSB members relate to relatively small issues such as change of use, extensions, minor physical improvements and signage issues (see Figure 1). Therefore, assessing the impact of pre-application advice fees, for example, could potentially mask the nature and resultant workload of a wide range of application sizes. This could lead to SMEs potentially shouldering a higher burden of the impact, with fees being a substantially larger proportion of expected returns from any development proposals.

FSB Wales therefore urges the Committee to examine this issue further to clarify the impact on SMEs. In particular, the Committee should ascertain whether the assumptions made in the impact

¹ Welsh Government 2013. *Positive Planning: Proposals to reform the planning system in Wales*. WG20088



assessment are reasonable and proportionate to firms of varying sizes. The need for an improved impact assessment process was highlighted as a priority in our recent report, *Better Regulation for Wales*².

Planning Advisory and Improvement Service

FSB Wales welcomes the Welsh Government's proposals for a Planning Advisory and Improvement Service (PAIS). The Independent Advisory Group on Planning (IAG) identified the need for development to be better managed by planning officers and FSB Wales agrees with this assessment. The PAIS should also work to ensure that planning officers have knowledge and understanding of the day-to-day constraints of small firms and how this could potentially impact on the planning application process.

There is no mention of the proposed Planning Advisory and Improvement Service in the explanatory memorandum. This suggests that the body will not be underpinned on a statutory basis. As such, FSB Wales believes it is important that the Welsh Government's current task and finish group on the formation of a PAIS engages widely with SMEs. This should reflect and consider the Committee's previous recommendation that PAIS should be independent of Welsh Government.

Review of PDO for Change of Use

The publication of the Planning (Wales) Bill was accompanied by a large number of consultations on specific secondary legislation that could have a bearing on the planning reform agenda. In this respect, FSB Wales is disappointed not to see further consideration of Permitted Development Orders for change of use via a review of the use class order, as was suggested in the Positive Planning consultation³. FSB Wales data (see figure 1) shows that this is a primary area of use for SMEs using the planning system. As such, FSB Wales believes this issue should be examined in conjunction with wider planning reforms.

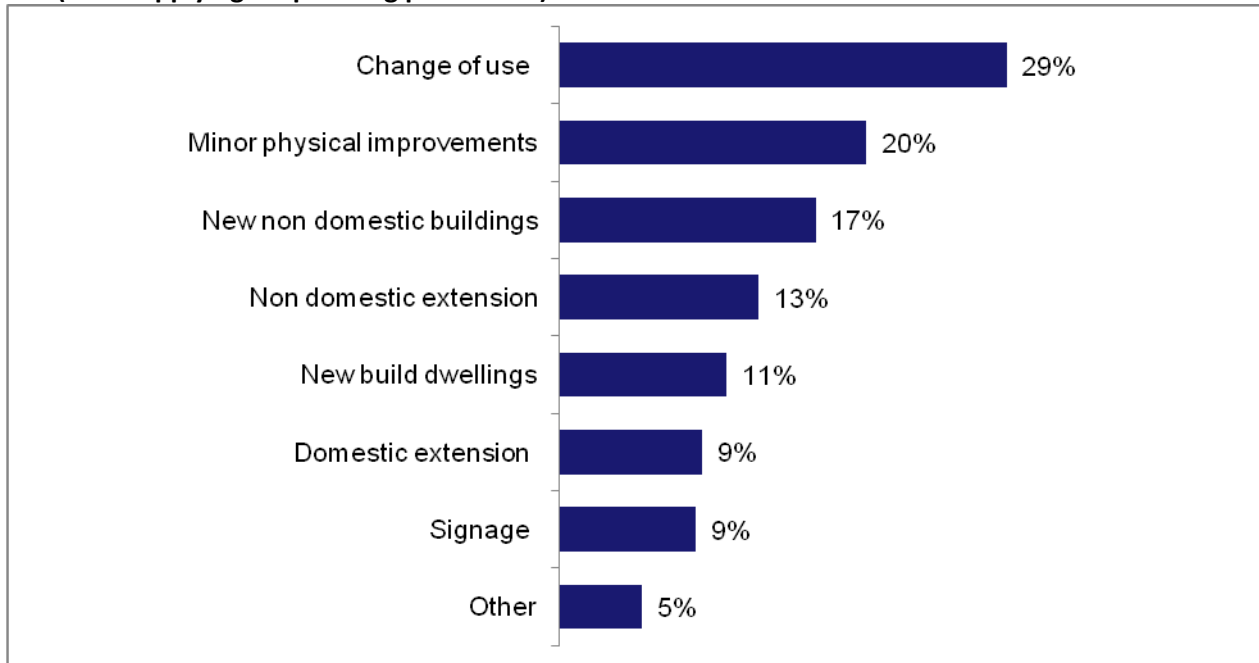
² FSB Wales. 2014. *Better Regulation for Wales* [Online]. Available at: <http://www.fsb.org.uk/wales/publications>

³ Welsh Government 2013. *Positive Planning: Proposals to reform the planning system in Wales*. WG20088 P.30



Figure 1

Q27. Specifically, what type of alteration or development does your application relate to? Base: 241 (those applying for planning permission)



Annual Performance Report

The Positive Planning consultation suggested that all planning authorities would need to submit an Annual Performance Report as part of the reform programme. FSB Wales is concerned that this is only referenced in relation to Strategic Development Plans and believes the Committee should consider the form and nature of reporting mechanisms of planning authorities. The publication of an Annual Performance Report would strengthen the level of scrutiny of local planning authorities

National Park Planning Powers

The current Bill makes no reference to the role of National Parks in the planning process, despite the issue being considered by the previous Positive Planning consultation. While FSB Wales recognises the Welsh Government is currently reviewing the role of statutory landscapes via an Independent Panel led by Professor Terry Marsden, there is a danger that these issues will now run in parallel and as a result the opportunity to reform National Park Planning Authorities in the present Bill will be missed.

FSB Wales recently published a qualitative study of planning in national parks that revealed a number of concerns around the ability to pursue development in the national parks⁴. Key concerns raised as part of this report were the quality of communication between officials and the businesses concerned, frequent requests for additional information and a perceived lack of accountability for

⁴ FSB Wales. 2014. *Planning in National Parks [Online]*. Available at: <http://www.fsb.org.uk/policy/rpu/wales/images/fsb%20planning%20issues%20in%20welsh%20national%20parks%20report%20english%20website.pdf> (accessed 11th February 2014).



decision making. This has ultimately led a large number of applicants to use external planning advisors to deal with the burden of information required.

While the report did not draw firm conclusions on the role of national parks in relation to planning powers, FSB Wales is of the view that planning powers should be removed from national parks and returned to constituent local authorities. FSB Wales also feels there is merit in discussing the potential for one national park authority to cover all three national parks and for that authority to be a statutory consultee in the planning process. FSB Wales believes this should be considered further as part of the response to the Williams Commission review into public services. Moving toward such a model could provide greater expertise and resilience within the national parks authorities.

Bill Specific Provisions

The following issues relate specifically to the proposals found in the Planning (Wales) Bill as currently drafted.

National Development Framework

One of the weaknesses of the current planning framework in Wales is the absence of a hierarchy of development plans, with the Wales Spatial Plan failing to deliver a Wales wide approach to spatial planning. The Planning (Scotland) Act 2006⁵ addressed similar issues in Scotland and a similar process has also been undertaken in London to provide an overarching spatial plan for the region. FSB Wales therefore welcomes this approach.

The vast majority of firms in Wales will be engaged in applications relating to far smaller developments than those proposed for consideration on a regional or national basis. That said, FSB Wales hopes that by bringing together spatial planning with influential documents such as the Wales Infrastructure Investment Plan, the Welsh Government will be able to articulate a vision for developments in Wales that will provide certainty for all concerned. Furthermore, the Welsh Government should define quite clearly what sorts of applications will be defined as a Development of National Significance and as regionally important for the purpose of Strategic Development Plans.

Strategic Development Plans

As is the case with the National Development Framework, FSB Wales is supportive of Strategic Development Plans to cover economic regions. It is crucial that the emerging city regions are linked in with the SDP process. While FSB Wales members will largely be concerned with planning applications at a more localised level, FSB Wales believes the creation of a well articulated planning hierarchy would benefit decision making.

One area of concern is the governance arrangements of the proposed Strategic Development Plan Panels. One of the issues identified by small businesses who deal with National Park Planning Authorities is the lack of accountability in their governance arrangements. FSB Wales is concerned that similar issues will arise from the SDP Panels if one third of the membership is drawn on the prerogative of the Welsh Ministers. Appointments made to City Regions and Sector Panel Advisory

⁵ Planning (Scotland) Act 2006. [Online]. Available at: <http://www.legislation.gov.uk/asp/2006/17/part/1> (accessed 22nd February 2014).



Boards suggest that there is a focus on large businesses with SMEs playing a limited role in informing policy. FSB Wales is concerned that these issues could be replicated in the future, to the detriment of the SDP process, and would therefore call for a deeper examination of this issue by the Committee. By contrast, the Education Workforce Council regulations provided FSB Wales the right, on a statutory basis, to nominate a representative on behalf of the SME community.

Local Development Plans

Local planning authorities have in the past been slow to deliver on local development plans. FSB Wales is therefore supportive of the Welsh Government's proposals to front-load the development plan process and reduce the number of stages involved. FSB Wales also agrees with the Welsh Government's proposals to allow Welsh Ministers to direct local authorities to produce a joint LDP where appropriate. This should be seen in the context of the Williams Commission's proposals to merge local authorities, and the potential impact of mergers on costs to customers of the planning system should be examined further by the Committee.

While FSB Wales is sympathetic towards placing an end date for all local development plans in force, FSB Wales believes it is vital that local planning authorities frequently reassess and review the content of their LDPs to ensure they are up to date. Furthermore, FSB Wales would encourage the Welsh Government to ensure that the proposals around community engagement include an emphasis on engaging with the local business community. It is essential that the business voice does not get lost in this process.

Pre-Application Advice

FSB Wales commissioned an extensive research project from Cardiff University's School of City and Regional Planning in 2008 to examine the experiences of small firms and the planning system⁶. Unsurprisingly, pre-application advice was a key area of concern highlighted by many members in the report and the subsequent recommendations included the need to improve and formalise the pre-application advice process.

FSB Wales is of the view that many of the themes highlighted in the report around pre-application still hold true and should be implemented by the Planning (Wales) Bill. The recommendations included:

- 1) Local planning authorities to be encouraged to **review procedures for recording pre-application advice** given by officers and to explore more effective ways of communicating that advice to potential applicants. This may require a degree of formalisation of the processes of providing and recording pre-application advice.
- 2) Local planning authorities consider introducing mechanisms for being proactive in **identifying whether persons seeking pre-application advice are small businesses**, so that suitable guidance can be issued and advice given at an early stage.
- 3) Local planning authorities to aim to ensure **continuity between the officer providing pre-application advice to a small business and the allocation of the case officer** once a planning application is submitted. This may be extended to the establishment of a **dedicated small**

⁶ FSB Wales. 2008. *Small Businesses and the Planning System in Wales*. Cardiff. P.22.



businesses team comprising a small number of planning officers that are trained and briefed in the service needs of small businesses.

As currently constituted, the Planning (Wales) Bill will allow for the formalisation of pre-application advice as recommended in our research, via secondary legislation. The Bill is as follows:

“The Welsh Ministers may by regulations make provision for and in connection with the provision of pre-application services by a local planning authority in Wales or the Welsh Ministers.”⁷

While FSB Wales warmly welcomes the intention of this provision, we would request that the Committee consider whether this is the best method of securing pre-application services across Wales. In particular, it may be appropriate to specify in the primary legislation that pre-application services will be provided but that the nature and level of the services will be set out by secondary legislation. This would strengthen the provisions and ensure all LPAs and Welsh Government are providing this service.

Likewise, the following provisions relating to the keeping of records are also to be welcomed. That said, the provisions are phrased in the same way by allowing secondary legislation on the matter. FSB Wales sees this as vital to the formalisation of the pre-application process and would like to see this area strengthened to ensure records are kept, the nature of which should be specified in secondary legislation.

In terms of costs for pre-application advice, FSB Wales has previously advised against charging for advice, unless an application proceeds. That said, FSB Wales welcomes a national charging framework that would ensure consistency across local planning authority areas for pre-application advice.

Design and Access Statement

In recognising the Welsh Government’s own research that suggest the current mandatory design and access statements process does not achieve stated policy objectives, FSB Wales welcomes the proposal to remove the requirement in section 62 (5) of the Town and Country Planning Act 1990 and to examine an alternative measure to promote good design and access policy.

Statutory Consultees

FSB Wales has encountered several examples from members where statutory consultees have delayed the planning process by providing information outside the designated period. This can often be frustrating, particularly for planning applications that require significant amounts of resources. Therefore, FSB Wales welcomes the Welsh Government proposals to ensure the role of statutory consultees is defined more appropriately in legislation and ensuring that they are able to respond in the necessary timeframe. We would also like to know what provisions will be put in place if statutory consultees still consistently fail to respond within the prescribed period.

⁷ Planning (Wales) Bill, as introduced. [http://www.assembly.wales/laid%20documents/pri-ld9940%20-%20planning%20\(wales\)%20bill/pri-ld9940-e.pdf](http://www.assembly.wales/laid%20documents/pri-ld9940%20-%20planning%20(wales)%20bill/pri-ld9940-e.pdf) P.18



Delegation at planning committees

FSB Wales welcomes the Welsh Government's proposed reform of planning committees and the delegation process to planning officers. Assuming that the remaining 10 per cent of applications would be determined by the Planning Committee of each LPA, FSB Wales would like to see greater transparency for applications dealt with in this way. For instance, committee members should have to declare an interest where relevant and the voting record for any decision should be published for wider public scrutiny.

Enforcement

As with many other regulatory functions, FSB Wales members frequently report poor practice in terms of enforcement. This often leads to a level of inconsistency between how regulations are applied and subjectivity from officers has damaged perceptions of the enforcement process in the past. FSB Wales believes that any additional enforcement powers gained by planning authorities need to be accompanied by work from the PAIS to ensure that their use is fit, proper, and proportionate.

Local planning authorities should be open and transparent about the enforcement process and justify why enforcement measures have been taken. There should be a direct line of accountability to those that ultimately make the decision to apply enforcement measures and this should be included as an issue for consideration in an annual performance report.

Planning appeals process

FSB Wales broadly welcomes the changes suggested to the planning appeals process. In particular, the ability of appellants to recover costs from the written appeal process is to be welcomed. The Positive Planning consultation suggested an expedited process would be created via a Commercial Appeal Service, on a similar basis to the already established Householder Appeals Service. FSB Wales welcomes this development.

Conclusion

FSB Wales hopes that the National Assembly for Wales will take the specific needs of small businesses into consideration throughout the Planning (Wales) Bill as it progresses and ensure that relevant links are made to other major pieces of planned legislation.



Federation of Small Businesses Wales

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The Federation of Small Businesses Wales

The FSB Wales is non-profit making and non-party political. The Federation of Small Businesses is the UK's largest campaigning pressure group promoting and protecting the interests of the self-employed and owners of small firms. Formed in 1974, it now has 200,000 members across 33 regions and 194 branches. FSB Wales currently has around 10,000 members, a Welsh Policy Unit, two regional committees and twelve branch committees meaning FSB Wales is in constant contact with small businesses at a grassroots level in Wales.

Lobbying

From the Press and Parliamentary Affairs Office in Cardiff, FSB Wales campaigns with AMs, MPs and MEPs in Cardiff Bay, Westminster and Brussels in order to promote our members' interests. FSB Wales also works closely with local, regional and national media outlets to highlight our members' concerns. Development Managers work alongside members in our regions to further FSB Wales influence at a regional level. More widely, the FSB has Press and Parliamentary Offices in Westminster, Glasgow, Belfast and Brussels to lobby the respective Governments.

Member Benefits

In addition, Member Services is committed to delivering a wide range of high quality, good value business services to members of the FSB. These services will be subject to continuing review and will represent a positive enhancement to the benefit of membership of the Leading Business organisation in the UK.

Vision

A community that recognises, values and adequately rewards the endeavours of those who are self employed and small business owners within the UK.

The Federation of Small Businesses is the trading name of the National Federation of Self Employed and Small Businesses Limited. Our registered office is Sir Frank Whittle Way, Blackpool Business Park, Blackpool, Lancashire, FY4 2FE. Our company number is 1263540 and our Data Protection Act registration number is Z7356876. We are a non-profit making organisation and we have registered with the Information Commissioner on a voluntary basis.

Associate Companies

We have three active subsidiary companies, FSB (Member Services) Limited (company number 02875304 and Data Protection Act registration number Z7356601), FSB Publications Limited (company number 01222258 and Data Protection Act registration number Z7315310) and FSB Recruitment Limited. (company number 07836252 and Data Protection Act registration number Z3131666).

National Assembly for Wales
Environment and Sustainability Committee
PB 34
Planning (Wales) Bill
Response from Home Builders Federation



THE HOME BUILDERS FEDERATION
WALES

National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

MH

05/12/14

Dear Sir/Madam,

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

The Home Builders Federation Wales (HBF Wales) represents its members who are all involved in the delivery of homes across the whole of Wales.

We welcome the opportunity to provide written evidence to the Environment and Sustainability Committee on the general principles of the Planning (Wales) Bill. I would also confirm that I have already separately accepted an invitation to give oral evidence to the Assembly.

We supported the evidence based approach taken by the Minister and the general thrust and spirit of the proposals set out in the Positive Planning consultation exercise and the earlier draft Bill. 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 economic prosperity and to create better places for our communities to live in through the delivery of more homes. Planners, politicians, consultees, developers, and the general public, all have a role to play in achieving this.

If you require further assistance, have any queries or require clarification of any points made, please contact HBF Wales on 07770752884 or e-mail mark.harris@hbf.co.uk.

Yours sincerely,



In summary HBF support the overall thrust of the changes proposed in the new Planning (Wales) Bill and see them as a positive step forward to achieving a fair, enabling and resilient planning system, which will allow our members to deliver the much needed housing that Wales requires.

The general principles of the Planning (Wales) Bill including the need for legislation in the following areas:

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

We are heartened to see the consultation document recognise the significant shortcomings of the Wales Spatial Plan. We are also encouraged by the fact that the NDF will be a completely different document in nature and focus, and will have the benefit of development plan status.

We believe the NDF will be a positive addition to the planning process in Wales. It will deal with issues that are 'nationally important' and as such, we expect housing issues to play a significant role in its make-up, particularly the inclusion of clear guidance and direction on the need to ensure we increase the supply of homes built in Wales each year. As such, it is considered appropriate that the Plan should include a National Housing Target which would help focus the minds on the need for more housing now and in the future.

We recommend that the NDF has genuine engagement and public scrutiny in its preparation and then it is reviewed every three years rather than the five suggested.

We would also recommend that the NDF deal specifically with local authorities that fail to achieve a 5 year land supply by setting out clear guidelines on the implications of not maintaining a 5 year land supply, particularly when there is an adopted LDP or SDP in place. We believe failure to demonstrate a 5 year land supply should be conferred additional weight in the decision making process and that the NDF should include specific provisions to address this.

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

We wholeheartedly agree with the creation of Strategic Development Plans. We believe such a system in Wales is long overdue and, if done correctly, would bridge a significant gap that currently exists between national and local policy in areas that would benefit from a cross-boundary approach to planning matters such as housing provision. We also agree with the proposal to set up a Strategic Development Plan Panel, however, we believe it will be necessary to ensure that the lead authority cannot sway decisions on the panel, by holding a majority vote.

We also agree that it is appropriate to identify an area to be designated a Strategic Planning Area, given that we believe it would not be appropriate to simply follow administrative boundaries to identify Strategic Planning Areas, particularly in South East Wales. However, to ensure the most appropriate area is selected, we believe the process of identifying a Strategic Planning Area should be subject to thorough and robust public consultation.

In terms of the Strategic Development Plan Panel, given that house building issues will be a major consideration for Strategic Development Plans, we believe the Panel should include a representative from the house building industry. The HBF would be willing to help identify suitable persons as appropriate.

In terms of the SDP and its relationship to national guidance, we again believe it should be in strict conformity, rather than in 'general conformity' with the NDF. Further in terms of hierarchy the SDP sits above the LDP so it should not be led by the LDP. It is suggested that there should be a requirement to review LDPs which fall under a SDP within a certain time period to bring them in line with the SDP and also to remove the policies covered by the SDP, to create what is described as a 'light touch' LDP.

We agree that LDPs should be 'light touch' where there are SDPs addressing issues of strategic importance, however, clarification is required for situations where only part of a local authority is covered by an SDP. In this context, such a local authority would need major issues such as housing (for example) to be dealt with through both an SDP and also through an LDP for the area that is not subject to the SDP. Also in terms of the status of an SDP in relation to an existing LDP. If SDP have to follow existing LDP's, as is currently suggested, there may be conflict as the SDP will cover more than one LDP area and these plans may be at different stages and have different policies. We believe these issue requires further clarification.

Due to the small number of SDP's likely to be created and to help with resource issues and in order to create consistency across wales, a key theme of the new Planning Bill, the HBF would suggest the formation of a single board with a number of key members responsible for the creation of SDP's across Wales. This would then be supplemented with an agreed number of local people co-opted on in each area where a SDP is created.

Due to the small number of local authorities in North Wales some concern is raised about the effectiveness of such an approach in the area, particular if LPA's merge as currently planned.

Changes to Local Development Plan procedures;

We note that the details of this are being looked at in a separate consultation which the HBF will comment on separately.

Notification of LDP withdrawal

This is seen as a positive step in helping to speed up the preparation of LDP's, as from experience, the decision to withdraw a plan is often a political one rather than one based on planning reasons.

Period for which Development Plan has effect

Support this in principle, however would suggest that clarification is required over the suggestion that although a time expired plan will no longer be a planning consideration, that the evidence base used could still be considered when determining planning application. It is suggested that this should only be the case where the evidence base has been updated within the last 5 years of the plan otherwise evidence which is out of date could be used to determine planning applications.

Welsh Ministers' power to direct preparation of Joint Local Development Plans (LDPs).

Support.

Joint Planning Boards

Support this in principle, although we do have some concerns over the efficiency of such a process if the two Authorities who are producing a joint LDP have no political will to do so. The current planning system is often delayed by political issues and this is likely to be compounded in a situation where two LPA's who have no desire to work together are forced to.

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

Requirement to carry out pre-application consultation

Support in principle, but consider that a higher threshold than that currently provided by the definition of a major application. This currently defines schemes over 10 units or 1ha as major development. There is likely to be a large amount of work associated with the pre application consultation process and associated report and this will be a resource drain on smaller to medium

size developers. Further, it is likely that public interest in schemes at the lower end of the currently proposed threshold are less likely to create sufficient local interest to warrant detailed public consultation. The current threshold essentially means there does not seem to be a distinction between (for example) a development of 11 units and one of 1000 units. Clearly the level of detail, community engagement, pre application discussion etc., required to submit an application of 1000 units would be far greater than that of 11 units. As such, we believe there needs to be a re-think of the definition of major development with the threshold increased to over 30 units or 2 ha.

It is also suggested that this should not be a requirement for sites which are allocated for housing in the adopted LDP to undergo pre-application consultation, as these will have already been publicly consulted on as part of their allocation.

We would suggest that a set of timescales need to be agreed across Wales for the delivery of such a service, to ensure that it does have the desired effect of speeding up the planning system.

Requirement to provide pre-application services

Support in principle, however the regulations should go further and set out a fee schedule for such a service so that consistency is created across Wales. Currently LPA's can set fees at any level and there is no way that a developer can challenge these, other than to not use the service. Although it is accepted that this process cannot guarantee a decision and is only an officer's opinion, much greater certainty and willingness to use the service would be achieved if some level of commitment was given to stand by the advice given. All too often in the current system the opinions given in the formal response are changed once the application is submitted. When this happens there is no way of challenging it.

There is concern that there would be a requirement to publicise pre-application advice as it is often undertaken on a confidential basis. Some enquiries with LPAs do not result in proposals being taken further forward. As such, local residents could be made aware of speculative proposals that do not materialise and then become irate for no reason which is not effective in managing the expectations of local residents, particularly those who are not familiar with the planning process. There needs to be flexibility in the system to still allow 'informal' conversations to occur between officers and developers at the very early stages of a sites consideration.

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

Support.

Option to make applications direct to Welsh Ministers

Support this proposal as we agree that it would be useful to have an 'escape route' to submit planning applications where local authorities are failing to

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deliver an appropriate and timely planning service. However, it is imperative that certain conditions are met to ensure the proposed system operates effectively and achieves the desired outcomes.

In this respect, if the Welsh Government is to act as a pseudo planning authority to determine planning applications in place of poorly performing local authorities, it is essential that agreed standards of service are set out from the outset. Currently, when planning applications are called-in or recovered, our members state that the experience is far from acceptable. For instance, our members report that there are no fixed timescales for dealing with call-in or recovered applications and significant delays have been reported before a decision is provided. This situation is clearly unacceptable and we believe it is important to ensure that this level of uncertainty is not prevalent in a system which aims to speed up the decision-making process of planning applications. As such, if the Welsh Government is to potentially become responsible for dealing with a significant number of planning applications, the relevant WG department should be subject to the same performance and monitoring targets as the local authority planning department it aims to replace.

Allied to the issue above, we are also concerned with the potential resources that might be available within the Welsh Government to deal with planning applications in an efficient and timely manner.

In light of the above, in order for this process to operate efficiently and effectively, we believe it is imperative that robust key performance targets and indicators are put in place from the outset. If applicants are to submit applications to the Welsh Government, they need to be clear about the level of service they can expect, they need to have clear understanding of the timescales for determination and they also need to fully understand the options available to them should any of the timescales or performance targets be breached.

Streamlining the development management system;

Section 26: Power of local planning authority to require information with application.

We support the introduction of limits on local planning authorities' power to require information to accompany planning applications and that information requests must be reasonable, and relevant. We also suggest that any request should be 'proportionate', particularly in the context of the theme of reducing the documentation required to be submitted with planning applications and the "enabling" culture change that is being promoted.

Section 36: Stopping up or diversion of public paths where application for planning permission made.

We support the proposed change which will allow the process leading to the stopping up or diversion of public paths to start before planning permission has been granted.

Planning Committees and Delegation

We support this and believe the principles of delegating decisions to planning officers should be consistent across Wales.

We believe that where a proposed development is development-plan compliant, the need for it to be deferred to committee should be negated. Provided the development plan is robust and with flexible policies, planning applications on allocated sites should not need the extra scrutiny of a planning committee. In our view, given that the principle of housing development as a land use has already been 'approved' by the council and its elected members, a discussion over the technical detail of the application should be all that is required.

We support the recommendations of the recent RTPI report and note that the details of this are being looked at in the Planning Committee and Delegation consultation paper which the HBF will comment on separately.

Decision Notices

We support the standardisation of decision notices across Wales and the requirement for a condition tying the permission to the listed plans, documents and drawings.

In principle the idea of a single decision notice which gives you the current position on a site with regard to the discharge of planning conditions and any amendments to the scheme is seen as positive. However we do not consider the concept of a 'live consent' is necessarily the best way to achieve this. The requirement to keep a decision notice up to date will cause a lot of additional work at a time when resources are becoming more stretched in LPA's. Most LPA's register discharge of conditions as planning applications anyway so a separate decision notice is produced, it may be simpler to attached/link these decision notices to the original decision notice.

Notification of Development

We support this, however it is suggested that a single sided abbreviated version of the decision notice is produced for display on site consisting of an overview of information such as the developers name the application description, the application reference and information on where the plans/documents can be viewed (i.e. the web or at Council offices). This would avoid the need to display what might be a very lengthy document.

Statutory Consultees

We welcome a requirement for statutory consultees to respond within a specified timescale and welcome that this is also proposed for pre-application enquiries. However, we believe the list of statutory consultees should be expanded to include major organisations that can have a significant impact on housing delivery. In this respect, our members often report that utilities companies such as Welsh Water can cause major delays to the delivery of new homes, as well as major delay to the timely consideration of planning

applications. Local authorities will rarely take action on a planning application in advance of any comments from organisations like Welsh Water and therefore, we believe organisations like this should be made Statutory Consultees, in order to ensure not only that they make appropriate comments in a timely manner, but also to ensure they are fully included in the consultation procedures by local authorities.

There is no mention of what happens if the consultees do not respond in time. For example, can the statutory consultee respond by saying that they require a further two weeks to comment or is it that once the timescale for response is reached and no response is made then it is taken that the statutory consultee has no objection? Also with regard to reporting performance to WG if there is no clear penalty for underperformance there is no incentive to perform. The reporting also needs to be on a regular basis (quarterly) rather than yearly, otherwise any consultees who are failing to perform will have potentially done so for over a year.

Design and Access Statements

We support this and completely agree with the research which shows that Design and Access Statements have not been effective in achieving the desired policy outcomes.

We note that the details of this are being looked at in consultation on Design in the Planning Process which the HBF will comment on separately.

Changes to enforcement and appeal procedures;

Planning appeals

We support the proposal for a right of appeal against the decision of an LPA not to register a planning application, using a streamlined appeal procedure administered by the Planning Inspectorate (Section 28).

We disagree with the proposal to not allow any alterations to an appeal once it is submitted. The ability to submit amendments after an appeal has been submitted is a crucial part of the process. More often than not, such amendments can be the result of deliberation and agreement between all parties involved in the appeal process and can therefore remove the need for protracted debate through the process thereby potentially saving a significant amount of inquiry time, or even negating the need for a hearing or public inquiry completely.

The same concerns apply to the proposal that an appeal must be determined on the basis of the matters before the LPA when it made its decision, except where new information could not have been raised earlier or was not raised because of exceptional circumstances.

It is considered that the existing situation in which an Inspector has the discretion to accept changes to the application and the submission of new information, subject to the rules of natural justice and the requirement that

those who are entitled to comment have the opportunity to do so, is appropriate and should be retained.

We support the proposal to allow the recovery of costs incurred by the Welsh Ministers or appointed persons in cases where appeals proceed by written representations and giving the Welsh Ministers the ability to recover their own costs in cases where a party or parties behave unreasonably.

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

We support this, as it is seen as a positive step which will stop the process of TVG applications being used to delay development.

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

It is understood that the changes proposed by the Bill are likely to come into effect in late 2015 early 2016, just at a time when the ongoing resource issues and other changes such as LPA Planning Department merger could be starting to take real effect. We would request that consideration is given to some form of interim support for LPA's to ensure that the proposed changes are implemented quickly and efficiently in order that the development industry can benefit from them rather than suffer delays while new systems are put in place.

The Committee's pre-legislative scrutiny of the Draft Planning (Wales) Bill and the extent to which the revised Bill takes account of the Committee's recommendations.

We consider that this process has worked well and allowed a range of stakeholders to engage in the process.

Whether there are any unintended consequences arising from the Bill.

As stated above the HBF are concerned at resource issues in Local Planning Authorities which are only likely to get worst over the next few years for various reasons. Although once the changes are in place there may be an overall resource saving, in the shorter term the various changes necessary to implement the Bill and associated legislation, will be a considerable strain on what are already stretched resources. The potential short term impact on developers will be the slowing down of the time it takes to determine planning applications which in turn will affect the number of houses delivered.

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).

Pre-application community consultation (Part 3, Section 15)

The HBF consider that the costs associated with the preferred option have been significantly underestimated. The cost appears to have been calculated only taking account of the preparation of the report, which is only a small part

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of the process. It is suggested that the cost would be considerably more when the time taken to prepare for the consultation, and the actual time spent on the consultation event are taken into account. It is also not always true to say that smaller application will result in less work, often the smaller applications are the most sensitive and result in the most local interest.

The HBF are not suggesting that these higher cost be a reason not to carry our pre-application consultation, but instead, that the threshold which triggers the requirement for such pre- application public consultation be raised to 30 units or 2ha as this will reduce the financial impact on the smaller to medium size developer.

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).

No comment.

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 that appropriate targets and associated non-performance penalties, have long been missing in the planning system in Wales. Although we are supportive of most of the measures which the new Bill proposes we are concerned that some do not go far enough. Clearly the threat of a Council being determined to be 'failing' is a big one but we question how badly they will have to fail before this happens. It is suggested that a national standard of targets against which LPA's have to report should be established and these should be backed up by guidance on how this data should be recorded/reported. A league table should then be produced quarterly and instead of looking to punish poorly performing Councils consideration given to rewarding the LPA's who perform well.



November 2014
The Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

Dear Sir,

Call for evidence

Thank you for the opportunity to respond to the call for evidence:

RICS Wales is the principal body representing professionals employed in the land, property and construction sector and represents some 4000 members divided into 17 professional groups. As part of our Royal Charter we have a commitment to provide advice to the Government of the day and in doing so we have an obligation to bear in mind the public interest as well as the interest of our members

In response we would like to make the following observations:

There needs to be a time limit of 5 years for Local Development Plans. If they are longer then they will be rigid and inflexible to changing economic and social circumstances. Applications should be allowed to make greater use of off-site contributions to encourage the viability of schemes

There needs to be an appreciation that for every extra requirement asked of developers consideration needs to be given to incentives to balance them,

RICS Wales strongly advocates close co-ordination of LDPs and planning policy by Local Authorities in Wales. This not only pools resources for the Authorities themselves in the current budgetary system, it also would provide greater clarity for developers encouraging projects and crucially it would recognize the reality of economic units on the ground.

If you have any queries in respect of this response please do not hesitate to contact me. Attached for further consideration is the full RICS Wales Planning Policy paper.

Yours sincerely,

David Morgan
Policy Manager

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RICS Wales Planning Document

Summary

RICS Wales believes the following principles are vital to a successful system and need to be embedded in planning in Wales namely, flexibility according to each individual case, viability, and the provision of appropriate training for elected officials and planning officers.

Current Position

With the passage of the Referendum on increased powers for the National Assembly in March 2011 the Welsh Government was given the opportunity to promote sustainable Development in Wales by the introduction of a Planning Act specific to Wales. This short document is intended to support the development of this legislation and any secondary regulations, and to assist in their effective implementation moving forward.

RICS Recommendations

Flexibility

- Change of use Flexibility – RICS believes this principle needs to be embedded at the core of the Planning Act in Wales in order to provide the necessary responsiveness in the planning system to changes in the Welsh economy and society
- Development Corporations – RICS Wales feels that Wales would benefit from organisations that can operate across Council boundaries to piece together to make more schemes viable. This would support and enhance the City Regions concept

There exists a great opportunity to embed flexibility into the Planning System as a core concept for Planners in Wales. This applies to both having the system respond automatically to prevailing economic conditions so for instance adjusting s106 conditions in response to economic performance and also in making change of use for Buildings easier wherever possible. To highlight one particular example we continue to feel strongly that planners should where there is clear evidence of excess retail capacity promote their conversion to residential. This brings both the possibility of hitting three social goals at once, namely increasing land availability for

housing supply, removing excess retail capacity and regeneration. Areas like Swansea High Street would be precisely the sort of environment that we would view this as a potential remedy for.

Viability and Sustainable Development in Planning

- There needs to be a time limit of 5 years for Local Development Plans. If they are longer then they will be rigid and inflexible to changing economic and social circumstances
- Applications should be allowed to make greater use of off-site contributions to encourage the viability of schemes
- There needs to be an appreciation that for every extra requirement asked of developers consideration needs to be given to incentives to balance them,
- We believe reform of the SLAB element of SDLT would send a powerful statement of intent to smooth out blockages and rigidity in the Welsh Housing Market
- The creation of an Infrastructure category of development is to be strongly welcomed.

Flexibility is inextricably linked to what we view as the next key principle namely viability. What is viable for developers will clearly fluctuate according to economic circumstances and accordingly we would like to highlight the RICS work on Financial Viability in Planning to policymakers at all levels. Although developed in response to planning and development conditions in England the key principles to achieve viable and sustainable development are equally applicable to conditions in Wales. RICS Wales feels it is extremely important that the objective of sustainable development is followed in its entirety. This means not just in relation to environmental goals, but economic and social ones also.

To this end it is important that incentives to encourage higher environmental standards are offered in addition to regulations requiring them. One option may present itself with Stamp Duty Land Tax devolution. So if for instance a developer went further than regulations require in environmental standards required by the Planning system this could then be reflected in terms of how much and at what point stamp duty land tax might be levied on buildings. Above all though there is the opportunity by tying the tax system to standards required by the Planning system we would hope that positive incentivisation rather than compulsion can be embedded into the development process.

Training

- Joint Planning Boards should be required to undertake regular refresher training in consultation with independent professional practitioners
- Training must emphasise the principle of a continually evolving planning system
- It is vital that the act and all subsequent training ensures a starting point culture of positivity towards development.

It is of great importance we feel that officials and Councillors are supported in the most comprehensive way through regular refresher training. Such training should be developed and refined in consultation and where possible co-operation with professional organisations.

Training is important not only to refresh technical knowledge but also thinking by stimulating internal debate. As economic circumstances change it is important that planners are continually weighing the proportionality of planning demands and requirements to the condition of the wider economy.

The culture of planning has been changing from one of control to one of enabling. The changed context requires a variety of different skills which are capable of responding to the changing economic, social and environmental conditions. These changes require a general capability to adapt to new conditions, whether encountered as flooding, abandoned High Streets or social housing.

Regional Planning

- City regions. To make this a reality Local Authorities must be required to form joint planning teams. To co-ordinate with each other
- Planning officials must be required to take secondments with other planning authorities not just in Wales but throughout the UK to avoid siloing of planning approaches and encourage the spread of best practices.
- Welsh Government must be the lead partner in fostering co-operation and spread of best planning practice throughout Wales
- The National Land use plan should be developed first by consultation with the private sector and secondly, thereafter in full public consultation ensure the participation of all relevant social partners

RICS Wales supports the policy of City Regions and strongly advocates close co-ordination of LDPs and planning policy by Local Authorities in Wales. This not only pools resources for the Authorities themselves in the current budgetary system, it also would provide greater clarity for developers encouraging projects and crucially it would recognize the reality of economic units on the ground. As an example the fortunes and economy of the Vale of Glamorgan and Cardiff are inextricably bound together. It is therefore vital that regular dialogue and co-ordination take place. In our view Welsh Government is best placed to facilitate this throughout Wales. To support this RICS Wales proposes regular secondments of planning officials to neighboring authorities to strengthen ties and mutual understanding. Finally just as the NPPF in England requires Local Authorities to co-ordinate with each other. RICS Wales believes a similar binding requirement should be enacted in Wales.

RICS Wales welcomes the Wales specific Planning Act and stands ready to engage with all stakeholders to ensure that it delivers essential sustainable development for Wales.

RenewableUK Cymru Response to the Environment and Sustainability Committee Inquiry on the general principles of the Planning (Wales) Bill

1. RenewableUK is the representative body for the wind, wave and tidal energy industries operating in the UK. RenewableUK Cymru also represents members with interests in solar, biomass, and other forms of renewable energy technologies in Wales. We represent around 600 corporate members in the UK and our active membership in Wales covers the vast majority of Wales' commercial renewable generation interests.
2. Our members have interests in renewable energy at all stages of the planning and development process. Our membership portfolio includes those companies with an interest in carrying out Environmental Impact Assessments and related development work, through to companies who are primarily involved in the operation, construction and maintenance of projects.
3. RenewableUK Cymru's vision is of a Wales that makes full use of its renewable energy resource by 2050 and we aim to ensure that the maximum benefits of this accrue to Wales.
4. Wales has faced a number of obstacles to the achievement of its targets for renewable energy generation and development in Wales has lagged behind the rest of the UK, especially in onshore wind, an area in which Wales has a high resource. This committee has previously examined many of these issues (our evidence to the committee previously is available [here](#)) and we, in conjunction with our partners in industry and Government have sought to overcome many of these barriers. We have since worked with Government to produce a register of community benefit for onshore wind, and continue to work with partners in order to alleviate concern over transport issues in mid Wales.
5. However, there remain significant barriers within the planning system itself and it is on this basis that we submit this evidence paper.
6. RenewableUK Cymru will be happy to provide oral evidence to the committee on any matters that may be of interest arising from this paper.

Wider context

7. The Industry in Wales will work within the strictures of the planning system, and many of our members are used to working across widely varying planning systems across country borders. However, in consultation with our members we have been unable to reach a consensus on whether devolution of consenting powers for projects >50MW would be favourable. Whilst it would appear to be the intention of Welsh Government that the proposed system for projects >25MW in the Planning Bill would also apply to larger projects in the event of devolution of consenting, we are only able to reflect on the proposal as it stands in the context of the current planning system.
8. It was an unintended and perhaps unforeseen consequence of Technical Advice Note 8 that wind energy projects in Wales were focussed in a small number of Local Planning Authorities. This in our view highlighted and strengthened the case for reducing the number of LPAs in Wales or taking steps to plan for infrastructure on a larger than local basis. Wales has 25 Local Planning Authorities covering areas of various size and varying levels of development and this seems obviously too many, especially when compared to the rest of the UK and evidence provided to Welsh Government in the preparation of the Planning Bill by the Independent Advisory Group, Hyder and this committee has confirmed this.
9. The proposals for the Planning Bill sit within a wider context of reforms that may significantly change the context for Planning in Wales. The potential reduction in the number of Local Authorities, following the Williams Commission recommendations, as well as the potential move to further devolution and a reserved powers model of devolution will have wide-reaching ramifications for the planning and development management system that are not addressed by the Bill. In this context, we hope to see the progression of a Bill that is robust enough to weather any further changes to the planning system in Wales and not require significant reworking in the short to medium term future.

Developments of National Significance and the National Development Framework

10. We welcome the proposals by the Welsh Government to introduce a new category in the development management hierarchy for “Developments of National Significance” and believe that having a National Development Framework, approved by the National Assembly for Wales is the most appropriate method for ensuring democratic accountability in this proposal.
11. As the NDF will be a “policy document” we are not at this stage able to comment on whether the NDF will improve delivery. However, we believe in general a robust national

document would likely aid the delivery of large infrastructure projects, as the National Planning Frameworks have done in Scotland. A single approach across Wales for larger projects would ease the burden on LPAs and developers when considering projects and allow for more timely assessment of a project.

12. Following the example of the Planning Act 2008, we would expect the system for examining a DNS application to follow a fairly strict timetable. Our members often express the view that predictable and reliable timescales for determination are more important than the outcome of the process itself. That is, we believe the introduction of a new system for DNS can introduce *predictability and reliability* into the planning system which is essential for developers to maintain business confidence in Wales. We cannot predict whether a new system would result in more approvals for renewable energy projects as that is a policy matter, but this bill takes steps in the right direction to restore business confidence in the Welsh Planning System.
13. We note that as with the Planning Act 2008, there is no route of appeal against applications made to Welsh Ministers.
14. From a Policy perspective, we see no reason why wind developments should be singled out as “Nationally Significant”. Energy infrastructure of any technology greater than 25MW of installed capacity is likely to have impacts greater than those of the immediate locality or region.
15. Finally, as a matter of principle we believe the Welsh Government should have a duty to meet targets that could be laid out in the National Development Framework for the performance of the planning system.

Strategic Development Plans

13. Strategic Development Plans are to be welcomed in the identified areas though we do not see any reason why energy infrastructure should not be identified in Strategic Development Plans, especially infrastructure relating to the Grid or for projects that are of too great a scale to be left to LDPs. Projects of 5-25MW are arguably still significant beyond that planned for in an LDP.
14. In principle we argue that energy should be identified and planned for at each level of the planning system (national, regional/strategic and local) in order to drive the investment required to meet climate change and energy targets, and to offer a sense of ownership at each level of the planning system. We believe that this would reinforce the sense that energy should be something owned by all to meet all of our needs.

Front-loading the development management process

15. Renewable energy developers have long engaged in pre-application consultation with stakeholders and this is recognised as best practice by RenewableUK members. We believe formalising these practices, as well as enabling statutory consultees to render pre-application services, should ease the burden on the planning system by ensuring fewer issues arise without notice during examination.
16. We do however have some concerns regarding the details of the proposals (which are currently under consultation by Welsh Government). Whilst it may be beneficial for statutory consultees to be able to charge for pre-application advice, we do not wish to see situations arise whereby a consultee may contradict itself later in the examination process. This may add risk into the system by introducing new avenues for appeal and judicial review.
17. There are also potential issues that will arise as to where statutory duties lie, and the ‘chargeable’ advice provision begin and end. This must be clearly laid out so as not to prejudice the planning system and produce unwelcome and unnecessary avenues for appeal and judicial review.
18. As indicated above, much of the detail of these proposals is currently under consultation by Welsh Government and we are unable to provide a detailed analysis at this time. We believe it would have been useful for Welsh Government to consult on the details of regulation and policy proposals prior to the Bill reaching the scrutiny stage, or at least timed in such a way that scrutiny of the Bill and regulations/policy arising from it could have occurred in tandem.

Single Consents

19. We welcome moves towards single consenting and we support provisions that will allow developers to seek permission for associated consents from the Welsh Ministers alongside the main application, rather than having to pursue a separate consent through the LPA.
20. We welcome the principle that developers should have the “option” to submit connected consents – developers should be able to choose the route which they feel will provide the timeliest response to their applications. It is also the case that in some instances it may be more appropriate for an LPA to determine “associated consents” that might be constructed earlier in the development process or be temporary structures/arrangements.
21. However the proposals for connected consents outlined in the White Paper were not sufficiently clear for us to provide detailed feedback and follow up documentation has not yet been published. We will keep the committee informed of our views on the final proposals.

Performance and Reporting

22. We welcome the proposals for annual reporting and feel this would be very valuable for oversight and scrutiny purposes. We have also argued that Welsh Ministers should be able to investigate the performance of a planning authority with respect to certain sectors in order to intervene early where problems may be occurring. Such measures may have helped to prevent the large back log of projects in Mid Wales.
23. The proposal to allow developers to submit an application to Welsh Ministers should an LPA be designated poorly performing is welcome. However we do not feel the provisions relating to this proposal in the Bill are sufficiently strong and do not outline the process by which this might be done strongly enough. The principle of allowing developers and Welsh Ministers to bypass LPAs when they are failing to perform their statutory function is strong in principle, however it will not be useful if Welsh Ministers are not then required to exercise their functions in a timely manner.
24. Joint Local Development Plans may be useful in some circumstances; however the power outlined in the Bill does not sufficiently constrain Welsh Ministers ability to issue such a direction and offers no avenue for public scrutiny. It is our view that a reduction in the number of LPAs should obviate the need for Welsh Ministers to exercise such a function in the foreseeable future.
25. Local Development Plans should cease to be the development plan beyond a certain date after their completion, after this date the relevant advice should be the Strategic Development Plan or National Policy.

Conclusions

26. RenewableUK Cymru and its members welcome the general provisions of the planning bill. The Welsh Government have sought to address many of the concerns raised by industry in recent years and we are hopeful that this is a move towards a more stable and predictable planning regime.
27. Whilst the wind industry has been the primary renewable energy development sector in Wales, the Bill should be technology neutral in order that is robust and able to deal with any future changes in the energy market.
28. We are concerned that a great deal of detail is left to policy and regulation, in particular the shape of the National Development Framework and whilst we expect this to be subject to full and robust consultation it is difficult to assess the impact of the proposed Bill in absence

of fully formed policy proposals that necessarily arise if the Bill is approved.

29. The timing of Welsh Government consultation on the detail of regulation and policy arising from the Bill is of some concern, six consultation deadlines fall on the same day in January (the 15th) and the consultation period runs parallel to this committee's consultation on the general principles of bill. This makes considering the full impact of the Bill's proposals more difficult than it otherwise might be.

For more information or clarification please contact Matthew Williams:

matthew.williams@renewableuk.com

Clerc y Pwyllgor
Y Pwyllgor Amgylchedd a Chynaliadwyedd
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
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7 Tachwedd 2014

Annwyl Glerc

Egwyddorion Cyffredinol y Bil Cynllunio (Cymru): tystiolaeth ysgrifenedig

Mae Comisiynydd y Gymraeg yn croesawu'r cyfle i gyflwyno tystiolaeth ysgrifenedig i'r Pwyllgor Amgylchedd a Chynaliadwyedd fel rhan o'i ymchwiliad i egwyddorion cyffredinol y Bil Cynllunio drafft.

Cyd-destun

Prif nod y Comisiynydd yw hybu a hwyluso defnyddio'r Gymraeg. Gwneir hyn drwy ddwyn sylw at y ffaith bod statws swyddogol i'r Gymraeg yng Nghymru a thrwy osod safonau ar sefydliadau. Bydd hyn, yn ei dro yn arwain at sefydlu hawliau i siaradwyr Cymraeg.

Mae dwy egwyddor yn sail i waith y Comisiynydd:

- Ni ddylid trin y Gymraeg yn llai ffafriol na'r Saesneg yng Nghymru;
- Dylai personau yng Nghymru allu byw eu bywydau drwy gyfrwng y Gymraeg os ydynt yn dymuno gwneud hynny.

Dros amser fe fydd pwerau newydd i osod a gorfodi safonau ar sefydliadau yn dod i rym trwy is ddeddfwriaeth. Hyd nes y bydd hynny'n digwydd bydd y Comisiynydd yn parhau i arolygu cynlluniau iaith statudol trwy bwerau y mae wedi eu hetifeddu o dan Ddeddf yr Iaith Gymraeg 1993.

Comisiynydd y Gymraeg
Siambrau'r Farchnad
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Crëwyd swydd y Comisiynydd gan Fesur y Gymraeg (Cymru) 2011. Caiff y Comisiynydd ymchwilio i fethiant i weithredu cynllun iaith, ymyrraeth â'r rhyddid i ddefnyddio'r Gymraeg yng Nghymru ac, yn y dyfodol, i gwynion ynghylch methiant sefydliadau i gydymffurfio â safonau.

Un o flaenoriaethau'r Comisiynydd yw craffu ar ddatblygiadau polisi o ran y Gymraeg. Felly, prif rôl y Comisiynydd yw darparu sylwadau yn unol â'r cylch gorchwyl hwn gan weithredu fel eiriolwr annibynnol ar ran siaradwyr Cymraeg. Mae'r ymagwedd hon yn cael ei harddel er mwyn osgoi unrhyw gyfaddawd posibl ar swyddogaethau'r Comisiynydd ym maes rheoleiddio.

1. Cynllunio – cyd-destun

- 1.1 Sail y gyfundrefn gynllunio yng Nghymru yw deddfau a wnaed yn San Steffan, megis Deddf Cynllunio Gwlad a Thref 1990 a'r Ddeddf Cynllunio a Phrynu Gorfodol 2004. Caiff y deddfau hyn eu hategu gan reoliadau ac is-ddeddfwriaeth a wnaed yn y Cynulliad ac yn San Steffan. Mae'r Bil Cynllunio (Cymru) drafft yn ymgais i symleiddio'r gyfundrefn ddeddfwriaethol gymhleth hon.
- 1.2 Yng Nghymru, rhaid i bob awdurdod cynllunio baratoi cynllun datblygu lleol ar gyfer ei ardal. Mae hynny'n ofyniad statudol yn deillio o Ddeddf Cynllunio a Phrynu Gorfodol 2004. Y cynlluniau hyn sy'n cynnig sylfaen ar gyfer gwneud penderfyniadau ar geisiadau ac apelau cynllunio unigol. Mae'n ofynnol bod awdurdodau cynllunio yn gwneud penderfyniadau yn unol â'r cynlluniau datblygu oni bai bod ystyriaethau perthnasol yn awgrymu fel arall.
- 1.3 Caiff polisiâu defnydd tir Llywodraeth Cymru eu hamlinellu ym *Mholisi Cynllunio Cymru 2012* a chaiff y polisi ei ategu gan gyfres o nodiadau cyngor technegol sy'n rhoi arweiniad ar faterion penodol. Wrth baratoi eu cynlluniau datblygu dylai awdurdodau lleol ystyried y polisi cynllunio cenedlaethol a'r nodiadau cyngor technegol, ond nid yw hynny'n golygu bod gofyniad statudol ar awdurdodau lleol i'w gweithredu.

2. Cynllunio a'r Gymraeg

- 2.1 Mae strategaeth Llywodraeth Cymru ar gyfer y Gymraeg, *Iaith Fyw: Iaith Byw 2012-2017*, yn datgan bod y system gynllunio yn ddull pwysig ar gyfer rheoli newid mewn cymunedau ac mae polisi cynllunio'r Llywodraeth yn datgan bod y Gymraeg yn rhan o waed cymdeithasol Cymru.
- 2.2 Caiff materion polisi economaidd megis gwaith a thai effaith ar gynaliadwyedd cymunedau ac mae cynaliadwyedd y Gymraeg yn fater sydd angen rhoi sylw iddo yn y cyd-destun hwn. Mae Llywodraeth Cymru yn cydnabod dylanwad y gyfundrefn



gynllunio defnydd tir ar gymunedau Cymraeg ym *Mholisi Cynllunio Cymru*. Er enghraifft mae adran 4.13 y Polisi yn datgan:

“Dylai pob awdurdod cynllunio lleol ystyried a oes ganddynt gymunedau lle y mae’r defnydd o’r Gymraeg yn rhan o’r gwead cymdeithasol a, lle y mae hynny’n wir, mae’n briodol ystyried hynny wrth lunio polisiau defnydd tir.”

2.3 Ymhellach i hynny, mae’r Polisi hefyd yn datgan:

“Dylai fod yn nod gan awdurdodau cynllunio lleol ddarparu ar gyfer tai sydd wedi eu dosbarthu’n eang ac sy’n cael eu datblygu’n raddol, gan ystyried gallu’r gwahanol ardaloedd a’r cymunedau i gymathu’r datblygiad heb erydu safle’r Gymraeg”.

2.4 Mae cyfeiriadau eraill at y Gymraeg yn y Polisi hefyd er enghraifft ynghylch gallu ardaloedd i ymdopi â mwy o dai a’r effaith ar y Gymraeg wrth benderfynu pa safleoedd i’w neilltuo ar gyfer tai.

2.5 Y ddogfen sy’n rhoi cyngor ac arweiniad i awdurdodau lleol ar sut i wneud hynny yw Nodyn Cyngor Technegol 20 (NCT20). Fe gyhoeddwyd fersiwn newydd o’r ddogfen yn Hydref 2013 ac mae’n amlinellu fframwaith ar gyfer pryd i ystyried y Gymraeg. Cafodd canllaw ymarferol pellach sy’n ategu NCT20 ei gyhoeddi ym mis Mehefin eleni. Yn ôl NCT20, dylai’r system cynllunio defnydd tir *“lle bo hynny’n ymarferol ac yn berthnasol gyfrannu at les y Gymraeg yn y dyfodol trwy greu’r amodau fyddai’n caniatáu i gymunedau cynaliadwy ffynnu”*.

3. Diffygion o ran lle’r Gymraeg yn y gyfundrefn gynllunio

3.1 Er bod cyfeiriadau at y Gymraeg yn y polisi cynllunio cenedlaethol, yn wahanol i agweddau eraill o’r gyfundrefn gynllunio, nid yw’n ofyniad statudol ar awdurdodau i roi ystyriaeth i’r Gymraeg. Er enghraifft, mae adran 62 o Ddeddf Cynllunio a Phrynu Gorfodol 2004 yn ei gwneud yn ofynnol i awdurdodau gynnal **arfarniad o gynaliadwyedd** y cynllun datblygu a pharatoi adroddiad ar y canfyddiadau. Mae Rheoliadau Asesiadau Amgylcheddol o Gynlluniau a Rhaglenni (Cymru) 2004 yn ymgorffori cyfarwyddeb gan yr Undeb Ewropeaidd ac yn ei gwneud yn ofynnol i awdurdodau gynnal **asesiad amgylcheddol ffurfiol** wrth lunio rhai cynlluniau a rhaglenni penodol. Nid oes gofyniad statudol cymharol ar gyfer cynnal asesiad o effaith ar y Gymraeg.

3.2 Mae’r broses o ystyried y Gymraeg yn y gyfundrefn gynllunio felly yn ddibynnol ar bolisi a chanllawiau. Cyn i’r Nodyn Cyngor Technegol 20 newydd gael ei gyhoeddi yn Hydref 2013, fe gynhaliodd Comisiynydd y Gymraeg astudiaeth o’r ystyriaeth a roddwyd i’r Gymraeg gan awdurdodau cynllunio wrth iddynt lunio eu cynlluniau datblygu.

3.3 Gofynnwyd tri chwestiwn i awdurdodau cynllunio fel rhan o’r astudiaeth:



- a oeddynt wedi cynnal asesiad o effaith eu cynllun datblygu lleol neu unedol ar y Gymraeg
 - a oedd ganddynt ganllaw cynllunio atodol ar y Gymraeg
 - a oeddynt wedi cynnal asesiad o effaith ceisiadau unigol ar y Gymraeg
- 3.4 Ymatebodd 23 o'r 25 awdurdod i'r astudiaeth ac roedd y canfyddiadau yn awgrymu nad oedd y Gymraeg yn cael ei hystyried yn gyson o dan y gyfundrefn gynllunio ac nad oedd pob awdurdod wedi ystyried y Gymraeg wrth lunio ei gynllun datblygu. Amlygwyd hefyd amrywiaeth sylweddol yng nghynnwys a manylder polisiau awdurdodau ar y Gymraeg a gwahaniaethau yn y drefn ar gyfer sut a phryd i gynnal asesiad effaith ieithyddol.
- 3.5 Mae fersiwn newydd o NCT20 wedi ei gyhoeddi ers yr astudiaeth a chanllawiau ymarferol pellach ar gael i awdurdodau. Er hynny, mae'n ymddangos bod nifer fawr o awdurdodau eisoes wedi mabwysiadu eu cynlluniau datblygu a rhai eraill wedi mynd yn rhy bell yn y broses i allu rhoi ystyriaeth lawn i'r canllawiau newydd. Roedd cynlluniau datblygu 14 o'r 25 awdurdod cynllunio wedi eu mabwysiadu cyn i'r canllaw ymarferol ar y Gymraeg gael ei gyhoeddi gan y Llywodraeth ym Mehefin 2014.
- 3.6 Mae'r NCT20 newydd hefyd yn rhoi'r pwyslais ar asesu effaith ieithyddol ar y cynllun datblygu yn unig. Er ei bod yn rhesymol i'r prif gynllun fod yn destun asesiad effaith trylwyr, dylai awdurdodau cynllunio gael yr hyblygrwydd i gynnal asesiad o effaith ceisiadau unigol ar y Gymraeg hefyd o dan rhai amgylchiadau. Nid yw hynny'n cael ei gefnogi gan y canllawiau newydd.
- 3.7 Mae tystiolaeth yn awgrymu felly bod cynllunwyr wedi bod yn gyndyn i ddilyn canllawiau cynllunio ar y Gymraeg hyd yma a bod nerfusrwydd ynghylch cymryd penderfyniadau ar sail asesiadau effaith ieithyddol. Mae'n debyg mai rhan o'r rheswm am hynny yw bod y Gymraeg yn destun arweiniad anstatudol, yn hytrach na chyfarwyddyd cadarn drwy ddeddfwriaeth.
- 3.8 Ceir blas o hynny yn adroddiad "Y Gymraeg yn Sir Gar" a gyhoeddwyd gan weithgor o'r Cyngor Sir ym Mawrth 2014. Yn ôl adran 3.2 yr adroddiad:
- "Nid yw'r fethodoleg a chanllawiau presennol (mewn perthynas â'r Gymraeg) i awdurdodau cynllunio lleol ar asesu effaith datblygu a gosod mesurau lliniaru yn ddigonol ac mae angen llunio methodoleg safonol genedlaethol i gefnogi awdurdodau lleol."*
- Ymhellach i hynny, mae argymhelliad 22 yr adroddiad yn galw ar Lywodraeth Cymru i gynnwys y Gymraeg fel ystyriaeth "materol" yn rhan o'r Bil Cynllunio.



4. Bil Cynllunio (Cymru) drafft

- 4.1 Mae'r Bil Cynllunio yn cynnig cyfle unigryw i ddatrys y diffyg ystyriaeth a roddir i'r Gymraeg yn y gyfundrefn gynllunio ar hyn o bryd. Mae angen sylfaen i'r broses asesu effaith ieithyddol mewn deddf. Nid yw'r gyfundrefn gyfredol o bolisi a chanllaw wedi gweithio hyd yma ac mae'n annhebygol y bydd y NCT20 newydd yn effeithio rhyw lawer ar hynny.
- 4.2 Nid oes unrhyw gyfeiriad at y Gymraeg yn y Bil ar hyn o bryd (ac eithrio un cyfeiriad technegol yn yr atodlenni). Mae hynny'n colli cyfle i roi'r un statws i'r Gymraeg ac sy'n bodoli eisoes i feysydd megis cynaliadwyedd ac amgylchedd.
- 4.3 Mae'r Llywodraeth wedi dadlau yn erbyn cynnwys y Gymraeg yn y Bil Cynllunio ar sail mai deddfwriaeth strwythurol a fframweithiol ydyw, a'r Gymraeg yn fater polisi. Ond yn ein barn ni, rhesymau strwythurol sydd i gyfrif am yr angen i gynnwys y Gymraeg yn y Bil. Mae angen fframwaith asesu effaith ar y Gymraeg mewn deddf yn hytrach na'i fod yn ddibynnol ar ganllawiau. Mae tystiolaeth yn awgrymu bod risg uchel na fydd cyfundrefn canllawiau yn cael ei gweithredu.
- 4.4 Er nad oes cyfeiriadau at y Gymraeg yn y Bil, mae sawl cyfeiriad yn y Memorandwm Esboniadol cysylltiedig. Er enghraifft, mae adran 1 y memorandwm yn cychwyn gyda datganiad y bydd darpariaethau'r Bil yn creu lleoedd cynaliadwy fydd yn hyrwyddo'r defnydd o'r iaith Gymraeg. Ceir cyfeiriad at y Gymraeg hefyd yn adran 3 ar nod y Bil:
- “darparu system gynllunio sy'n gweithredu mewn modd cadarnhaol ac yn galluogi datblygiadau, gan helpu i ddarparu manau cynaliadwy sy'n cynnwys cartrefi, swyddi a seilwaith, tra'n cynnig cyfleoedd i ddiogelu a gwella ein hamgylcheddau adeiledig a naturiol pwysicaf a hyrwyddo'r defnydd o'r iaith Gymraeg”*
- Nid yw'n eglur sut fydd y Bil yn llwyddo i gyflawni'r amcanion uchod os nad yw'n cynnwys unrhyw ddarpariaethau penodol ar gyfer ystyried y Gymraeg yn y gyfundrefn gynllunio.
- 4.5 Mae'r gyfundrefn newydd a gynigir yn y Bil yn cynnig strwythur sy'n cynnwys Fframwaith Datblygu Cenedlaethol; Cynlluniau Datblygu Strategol a Chynlluniau Datblygu Lleol. Golyga hynny y bydd cynlluniau datblygu ar ddefnydd tir ar lefel genedlaethol, rhanbarthol a lleol am y tro cyntaf. Rydym eisoes wedi cyfeirio at yr angen i osod fframwaith statudol yn ei le ar gyfer ystyried y Gymraeg mewn cynlluniau datblygu lleol, dylai hynny ddigwydd ar gyfer cynlluniau rhanbarthol a chenedlaethol hefyd.
- 4.6 Mae'r Bil hefyd yn gwneud darpariaeth ar gyfer “datblygiadau cenedlaethol eu harwyddocâd” a'r angen am “adroddiadau effaith lleol”. Dyma enghraifft felly o'r Bil yn gwneud darpariaeth newydd ar gyfer asesu effaith lleol datblygiadau mawr, a



hynny drwy ddiwygio Deddf Cynllunio Gwlad a Thref 1990. Mae'n siomedig nad yw'r Bil fel mae'n sefyll yn gwneud darpariaeth newydd ar gyfer asesu effaith ieithyddol yn yr un modd.

4.7 Ymatebodd y Comisiynydd i ymgynghoriad "Cynllunio Cadarnhaol" Llywodraeth Cymru ar bapur gwyn y Bil Cynllunio yn Chwefror eleni. Roedd yr ymateb yn cynnwys nifer o'r dadleuon sydd yn y ddogfen hon. Fel rhan o'r ymateb, cynigiwyd rhai gwelliannau posibl i'r Bil drafft. Enghreifftiau a syniadau cychwynnol oeddynt, ond y bwriad oedd cynnig gwelliannau a fyddai'n:

- Ei gwneud yn ofynnol i Weinidogion Cymru asesu effaith y Fframwaith Datblygu Cenedlaethol ar y Gymraeg
- Ei gwneud yn ofynnol i awdurdodau cynllunio lleol / paneli cynllunio strategol i asesu effaith Cynlluniau Datblygu Strategol ar y Gymraeg
- Ei gwneud yn ofynnol i awdurdodau cynllunio lleol i asesu effaith Cynlluniau Datblygu Lleol ar y Gymraeg
- Ei gwneud yn ofynnol i awdurdodau cynllunio gynnwys asesiad o'r effaith ar y Gymraeg fel rhan o'r asesiad effaith lleol o ddatblygiadau cenedlaethol eu harwyddocâd.

Fel rhan o'r gwelliannau hyn, dylid hefyd sicrhau bod gan awdurdodau lleol yr hyblygrwydd i gynnal asesiad effaith ieithyddol ar ddatblygiadau unigol pan fo angen. Er ein bod yn cefnogi'r egwyddor o asesu effaith wrth lunio cynlluniau datblygu, bydd amgylchiadau'n codi gyda rhai ceisiadau unigol ble bydd angen asesiad penodol o'r effaith ar y Gymraeg.

4.8 Yn olaf dylid nodi bod ein sylwadau wedi eu cyfyngu i'r prif faterion sydd angen eu cryfhau drwy ddeddfwriaeth y Bil Cynllunio. Mae agweddau eraill ym maes y Gymraeg a chynllunio sy'n bwysig a sydd angen eu hystyried ymhellach, megis y Gymraeg mewn arwyddion ac enwau datblygiadau ac amcanestyniadau poblogaeth sy'n arwain at dargedau datblygu tai.



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Diolch am y cyfle i gynnig sylwadau i ymchwiliad y Pwyllgor ar egwyddorion cyffredinol y Bil. Nodaf hefyd fy mod yn fodlon rhoi tystiolaeth lafar i'r Pwyllgor os yw'n dymuno.

Yn gywir

Meri Huws

Comisiynydd y Gymraeg



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Astudiaeth o bolisiâu cynllunio lleol a'r Gymraeg

Medi 2013

Cefndir

Mewn ymateb i'r trafodaethau sydd wedi bod yn ddiweddar ar ddiwygio Nodyn Cyngor Technegol 20, penderfynodd Comisiynydd y Gymraeg gynnal astudiaeth o bolisiau cynllunio lleol a'r Gymraeg. Nod yr astudiaeth oedd asesu i ba raddau mae'r Gymraeg yn cael ei hystyried o dan y gyfundrefn gynllunio cyfredol.

Cynhaliwyd yr astudiaeth mewn dau gam. Yn gyntaf, ysgrifennwyd at y 25 awdurdod cynllunio lleol yng Nghymru yn ystod Mehefin 2013 yn gofyn tri chwestiwn:

- o a oedd ganddynt ganllaw cynllunio atodol ar y Gymraeg;
- o a oeddynt wedi cynnal asesiad o effaith eu cynllun datblygu lleol neu unedol ar y Gymraeg; ac
- o a oeddynt wedi cynnal asesiad o effaith ceisiadau unigol ar y Gymraeg.

Erbyn diwedd Medi roedd 23 o'r 25 awdurdod wedi ymateb.¹

Ymhellach i hynny ac fel ail gam, yn ystod Awst a Medi 2013 fe ystyriwyd pa bolisiau ar y Gymraeg oedd yn gynwysedig yng nghynlluniau datblygu y 25 awdurdod.

Mae crynodeb o'r canfyddiadau isod.

Polisiau ar y Gymraeg mewn cynlluniau datblygu lleol neu unedol

Roedd astudiaeth o gynlluniau datblygu cyfredol ac arfaethedig awdurdodau cynllunio yn dangos mai 14 o'r 25 awdurdod cynllunio oedd wedi cynnwys polisiau am y Gymraeg yn eu cynlluniau. Roedd hyn yn cynnwys 11 cyngor sir a'r 3 pharc cenedlaethol.

Gwelwyd fod patrwm daearyddol i'r awdurdodau a oedd wedi cynnwys polisiau ar y Gymraeg. Roedd pob awdurdod yng ngogledd a chanolbarth Cymru wedi datblygu polisi ynghyd ag awdurdodau de-orllewin Cymru² ac eithrio Abertawe.

Roedd rhai o'r awdurdodau nad oedd yn cynnwys polisiau am y Gymraeg yn eu cynlluniau datblygu, megis Pen-y-bont a Thorfaen, yn dweud eu bod wedi rhoi ystyriaeth i'r Gymraeg ond wedi dod i'r casgliad fod y defnydd yn eu cymunedau'n isel ac na fyddai polisiau cynllunio a datblygu yn debygol o gael unrhyw effaith pellach ar y defnydd.

Canfuwyd fod y polisiau a oedd yn bodoli ar y Gymraeg yn amrywio'n sylweddol. Gellir egluro rhywfaint ar y gwahaniaeth hynny oherwydd bod rhai awdurdodau yn parhau i

¹Yr unig awdurdodau i fethu darparu gwybodaeth oedd Cyngor Sir y Fflint a Chyngor Blaenau Gwent.

²H.y. Cyngor Sir Benfro; APC Arfordir Penfro; Cyngor Sir Gaerfyrddin; a Chyngor Castell Nudd Port Talbot.

weithredu cynllun datblygu unedol ac eraill wedi symud ymlaen i fabwysiadu cynllun datblygu lleol. Er hynny, roedd gwahaniaethau sylweddol yn bodoli hefyd yn y polisiau ar y Gymraeg mewn cynlluniau datblygu lleol.

Er enghraifft, roedd **Polisi Datblygu 18 Cynllun Datblygu Lleol awdurdod parc cenedlaethol Eryri** yn rhoi cyfarwyddyd manwl. Roedd yn datgan yn eglur y gellid 'Gwrthod datblygiad fyddai, oherwydd ei faint, graddfa neu leoliad, yn achosi niwed sylweddol i gymeriad a chydbwysedd iaith cymuned.' Roedd yn cynnig cyfarwyddyd pellach ar y math o asesiad a fyddai'n ofynnol i ymgeiswyr ei gyflwyno o dan wahanol amgylchiadau, gan gynnwys 'Datganiad Cymunedol ac Ieithyddol' i'w gyflwyno gyda chais cynllunio am ddatblygiad llai, ac 'Asesiad mwy manwl ar ffurf "Asesiad Effaith Cymunedol ac Ieithyddol"' i'w gyflwyno gyda chais cynllunio ble fo datblygiad ar raddfa fwy. Roedd y polisi hefyd yn diffinio'r gwahanol raddfeydd datblygu.

Roedd **Polisi GDP1 Cynllun Datblygu Unedol Cyngor Wrecsam** yn llai manwl ac yn datgan dylai pob datblygiad newydd, 'ystyried yr angen i warchod yr ardaloedd hynny sydd â hunaniaeth Gymraeg gref o ran diwylliant neu iaith rhag datblygiad a allai niweidio'r hunaniaeth hon'. Er hynny, roedd hefyd yn diffinio'r ardaloedd hynny ble ystyriwyd y Gymraeg yn rhan o'r wead cymdeithasol.³

Roedd polisiau rhai awdurdodau fel Wrecsam (uchod) a Phowys yn enwi'r ardaloedd ble ystyriwyd y Gymraeg yn rhan o'r wead cymdeithasol, ond roedd eraill fel cyngor sir Benfro, awdurdod parc cenedlaethol Arfordir Penfro ac awdurdod parc cenedlaethol Bannau Brycheiniog yn gosod trothwy ar gyfer diffinio ble roedd y Gymraeg yn rhan o'r wead cymdeithasol. Yn achos cyngor sir Benfro ystyriwyd bod cymunedau gyda 25% neu fwy o siaradwyr Cymraeg yn rhan o'r diffiniad, yn achos awdurdod parc cenedlaethol Arfordir Penfro ac awdurdod parc cenedlaethol Bannau Brycheiniog 30% oedd y trothwy.⁴

Rhodddai rhai awdurdodau fel Castell Nedd Port Talbot arweiniad ynghylch penawdau asesiad effaith ieithyddol yn y polisi ei hun gan gyfeirio hefyd at ganllaw cynllunio atodol ar y Gymraeg a fyddai'n rhoi cyngor pellach i ddatblygwyr.

Roedd awdurdodau eraill yn cynnwys polisiau yn eu cynlluniau datblygu ar faterion ehangach yn ymwneud â'r Gymraeg. Er enghraifft roedd rhai awdurdodau yn cynnwys polisi ar annog arwyddion dwyieithog gan ddilyn y canllaw yn Nodyn Cyngor Technegol 20 ac eraill yn cynnwys datganiadau am enwau datblygiadau a strydoedd yn Gymraeg.

³Mae'r term 'wead cymdeithasol' yn deillio o Nodyn Cyngor Technegol 20 (2000). O dan y pennawd 'Cynlluniau Datblygu Unedol', roedd gofyn i awdurdodau cynllunio ystyried a oedd ganddynt ardaloedd ble mae defnydd o'r Gymraeg yn rhan o'r wead cymdeithasol.

⁴Roedd y ddogfen Cynllunio a'r Iaith Gymraeg; y ffordd ymlaen a gyhoeddwyd gan gonsortia o sefydliadau yn 2005 yn cynnig 20% fel trothwy. Mae rhai awdurdodau cynllunio wedi defnyddio'r datblygu'r fforddoledd gynnigir yn y ddogfen wrth lunio eu polisiau cynllunio ar y Gymraeg.

Yn gyffredinol, roedd yr asesiad o bolisiau yn amlygu amrywiaeth eang ac anghysondeb yn yr ymdriniaeth a roddir i'r Gymraeg mewn gwahanol ardaloedd. Er bod rhywfaint o wahaniaethau lleol yn ddisgwyliedig, mae'n bosibl bod yr anghysondeb yn adlewyrchu diffyg eglurder yn y polisi cenedlaethol tuag at y Gymraeg.

Canllaw Cynllunio Atodol ar y Gymraeg

Mae rhai polisiau ar y Gymraeg mewn cynlluniau datblygu yn cyfeirio at ganllaw atodol. Ceir gwybodaeth bellach yn y canllawiau hyn ynghylch sut a phryd i gynnal asesiad effaith ieithyddol. O'r 23 ymateb a gafwyd i lythyr y Comisiynydd, ymatebodd pum awdurdod i ddweud bod ganddynt ganllaw atodol gweithredol ar y Gymraeg⁵ ac ymatebodd pedwar arall i ddweud eu bod yn y broses o ddrafftio canllaw.

O'r 14 Awdurdod oedd wedi datblygu polisi ar y Gymraeg yn eu cynllun datblygu (gweler yr adran flaenorol), roedd pedwar wedi datgan nad oedd ganddynt ganllaw cynllunio atodol ar y Gymraeg ac un arall heb gyfrannu tuag at yr astudiaeth.

Asesiadau o effaith cynlluniau datblygu ar y Gymraeg

Gofynnwyd i'r awdurdodau a oeddynt wedi cynnal asesiad o effaith eu cynlluniau datblygu ar y Gymraeg ers cyhoeddi Nodyn Cyngor Technegol 20 yn y flwyddyn 2000. Yn ystod y cyfnod hwnnw, mae dwy brif gyfundrefn wedi eu meithrin, yn gyntaf cynlluniau datblygu unedol ac yn fwy diweddar, cynlluniau datblygu lleol sy'n raddol ddisodli'r cynlluniau unedol.

Daeth i'r amlwg mai ychydig iawn o ystyriaeth a roddwyd i'r Gymraeg yn gyffredinol yn ystod y broses o lunio cynlluniau datblygu unedol. Dim ond dau awdurdod adroddodd i sicrwydd bod asesiad ar y Gymraeg wedi digwydd. Roedd y sefyllfa gyda Chynlluniau Datblygu Lleol yn fwy cadarnhaol gyda chwe awdurdod yn adrodd eu bod wedi cynnal asesiad o'r effaith ar y Gymraeg a thri arall yn adrodd bod asesiad ar y gweill fel rhan o'r broses o lunio Cynllun Datblygu. Er hynny, mae'r dystiolaeth yn awgrymu bod gwahaniaethau yn y dull o gynnal asesiad.

Adroddodd chwe awdurdod arall eu bod wedi cynnal asesiad elfennol o'r Gymraeg fel rhan o drefniant arall, megis asesiad cynladwyedd neu asesiad effaith amgylcheddol. Yn olaf, adroddodd chwe awdurdod nad oeddynt wedi cynnal unrhyw asesiad o effaith eu cynllun datblygu ar y Gymraeg. Mae'r canfyddiad yma yn codi amheuan ynghylch y graddau yr

⁵Cynghorau Ynys Môn; Gwynedd; Wrecsam a Chastell Nedd Port Talbot ac awdurdod parc cenedlaethol Eryri

ystyriwyd Polisi Cynllunio Cymru a Nodyn Cyngor Technegol 20 (2000) wrth i'r awdurdodau yma lunio eu cynlluniau datblygu. Mae'r canfyddiadau hefyd yn codi cwestiynau ynghylch rôl yr Arolygiaeth Gynllunio sy'n gyfrifol am arolygu cynlluniau datblygu a sicrhau eu bod yn cydfynd gyda pholisi cenedlaethol cyn iddynt gael eu mabwysiadu. 4

Asesiadau o effaith ceisiadau cynllunio unigol ar y Gymraeg

Gofynnwyd i'r awdurdodau a oeddynt wedi cynnal asesiadau o effaith ceisiadau cynllunio unigol ar y Gymraeg ers cyhoeddi Nodyn Cyngor Technegol 20. Gofynnwyd am amlinelliad o faint o asesiadau a gynhaliwyd hefyd.

Roedd yr wybodaeth a gafwyd yn amrywio o atebion cryno a oedd yn egluro a gynhaliwyd unrhyw asesiadau ai peidio, i atebion llawn a oedd yn cynnwys copiâu o asesiadau. Adroddodd wyth awdurdod eu bod wedi cynnal asesiadau. O'r rheini, dim ond tri oedd yn adrodd eu bod wedi cynnal mwy nag un neu ddau o asesiadau, gydag un awdurdod arall yn cydnabod nad oedd yn cadw gwybodaeth ynghylch nifer yr asesiadau. Er bod y dystiolaeth yn anghyflawn, roedd yn ymddangos fod cynnydd bychan wedi bod yn y nifer o asesiadau a gynhaliwyd yn y blynyddoedd diwethaf.

Roedd y nifer o awdurdodau a oedd wedi gofyn am asesiadau effaith ieithyddol gan ymgeiswyr yn is na'r nifer oedd wedi cynnwys polisiau ar y Gymraeg yn eu cynlluniau datblygu. Gellir egluro hynny i raddau gan fod rhai o'r polisiau yn gymharol newydd, ond mae'n codi cwestiwn ynghylch i ba raddau caiff polisiau ar y Gymraeg mewn cynlluniau datblygu eu gweithredu gan rhai awdurdodau.

Prif gasgliadau'r astudiaeth

1. Nid yw'r Gymraeg yn cael ei hystyried yn gyson o dan y gyfundrefn gynllunio cyfredol.
2. Nid yw pob awdurdod cynllunio wedi ystyried y Gymraeg wrth lunio ei gynllun datblygu. Mae hynny'n awgrymu nad yw pob awdurdod wedi gweithredu yn unol â Pholisi Cynllunio Cymru⁶ a Nodyn Cyngor Technegol 20 (2000).
3. Mae amrywiaeth ac anghysondeb yng nghynnwys a manylder y polisiau ar y Gymraeg mewn cynlluniau datblygu ac yn sgil hynny mae gwahaniaethau yn y drefn ar gyfer sut a phryd i gynnal asesiad effaith ieithyddol. Mae hynny'n awgrymu diffyg eglurder yn y polisi cenedlaethol.

⁶Mae adran 4.13 Polisi Cynllunio Cymru yn egluro'r disgwyliadau ar gyfer ystyried y Gymraeg.

4. Mae amrywiaeth ac anghysondeb yn y pynciau atodol mewn perthynas â'r Gymraeg a ystyrir mewn cynlluniau datblygu. Mae rhai cynlluniau yn cynnwys polisiau am arwyddion dwyieithog ac eraill yn cynnwys polisiau am enwau datblygiadau. Unwaith eto, mae hynny'n awgrymu diffyg eglurder yn y polisi cenedlaethol.
5. Er bod dros hanner yr awdurdodau cynllunio wedi cynnwys polisi ar y Gymraeg yn eu cynlluniau datblygu ac er bod arfer da yn bodoli, cyfyng ac arwynebol yw'r polisiau mewn rhai achosion. Ymhellach i hynny, nid yw pob awdurdod wedi cyhoeddi canllaw cynllunio atodol i roi arweiniad pellach ar y polisi.
6. Mae'r nifer o asesiadau effaith ieithyddol a gynhaliwyd ar geisiadau cynllunio unigol yn isel yn y mwyafrif o awdurdodau. Mae hynny'n awgrymu nad yw'r polisiau yn cael eu gweithredu'n llawn mewn rhai ardaloedd.

Eitem 4

Mae cyfyngiadau ar y ddogfen hon



Y Bil Cynllunio - Ymgynghoriad y Pwyllgor Amgylchedd a Chynaliadwyedd Ymateb Cymdeithas yr Iaith Gymraeg

1. Cyflwyniad

Mae Cymdeithas yr Iaith Gymraeg wedi bod yn ymgyrchu am ymhell dros chwarter ganrif am drefn gynllunio a fyddai'n rhoi buddiannau'r Gymraeg, yr amgylchedd a chymunedau Cymru yn gyntaf.

Testun syndod mawr yw'r ffaith bod Bil Cynllunio Llywodraeth Cymru'n anwybyddu un o brif gasgliadau ymgynghoriad Llywodraeth Cymru – y Gynhadledd Fawr – sef:

"Roedd consensws mai symudoledd poblogaeth yw'r her gyfredol fwyaf i hyfywedd y Gymraeg a gwelwyd bod yr atebion i'r her honno ynghlwm â... [ph]olisïau tai a chynllunio..."

Nid yn unig hynny, ond mae'r Bil hefyd yn groes i addewid y Prif Weinidog yn y ddogfen a gyhoeddwyd ganddo fe ym mis Awst eleni, sef ei ddogfen polisi "Bwrw 'Mlaen" lle addawodd ystyried:

"pob cam ymarferol ar gyfer atgyfnerthu'r Gymraeg o fewn y system gynllunio".

Nid oes ymdrech yn y Bil i fynd i'r afael â'r materion sy'n niweidiol i'r Gymraeg, er bod digon o sôn am yr iaith yn y memorandwm esboniadol, nad oes iddo effaith statudol. Yn wir, pryderwn y byddai'r hyn sy'n cael ei gynnig yn y Bil yn gwaethygu a dwysáu'r patrymau presennol, yn hytrach na'u datrys a'u lliniaru.

Bellach, mae arweinwyr traean y cynghorau sir – sef arweinwyr Pen-y-bont ar Ogwr, Wrecsam, Conwy, Ynys Môn, Ceredigion, Sir Benfro a Sir Gâr – wedi ysgrifennu at Carl Sargeant gan alw ar i'r Llywodraeth newid cynnwys y Bil. Rydyn ni'n cytuno gyda'u casgliadau hwythau:

"...ar hyn o bryd, nid oes modd i gynghorwyr, o dan y fframwaith cynllunio statudol presennol, ganiatáu neu wrthod datblygiadau ar sail eu heffaith iaith yn unig. Mae angen newid y sefyllfa honno drwy'r Bil, gan ei fod yn fater nad oes modd ei ddatrys heb ddeddfwriaeth. Pe collir y cyfle hanesyddol hwn i sicrhau bod y drefn gynllunio yn adlewyrchu anghenion Cymru, byddai'n peryglu ein gallu i gryfhau'r Gymraeg yn ein cymunedau am nifer o flynyddoedd i ddod.

"Pryderwn yn ogystal am y nifer o ffyrdd mae'r Bil yn cynnig canoli grym yng Nghaerdydd, credwn yn gryf y dylai fod gan gynghorau'r rhyddid i allu pennu targedau tai yn seiliedig ar anghenion lleol yn annibynnol o'r Llywodraeth yn ganolog. Eto, mae rhaid i fframwaith y Bil ddatganoli'r grym hwnnw yn ogystal

â chreu proses newydd sy'n ein harwain a'n cynorthwyo i asesu'r angen lleol hynny mewn ffordd drwyadl.

"Rydyn ni hefyd yn cytuno gyda chyngor eich pwyllgor arbenigol bod angen pwrpas statudol i'r system gynllunio, sy'n rhoi cyfeiriad i'r system, ac sy'n egluro mai diogelu ein hamgylchedd, mynd i'r afael â thlodi, a chryfhau'r Gymraeg yw rhai o sylfeini'r drefn gynllunio drwyddi draw."

Anfonodd Comisiynydd y Gymraeg gyngor ysgrifenedig at y Llywodraeth ynghylch y Bil gan nodi mai dim ond hanner cyngorau sir Cymru sydd wedi cynnwys polisïau iaith Gymraeg yn eu cynlluniau datblygu lleol.

Rhai o brif gasgliadau'r adroddiad oedd:

"Nid yw'r Gymraeg yn cael ei hystyried yn gyson o dan y gyfundrefn gynllunio gyfredol."

"Nid yw pob awdurdod cynllunio wedi ystyried y Gymraeg wrth lunio ei gynllun datblygu. Mae hynny'n awgrymu nad yw pob awdurdod wedi gweithredu yn unol â Pholisi Cynllunio Cymru a Nodyn Cyngor Technegol 20 (2000)."

"Mae amrywiaeth ac anghysondeb yng nghynnwys a manylder y polisïau ar y Gymraeg mewn cynlluniau datblygu... Mae amrywiaeth ac anghysondeb yn y pynciau atodol mewn perthynas â'r Gymraeg a ystyrir mewn cynlluniau datblygu."

"Mae'r nifer o asesiadau effaith ieithyddol a gynhaliwyd ar geisiadau cynllunio unigol yn isel yn y mwyafrif o awdurdodau. Mae hynny'n awgrymu nad yw'r polisïau yn cael eu gweithredu'n llawn mewn rhai ardaloedd."

Fe ddaw Comisiynydd y Gymraeg i'r casgliad:

"Heb ddyletswydd gyfreithiol ar awdurdodau wedi ei gefnogi gan gyngor ac arweiniad priodol, bydd yr ansicrwydd a'r anghysondeb yn parhau. Gallai hynny yn ei dro gael effaith andwyol ar les y Gymraeg a chymunedau Cymraeg."

Ymhellach, mae dros saith cant o bobl wedi cyflwyno cardiau i'r Pwyllgor Amgylchedd gan alw ar i'r pwyllgor argymhell Bil Cynllunio sy'n:

1. Datgan mai pwrpas y system gynllunio yw rheoli tir mewn ffordd sy'n gynaliadwy'n amgylcheddol, yn taclo tlodi ac yn hybu'r Gymraeg
2. Asesu anghenion lleol fel man cychwyn a sylfaen pendant i gynlluniau datblygu, yn hytrach na thargedau tai sy'n seiliedig ar amcanestyniadau poblogaeth cenedlaethol
3. Sicrhau bod effaith datblygiadau ar y Gymraeg yn cael ei asesu.
4. Rhoi grym cyfreithiol i gynghorwyr ystyried y Gymraeg wrth dderbyn neu wrthod cynlluniau, drwy wneud y Gymraeg yn ystyriaeth berthnasol statudol
5. Sefydlu Tribiwnlys Cynllunio i Gymru, y mae cymunedau yn gallu apelio iddo.

2. Safbwynt Ideolegol Cymdeithas yr Iaith

Cred y Gymdeithas mai un o fethiannau'r farchnad yw'r problemau sy'n wynebu'r Gymraeg oherwydd y drefn gynllunio, yn yr un ffordd ac mae nifer o broblemau ynghylch anghyfartaledd incwm a'r amgylchedd yn deillio o ddibyniaeth ar y farchnad rydd.

Mae'r Bil Cynllunio yn gyfle i daclo'r problemau hyn, gan ddi-ddymu neu ailgydbwysu'r farchnad gynllunio fel y saif. Credwn hefyd fod angen gweld y Bil Cynllunio fel pecyn o newidiadau, a chredwn y dylid bod Deddf Eiddo er mwyn ymdrin â'r stoc tai bresennol a'i heffaith ar y Gymraeg.

Wrth graidd ein pwyntiau mae'r argyhoeddiad sylfaenol bod yn rhaid i'r Bil Cynllunio adlewyrchu anghenion arbennig ein gwlad yn hytrach na dim ond efelychu yr hyn sy'n digwydd yng ngwledydd eraill Prydain.

Credwn ymhellach fod yr iaith yn perthyn i bawb – o ba gefndir bynnag – sydd wedi dewis gwneud Cymru yn gartref iddyn nhw. Mae angen deddfu mewn ffordd sy'n cynorthwyo twf y Gymraeg a'i diogelu ym mhob rhan o Gymru.

3. Cyd-destun y Gymraeg ar lefel gymunedol

Nid oes amheuaeth bod canlyniadau Cyfrifiad 2011 yn amlygu'r argyfwng sy'n wynebu'r Gymraeg. Bu gostyngiad yn nifer y siaradwyr Cymraeg ym mron pob rhan o Gymru. Bu'r gostyngiad mwyaf yn yr ardaloedd lle mae'r Gymraeg ar ei chryfaf.

Cafwyd gostyngiad yn nifer yr adrannau etholiadol lle roedd dros 70 y cant o'r boblogaeth yn gallu siarad Cymraeg, o 92 yn 1991 i 54 yn 2001 i 39 yn 2011. Erbyn 2011, roedd pob un o'r adrannau etholiadol hyn (ac eithrio un yng Nghonwy) yng Ngwynedd neu ar Ynys Môn.

Dylid nodi mai targed strategaeth iaith Llywodraeth Cymru 2003, Iaith Pawb, oedd codi nifer y siaradwyr Cymraeg pum pwynt canran ledled Cymru (o 20.7% yn 2001 i 25.7% yn 2011) ac atal y dirywiad yn nifer y cymunedau Cymraeg:

“Erbyn 2011 - bod y ganran o bobl Cymru sy'n gallu siarad Cymraeg wedi cynyddu 5 pwynt canran o'r ffigwr a ddaw i'r amlwg o gyfrifiad 2001;

“bod y lleihad yn nifer y cymunedau lle mae'r Gymraeg yn cael ei siarad gan dros 70% o'r boblogaeth yn cael ei atal;” [tud.11, Iaith Pawb]

Ymatebodd [Comisiynydd y Gymraeg](#) i ganlyniadau Cyfrifiad 2011 gan ddweud:

“...mae'n wir dweud bod ystadegau a gyhoeddwyd heddiw yn ysgytwad. Efallai bod yna berygl wedi bod i bawb fynd i ryw gyfforddusrwydd artifisial 10 mlynedd yn ôl, gan gredu bod tro ar fyd, a bod twf mewn rhai ardaloedd yn gwneud yn iawn am y gostyngiad mewn ardaloedd eraill. Os mai felly oedd hi am y 10 mlynedd diwethaf, yna mae'r cloc larwm wedi canu'n uchel iawn ac mae yna heriau pendant i'w hateb yn y fan hyn, a hynny ar fyrder.”

Yn sicr, nid oes amheuaeth bod y system gynllunio yn dylanwadu, fel y cydnabyddir gan gasgliadau ymgynghoriad Llywodraeth Cymru i'r Gynhadledd Fawr.

Ymhellach, credwn fod y gwaith ymchwil a wnaed gan Fwrdd yr Iaith a Menter Iaith Conwy yn 2011/12 yn amlygu effeithiau iaith y gyfundrefn bresennol:

Gwaith Ymchwil Menter Iaith Conwy / Bwrdd yr Iaith (2012)

Comisiynwyd gwaith ymchwil gan Fwrdd yr Iaith Gymraeg yn 2011 a gynhaliwyd gan Fenter Iaith Conwy i fesur beth oedd tarddiad pobl oedd yn berchen ar anheddau newydd o fewn Sir Conwy rhwng 2006 a 2011. Yn ôl y gwaith ymchwil hwnnw, llenwyd 87% o'r tai a adeiladwyd gan bobl nad oedd yn gallu siarad Cymraeg. Amcangyfrifwyd y byddai Cynllun Datblygu Lleol drafft y cyngor yn golygu gostyngiad yng nghanran siaradwyr y Gymraeg o 2.24% oherwydd y 6,350 o dai yr argymhellwyd eu hadeiladu. Argymhelliad y

Fenter laith yn sgil y gwaith ymchwil oedd gostwng nifer y tai yn y cynllun drafft a newid y drefn fel bod nifer y tai yn adlewyrchu anghenion lleol.

Er gwaethaf yr argymhellion hyn, cafodd Cynllun Datblygu Lleol Conwy ei fabwysiadu ym mis Hydref 2013 gan osod targed nifer y tai ar gyfer y cyfnod hyd at 2022 fel a ganlyn: "6,520 o unedau tai newydd gyda lefel 10% wrth gefn o hyd at 7,170 o unedau tai newydd ..."

4. Gwendidau'r Drefn Bresennol

Mae Cymdeithas yr Iaith wedi bod yn galw am newidiadau i'r drefn gynllunio ers y 1980au gan arwain at gonsesiynau. Yn fwy diweddar, cyhoeddassom Fil Eiddo a Chynllunio amgen ym mis Mawrth 2014, ac yn dilyn hynny cynhaliwyd nifer o gyfarfodydd cyhoeddus o Ben Llŷn i Hwlfordd i Gaerdydd i drafod ein cynigion deddfwriaethol. Mae nifer o bwyntiau isod ac yn adran 8 yn rhestru penawdau gwelliannau i'r Bil sy'n adlewyrchu sylwadau gan aelodau'r cyhoedd yn y cyfarfodydd hynny.

4.1 Diffyg Cysondeb a Chyfeiriad i'r Drefn

Mae Comisiynydd y Gymraeg wedi nodi'r diffyg cysondeb yn y gyfundrefn, gan ddweud:

"Yn gyffredinol, roedd yr asesiad o bolisiau yn amlygu amrywiaeth eang ac anghysondeb yn yr ymdriniaeth a roddir i'r Gymraeg mewn gwahanol ardaloedd. Er bod rhywfaint o wahaniaethau lleol yn ddisgwyliedig, mae'n bosibl bod yr anghysondeb yn adlewyrchu diffyg eglurder yn y polisi cenedlaethol tuag at y Gymraeg." (Tud. 3, Astudiaeth o bolisiau cynllunio lleol a'r Gymraeg - Medi 2013)

Credwn y gellid lliniaru'r problemau hyn drwy sefydlu diben statudol i'r drefn gynllunio yn y Bil, a fyddai'n rhoi cyfeiriad i'r Fframwaith Cenedlaethol ynghyd â chynlluniau datblygu eraill wrth eu llunio a'u hadolygu. Cytunwn felly â'r pwyllgor arbenigol a roddodd gyngor i Weinidogion cyn iddynt lunio'r ddeddfwriaeth y dylid sefydlu diben statudol i'r drefn gynllunio.

4.2. Trefn nad yw'n seiliedig ar anghenion lleol

Wrth wraidd y broblem gyda'r drefn mae'r ffaith nad yw hi'n seiliedig ar anghenion lleol. Yn hytrach na system sy'n cael ei gyrru gan anghenion y farchnad, mae angen newid pwyslais y system fel ei bod yn gwbl glir mai awdurdodau lleol sy'n gyfrifol am osod targedau tai, a hynny ar sail anghenion lleol yn unig. Byddai hynny'n dileu effaith y targedau tai a osodir gan y Llywodraeth ganolog sy'n seiliedig ar yr amcanestyniadau poblogaeth cenedlaethol, a fyddai'n parhau â'r patrymau sydd wedi bod yn niweidiol i'r Gymraeg ers blynnyddoedd.

4.3. Diffyg Ystyriaeth i'r Gymraeg

Ceisiadau Unigol

Dim ond 0.03% o geisiadau cynllunio oedd wedi cael eu hasesu am eu heffaith ar yr iaith Gymraeg yn ôl cais rhyddid gwybodaeth a wnaed gennym. Tri awdurdod cynllunio lleol yn unig, o'r 25 yng Nghymru, a gynhaliodd asesiad effaith datblygiadau ar y Gymraeg rhwng 2010 a 2012 – cyfanswm o 16 asesiad allan o bron i 50,000 o geisiadau cynllunio a wnaed. Mae cwestiynau yn codi am wrthrychedd yr asesiadau effaith iaith a wnaed, gan iddynt, mewn nifer o achosion, gael eu comisiynu a'u hariannu gan y datblygwyr.

Mae nifer o enghreifftiau o benderfyniadau ar geisiadau unigol lle nad oedd eglurder neu rym gan gynghorwyr i wrthod neu ganiatáu ceisiadau ar sail eu heffaith iaith yn unig, megis datblygiad tai Penybanc yn Sir Gaerfyrddin a'r pentref gwyliau Land & Lakes yn Ynys Môn.

Cynlluniau Datblygu Lleol

Fel nodwyd uchod, yn ôl astudiaeth Comisiynydd y Gymraeg, dim ond hanner cynghorau sir Cymru sydd wedi cynnwys polisiâu am y Gymraeg yn eu cynlluniau datblygu lleol. Credwn y dylai effaith y drefn gynllunio fod yn ystyriaeth ym mhob rhan o Gymru, gan ei bod yn effeithio ar statws yr iaith, mynediad at addysg Gymraeg ynghyd â phatrymau mudo.

Yn ôl astudiaeth Comisiynydd y Gymraeg: *"adroddodd 6 awdurdod nad oeddynt wedi cynnal unrhyw asesiad o effaith eu cynllun datblygu ar y Gymraeg. Mae'r canfyddiad yma yn codi amheuan ynghylch y graddau yr ystyriwyd Polisi Cynllunio Cymru a Nodyn Cyngor Technegol 20 (2000) wrth i'r awdurdodau yma lunio eu cynlluniau datblygu. Mae'r canfyddiadau hefyd yn codi cwestiynau ynghylch rôl yr Arolygiaeth Gynllunio sy'n gyfrifol am arolygu cynlluniau datblygu a sicrhau eu bod yn cyd-fynd gyda pholisi cenedlaethol cyn iddynt gael eu mabwysiadu."*

4.4. Parchu Statws ac Etifeddiaeth y Gymraeg

Diogelu Enwau Llefydd, Strydoedd, Datblygiadau Newydd

Yn y cyfarfodydd cyhoeddus rydyn ni wedi eu cynnal ar hyd a lled Cymru, codwyd yn gyson y pryder am effaith datblygiadau ar statws y Gymraeg mewn materion megis enwau lleoedd, enwau strydoedd, enwau adeiladau newydd ac enwau tai. Mae Cymdeithas yr Iaith yn dadlau y dylid cael amddiffyniad statudol Cymru-gyfan i sicrhau bod statws swyddogol y Gymraeg yn cael ei hybu a'i ddiogelu yn yr holl enghreifftiau hyn.

Datblygiadau Tai a Mynediad at Addysg Gymraeg

Ceir cwynion mewn nifer o gyd-destunau nad yw mynediad at addysg Gymraeg yn cael ei ystyried wrth ganiatáu datblygiad stad o dai newydd – ceir sawl enghraifft o'r broblem yn y De Ddwyrain megis yn ardal Llantrisant, Caerdydd a Bro Morgannwg.

4.5 Gwneud Penderfyniadau'n Lleol

Eto, yn ein cyfarfodydd, codwyd yn gyson yr angen i sicrhau bod penderfyniadau cynllunio yn cael eu gwneud yn lleol mor aml â phosibl.

Codwyd nifer o bryderon am dargedau tai yn cael eu gosod ar lefel genedlaethol yn hytrach na gadael i gymunedau lleol wneud penderfyniadau ar sail eu hanghenion lleol.

Hefyd, codwyd y pwynt mai dim ond y tu allan i Gymru y mae nifer o dai ac adeiladau yn cael eu hysbysebu ac y dylai fod amod bod anheddau yn gorfod cael eu hysbysebu i'w rhentu neu eu prynu yn yr ardal leol.

4.6. Rôl yr Arolygiaeth Gynllunio

Mae nifer yn pryderu am yr Arolygiaeth Gynllunio a'r ffaith ei fod yn gorff Lloegr-Cymru. Codwyd pryder am y ffaith bod yr holl swyddogion yn derbyn eu hyfforddiant ym Mryste, yn hytrach na Chymru. Wrth i drefn gynllunio Cymru a Lloegr wahanu, teimlwn nad yw'r sefyllfa bresennol yn gynaliadwy. Hefyd, codwyd pryder am dryloywder a chostau'r broses apelio ac ymwybyddiaeth yr Arolygiaeth o'r Gymraeg.

5. Dadleuon y Llywodraeth

Ers i'r dadleuon dros y Bil Cynllunio gychwyn, rydym wedi gweld datblygiad yn esboniadau'r Llywodraeth am ei hagwedd tuag at gynnwys cymalau a fyddai'n llesol i'r Gymraeg yn y Bil. Cawsom gyfarfodydd diddorol gyda'r Gweinidog Cynllunio a'i swyddogion, sy'n mynd i barhau dros yr wythnosau nesaf.

Ysgrifenasom at y Llywodraeth ar nifer o achlysuron gan geisio cael eglurhad ynghylch eu dadleuon am le'r Gymraeg yn y Bil.

Ceir manylion y llythyrau hynny yma:

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-y-gweinidog-carl-sargeant>

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-swyddogion-cynllunio-llywodraeth-cymru>

Yn dilyn ein cyfarfod ar 27ain Chwefror 2014 gyda swyddogion adran gynllunio'r Llywodraeth, ysgrifenasom atynt gan ddweud:

"Yn ystod y sgysiau yn ystod ein cyfarfod roedd yn ddiddorol nodi bod:

(i) Cyfaddefiad gan Neil Hemington bod cynghorau bron a bod fel bod ganddynt obsesiwn ("too fixated" yn ei eiriau ef) ar seilio eu rhagamcaniadau weithredu ar amcanestyniadau poblogaeth;

(ii) Nodir ymhellach eich bod wedi datgan nad yw Bil Cenedlaethau'r Dyfodol yn berthnasol i'r adran gynllunio, gan eich bod fel Adran yn cyflawni popeth yn barod.

(iii) Roeddwn yn falch clywed eich parodrwydd i archwilio gyda'r gweinidog ynglŷn â gwneud y Gymraeg yn ystyriaeth berthnasol."

7. Sylwadau Manwl ar y cynigion yn y Bil

Adran 2 - Fframwaith Datblygu Cenedlaethol Cymru

Nid oes egwyddorion sy'n gyrru cyfeiriad y fframwaith. Nid oes dyletswydd ar y Llywodraeth i gynnwys polisi am y Gymraeg yn y fframwaith, nac wrth ei adolygu. Credwn fod yr absenoldeb hwn yn cryfhau'r achos dros sefydlu diben statudol i'r drefn yn ei chyfanrwydd.

Adran 3 - Ardaloedd Cynllunio Strategol a Phaneli Cynllunio Strategol

Rydym yn gwrthwynebu canoli grym a thynnu pwerau allan o ddwylo cynghorwyr etholedig. Dylid gwneud penderfyniadau ar y lefel fwyaf lleol bosibl.

Yn lle, gellid cynnwys pwerau i gynghorau cymunedau lleol, neu nifer ohonynt ar y cyd, sefydlu awdurdod cynllunio lleol er mwyn gwneud rhagor o benderfyniadau cynllunio yn agosach at y bobl.

Mae'r broses o greu ardaloedd cynllunio strategol yn broses o'r brig i lawr. Ni ddylai grym i gyfarwyddo awdurdodau lleol i'w sefydlu fod yn nwylo Gweinidogion. Er nad ydyn ni wedi cael ein hargyhoeddi am fanteision cynllunio ar lefel ardal strategol, mater arall fyddai cynghorau yn wirfoddol yn ffurfio ardal strategol.

Yn atodlen 1, sy'n amlinellu darpariaethau pellach am y paneli, gwrthwynebwn fodolaeth aelodau'r paneli cynllunio strategol nad ydynt yn etholedig, gan ein bod yn credu mewn dulliau cwbl ddemocrataidd o wneud penderfyniadau.

Adran 5 - Lluio ac adolygu cynlluniau datblygu strategol

Yn adran 60I(7), mae dyletswydd ar y panel i asesu cynaliadwyedd y cynllun datblygu strategol. Dylid diffinio cynaliadwyedd wrth gyfeirio at effaith y cynllun ar y Gymraeg. Fel arall, drwy sefydlu diben statudol i'r drefn gynllunio sy'n cyfeirio at y Gymraeg, gellid sicrhau bod y cynllun yn cael ei lunio yn unol â'r diben hwnnw.

Adran 12 - Pŵer Gweinidogion Cymru i gyfarwyddo bod cynllun datblygu lleol yn cael ei lunio ar y cyd

Nid ydym yn cytuno y dylid rhoi grymoedd i Weinidogion gyfarwyddo awdurdodau i lunio cynllun datblygu lleol ar y cyd. Credwn y dylai pwerau gael eu gweithredu mor agos â phosibl at gymunedau.

Adran 19 - adroddiadau effaith lleol

Dylai unrhyw adroddiad effaith lleol gynnwys asesiad effaith ar y Gymraeg o'r datblygiad dan sylw.

Adran 33 - Cyfnod para caniatâd cynllunio: cyffredinol

Credwn y dylid cynnwys darpariaethau yma fel yr amlinellir yn rhan 8 er mwyn diddymu yn syth unrhyw ganiatâd cynllunio a roddwyd sawl blynedd yn ôl nas gweithredwyd neu a weithredwyd yn rhannol yn unig wedi i'r Ddeddf hon ddod i rym.

Adran 35 - Ymgynghori etc mewn cysylltiad â cheisiadau penodol sy'n ymwneud â chaniatâd cynllunio

Credwn y dylid gwneud Comisiynydd y Gymraeg yn un o ymgynghoreion Statudol y drefn gynllunio.

Adran 37 - Arfer swyddogaethau awdurdod cynllunio lleol sy'n ymwneud â cheisiadau

Ni fyddwn yn cefnogi gwneud rhagor o benderfyniadau cynllunio gan swyddogion yn hytrach na chynghorwyr etholedig. Dylai'r broses fod yn un gwbl ddemocrataidd gydag atebolrwydd ar lefel leol.

Adran 44 a 45 - Gweithdrefnau a chostau ar gyfer ceisiadau, apeliadau a chyfeiriadau

Credwn y dylid sefydlu Tribiwnlys Cynllunio i Gymru, yn lle'r Arolygiaeth Gynllunio, a fyddai'n ymdrin ag apeliadau gan reoli costau fel bod modd i bobl o ba gefndir bynnag allu ymdrin â'r drefn ar yr un lefel ag eraill.

8. Ein Cynigion Amgen

Dylid darllen y sylwadau isod ochr yn ochr â'n Bil Eiddo a Chynllunio a gyhoeddwyd ym mis Mawrth eleni - www.cymdeithas.org/cynllunio

Ers cyhoeddi ein Bil Eiddo a Chynllunio, rydym wedi cynnal nifer o ddiwyddiadau a chyfarfodydd er mwyn derbyn adborth ar y ddogfen. Byddwn yn cyhoeddi fersiwn diwygiedig o'n cynlluniau deddfwriaethol cyn diwedd y flwyddyn.

Credwn fod angen newid y Bil Cynllunio trwy gynnwys nifer o elfennau gan gynnwys y saith pwynt canlynol:

1. Sefydlu diben statudol i'r system gynllunio sy'n cyfeirio at nodau datblygu cynaliadwy Cymru

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau Cymdeithas yr Iaith Gymraeg, adran 1. Diben Statudol y Drefn Gynllunio)

Datganwyd yn glir iawn gan y Llywodraeth bod y Bil yn seiliedig ar adroddiad y grŵp cynghorol annibynnol a gyhoeddodd ei adroddiad ym mis Mehefin 2012. Nodwn nad yw'r Bil na'r ddogfen ymgynghori yn cyfeirio at yr argymhelliad canlynol yn yr adroddiad:

“We recommend that a statutory purpose for planning along these lines is included in the Planning Bill:

“The purpose of the town and country planning system is the regulation and management of the development and use of land in a way that contributes to the achievement of sustainable development.” [Saesneg yn unig, gan nad oes copi Cymraeg o'r adroddiad ar gael]

Rydym yn cytuno â'r grŵp y dylai fod pwrpas statudol i'r system gynllunio yn y Bil, er nad ydym yn cytuno â nifer fawr o argymhellion yr adroddiad. Ymddengys fod gwrthod yr argymhelliad hefyd yn groes i ysbryd yr ymrwymiad ym Maniffesto Llafur Cymru yn etholiad 2011, sef:

“Deddfwriaethu i greu cymunedau mwy cynaliadwy trwy'r system gynllunio”

“Sicrhau bod cynlluniau datblygu yn adlewyrchu'r cyfrifoldeb i gyflwyno cymunedau cynaliadwy ar draws Cymru.”

Yn y cyhoeddiad “Cymru'n Un: Cenedl Un Blaned” a gyhoeddwyd yn 2009 gan Lywodraeth Cymru pwysleisiwyd pwysigrwydd y Gymraeg fel rhan o'r diffiniad o ddatblygu cynaliadwy a lles yng Nghymru.

Ymhellach, credwn y gellid seilio'r pwrpas ar y nodau llesiant ym Mil Llesiant Cenedlaethau'r Dyfodol. Mae ein Mesur Eiddo a Chynllunio er budd ein Cymunedau yn addasu'r nodau llesiant hynny, er mwyn adeiladu arnynt, yn ogystal â'u cryfhau a'u gwella.

Credwn fod sefydlu pwrpas statudol i'r system gynllunio yn y Bil yn cynnig cyfle i osod cyfeiriad clir i'r system gynllunio ac un a fyddai er lles y Gymraeg, yn hytrach na'r un presennol sy'n ei thanseilio.

2. Sicrhau ar wyneb y Bil bod y Gymraeg yn cael ei gwneud yn ystyriaeth gynllunio berthnasol statudol ym mhob rhan o Gymru

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau Cymdeithas yr Iaith Gymraeg, adran 2. Ystyriaethau Perthnasol ym mhob rhan o Gymru)

Rydym yn falch ein bod wedi cael cadarnhad gan Rosemary Thomas, pennaeth adran gynllunio Llywodraeth Cymru, yn ein cyfarfod ar ddechrau mis Rhagfyr 2013, nad yw'r system bresennol yn caniatáu i bwyllgorau cynllunio neu awdurdodau cynllunio wrthod, neu ganiatáu, cais cynllunio ar sail eu heffaith iaith, gan fod cymaint o ystyriaethau i'w cydbwysu.

Mae hynny'n cadarnhau'r hyn mae'n haelodau ni, yn ogystal â chynghorwyr, yn ei ddweud wrthym, sef nad oes amddiffyniad statudol i awdurdodau cynllunio nac awdurdodau pwyllgorau cynllunio os ydyn nhw am wrthod cais, neu ei ganiatáu, ar sail ei effaith iaith. Credwn fod hynny'n cryfhau'r achos a amlinellir yn ein papur i wneud y Gymraeg yn ystyriaeth berthnasol (material consideration) statudol a fyddai'n rheswm digonol ynddo ei hun er mwyn gwrthod, neu gymeradwyo, cais cynllunio ar sail ei effaith iaith. Dylai'r Llywodraeth ystyried polisi o'r fath.

Bellach, mae llawer iawn o gynghorwyr sir wedi ysgrifennu atoch chi gan nodi'r un pryder. Rydym yn gobeithio'n fawr y byddwch yn sicrhau bod y Bil Cynllunio yn ymateb i'r pryderon hyn.

3. Gwneud asesiadau effaith datblygiadau ar y Gymraeg yn hanfodol ar gyfer pob datblygiad sydd yn 10 uned o dai neu'n fwy

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau Cymdeithas yr Iaith Gymraeg, adran 6. Aseidiadau effaith datblygiadau sylweddol ar ffyniant y Gymraeg)

Ceir nifer o enghreifftiau yn y Bil o aseidiadau sy'n ofyniad statudol megis arfarniad cynaliadwyedd o'r Cynlluniau Datblygu Lleol ac aseidiadau amgylcheddol.

Mae'r Arolygiaeth Gynllunio ac eraill yn dweud bod yn rhaid iddyn nhw dderbyn tystiolaeth gadarn wrth iddyn nhw edrych ar effaith unrhyw gynlluniau unigol neu gynlluniau datblygu lleol.

Credwn fod y Bil yn creu cyfle amlwg, gan ei fod yn gwahaniaethu rhwng gwahanol feintiau o ddatblygiad, i wneud Aseiad Effaith Iaith (AEI) yn ofynnol ar 'ddatblygiadau sylweddol' fel y'u diffinnir yn y Bil, sef 10 uned o dai neu fwy.

Ffordd arall o gyflawni'r un nod fyddai dilyn cynsail aseidiadau effaith amgylcheddol sy'n gosod dyletswydd ar awdurdodau cynllunio i ystyried cynnal aseiad gan ddibynnu ar eu barn o ran yr hyn fyddai'n debygol o gael effaith ar yr iaith o dan yr amgylchiadau.

Credwn fod angen y sail dystiolaeth a gynigir gan AEI annibynnol, er mwyn galluogi cynghorwyr i wrthod, neu i ganiatáu cais cynllunio ar sail ei effaith iaith. Mae hynny'n golygu y byddai gwneud AEI yn ofyniad statudol ar ddatblygiadau 'sylweddol' yn mynd law yn llaw â sefydlu'r Gymraeg fel ystyriaeth berthnasol (material consideration) statudol.

Credwn y gellid ystyried cynnwys AEI o fewn aseiad ehangach ar gynaliadwyedd, yr amgylchedd neu aseiad effaith gymdeithasol. Mae cynsail Ewropeaidd dros wneud aseidiadau effaith amgylcheddol/gymdeithasol a fyddai'n cynnwys effeithiau datblygiadau ar yr iaith Gymraeg. Dylai hynny gael ei atgyfnerthu mewn deddfwriaeth fel y gellir sicrhau bod prosesau a strwythurau ar gyfer cynnal aseidiadau iaith yn cael eu gosod ar sail statudol. Oni bai bod hyn yn digwydd, bydd Awdurdodau Lleol ac eraill yn anwybyddu'r Nodiadau Cyngor Technegol perthnasol.

4. Datganoli grymoedd ystyrion dros geisiadau cynllunio i gymunedau, yn hytrach na chanoli grym yn nwylo gweinidogion

Rydym yn gwrthod y duedd beryglus yn y Bil i ganoli grym yn nwylo Gweinidogion yng Nghaerdydd, yn ogystal â bygwth diddymu neu uno awdurdodau cynllunio lleol. Yn lle, dylai'r Bil ddatganoli grymoedd i gynghorau cymuned er mwyn grymuso pobl ar lawr gwlad.

Credwn fod nifer o elfennau o'r Bil yn codi pryderon mawrion am ddiffyg democratiaeth yn y system gynllunio. Credwn fod y cynlluniau ar gyfer cynlluniau Datblygu Strategol yn annemocrataidd, a'u bod yn rhoi grym dros gynlluniau datblygu yn nwylo unigolion anetholedig.

Ymhellach, pryderwn yn fawr am y syniad y byddai modd cosbi neu dynnu pwerau oddi ar awdurdodau cynllunio nad ydynt yn dilyn cyfarwyddiadau gweinidogol. Mae'n codi'r cwestiwn: beth yw diben democratiaeth os nad oes hawl gan y rhai etholedig i wneud penderfyniadau sy'n groes i farn swyddogion anetholedig?

Ymhellach, credwn fod yr argymhellion ynghylch grymoedd cyngorau cymuned yn wan. Dylai cyngorau cymuned fod yn gwbl ganolog i'r broses o greu, caniatáu neu wrthod cynlluniau datblygu lleol a cheisiadau ar gyfer datblygiadau unigol.

Rydym wedi cynnwys nifer o ffyrdd y gellid gwneud hynny yn ein Bil Eiddo a Chynllunio drafft. Un ohonyn nhw yw cysyniad "Datblygiadau o fudd sylweddol i'r gymuned ac i ffyniant y Gymraeg", sef creu llwybr tarw i gynghorau cymuned roi caniatâd ar gyfer dosbarth o geisiadau sy'n bodloni meini prawf sy'n eu gwneud yn llesol i'r Gymraeg a'r gymuned yn ehangach.

5. Gosod ar wyneb y Bil gymal a fyddai'n sicrhau mai anghenion lleol fydd sail y drefn gynllunio, fel mai dyna yw'r dechreubwynt wrth i awdurdodau lleol bennu eu targedau tai yn hytrach nag amcanestyniadau poblogaeth

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau, adran 10. Asesiadau Angen Lleol)

Cafwyd eglurhad mai 'anghenion lleol' ddylai fod yn brif ystyriaeth wrth i awdurdodau lleol lunio Cynlluniau Datblygu Lleol yn ein cyfarfod gyda'r Gweinidog ar ddechrau mis Rhagfyr 2013. Credwn fod y Bil felly yn gyfle i gadarnhau bwriad y Llywodraeth mewn statud.

Yn y cyfarfod hwnnw, cyfeiriodd prif swyddog adran cynllunio'r Llywodraeth at yr angen i awdurdodau cynllunio gynnal "asesiad o'r farchnad dai leol" a'r "cynlluniau tai fforddiadwy", ac mai hynny yw dechreubwynt awdurdodau cynllunio wrth iddynt lunio Cynlluniau Datblygu Lleol. Fodd bynnag, mae'r hyn a ddywedodd yn groes i'r hyn a ddywedwyd gan Richard Poppleton, Cyfarwyddwr yr Arolygiaeth Gynllunio yng Nghymru ar y pryd, gerbron y Cynulliad:

"The Welsh Government informs the local authorities of the [population] projections, which is the starting point. If there is no starting point, everybody would be thrashing around asking where to start. The Welsh Government's housing projections are the starting point, with a certain variance. Local authorities take that as a starting point and the way in which Planning Policy Wales's manual is phrased means that the projections are regarded as being robust and should not be deviated from unless there are justifiable reasons."

Ymhellach, nodwn gasgliad canlynol Pwyllgor Amgylchedd a Chynaliadwyedd y Cynulliad mewn llythyr at y Gweinidog:

"Os bydd Awdurdodau Cynllunio Lleol eisiau defnyddio amcanestyniadau sy'n gwyro oddi wrth amcanestyniadau Llywodraeth Cymru, rhaid iddynt profi bod y gwyriad yn cael ei wneud ar sail 'tystiolaeth gadarn a chredadwy', fel y nodir ym Mholisi Cynllunio Cymru. Pan gafodd ei holi ar y pwynt hwn, cydnabu'r Gweinidog ar y pryd gymhlethdod y mater hwn a bod awdurdodau lleol a Llywodraeth Cymru yn anghytuno ambell waith. Fodd bynnag, dywedodd y gallai'r rhain gael eu datrys drwy drafodaeth."

Carem bwysleisio bod y Gymraeg yn dioddef ar hyn o bryd oherwydd y patrymau mudo presennol. Mae'r system gynllunio nid yn unig yn adlewyrchu'r patrymau hyn, ond hefyd yn dylanwadu arnynt, oherwydd fel mae pob economegydd da yn ei ddeall, mae cyflenwad yn arwain y galw yn ogystal ag i'r gwrthwyneb. Mae'n rhaid bod modd i awdurdodau cynllunio ddewis sut maen nhw am ddylanwadu ar y ffactorau hynny.

Yr hyn sy'n glir i ni am y broses yw'r canlynol:

- ✦ nid oes eglurder statudol ynghylch o ba ddechreubwynt y dylid llunio cynllun datblygu lleol, gan i swyddogion y Llywodraeth gynnig dadleuon gwahanol i'r Arolygiaeth Gynllunio ac i eraill;
- ✦ mae'r aneglurder yn arwain at wrthdaro rhwng barn awdurdodau lleol a Llywodraeth Cymru yn ogystal â gorddibyniaeth ar farn Arolygwyr Cynllunio nad ydynt yn cael eu hyfforddi yng Nghymru;
- ✦ bod baich ar gynghorau sir i brofi rheswm dros wyro oddi ar amcanestyniadau poblogaeth Llywodraeth Cymru;
- ✦ nid oes mewnbwn na thystiolaeth sy'n ofynnol, megis asesiad effaith iaith neu farn Comisiynydd y Gymraeg, fel rhan o'r broses statudol wrth lunio cynlluniau datblygu lleol ac ystyried ceisiadau unigol.

Credwn felly, y dylid ystyried y cynigion canlynol:

- ✦ gosod ar wyneb y Bil yr hawl i gynghorau sir osod targedau tai yn annibynnol o Lywodraeth Cymru, gan seilio eu hamcanestyniadau ar anghenion lleol a thwf naturiol y boblogaeth;
- ✦ gwneud Comisiynydd y Gymraeg yn ymgynghorai statudol ynglŷn â chynlluniau datblygu lleol a datblygiadau sylweddol, sef 10 uned o dai neu fwy;

Ymhellach, credwn fod nifer o wendidau eraill yn y system bresennol sef bod:

- ✦ rhagdybiaeth y bydd y rhan fwyaf o'r stoc tai yn anfforddiadwy i bobl ar gyflogau lleol;
- ✦ tai fforddiadwy yn ychwanegiad at system sydd yn ei hanfod yn un anfforddiadwy i bobl leol;
- ✦ diffyg cydnabyddiaeth o effaith bodolaeth tai anfforddiadwy ar y Gymraeg a chynaliadwyedd cymunedau;
- ✦ diffyg gofyniad statudol i ddefnyddio'r stoc bresennol, cyn adeiladu datblygiadau 'sylweddol' fel y'u diffinnir yn y Mesur drafft;
- ✦ amcanestyniadau poblogaeth sy'n cynnal a dwysáu problemau'r patrymau mudo presennol;
- ✦ diffyg grym statudol y tu ôl i ganllawiau Nodyn Cyngor Technegol 20

Mae'n Bil Eiddo a Chynllunio drafft yn ymdrechu i ddatrys nifer o'r problemau hyn, yn bennaf, drwy osod dyletswydd statudol ar awdurdodau lleol i gynnal asesiad o'r angen lleol am dai. Yr asesiad hwnnw fyddai'r dechreubwynt ar gyfer pennu'r targedau tai, yn hytrach na'r amcanestyniadau poblogaeth. Felly, byddai'n ffordd o ddileu'r ansicrwydd o ran (i) pwy sy'n gyfrifol am bennu'r targedau tai, sef yr awdurdodau lleol a (ii) beth yw'r ystyriaethau wrth ffurfio'r targedau hynny.

6. Sefydlu Tribiwnlys Cynllunio Cymru, gyda hawl i bobl a chymunedau apelio iddo, yn lle'r Arolygiaeth Gynllunio bresennol

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau, adran 21. Sefydlu Tribiwnlys Cynllunio Cymru & adran 22. Yr Hawl i Apelio i'r Tribiwnlys)

Credwn y dylid sefydlu Tribiwnlys ar wahân i Gymru yn lle'r Arolygiaeth Gynllunio yng Nghymru. Byddai hwn yn gorff a fyddai'n hyfforddi pobl yng Nghymru, gyda chanran uchel ohonynt wedi eu hyfforddi trwy gyfrwng y Gymraeg, gan sicrhau bod

gan y rhai sy'n gweithio i'r corff yng Nghymru ddealltwriaeth ddofn a thrwyadl o bolisiau cynllunio Cymru ac anghenion ieithyddol ac amgylcheddol Cymru.

Wrth i'r drefn gynllunio Gymreig wahanu o'r sefyllfa yng ngwledydd eraill Prydain, credwn fod creu sefydliad annibynnol yng Nghymru'n anochel.

Wrth sefydlu Tribiwnlys ar wahân, dylid edrych ar geisio datrys nifer o broblemau gyda'r sefyllfa bresennol, gan gynnwys y canlynol:

(i) Diffyg hawliau gan bobl ar lawr gwlad a'n cymunedau i apelio yn erbyn penderfyniadau – rydym yn ymwybodol o grwpiau gwyrdd a chymunedau sydd eisiau hawl i apelio ar lefel gyfartal â datblygwyr mawrion. Ymhellach, mae datblygwyr bychain yn mynegi pryder nad oes modd iddyn nhw ymwneud â'r broses apêl.

(ii) Anghyfartaledd mynediad at y broses gynllunio – mae nifer o gynghorwyr a chynghorau yn dweud eu bod nhw'n gwneud penderfyniadau oherwydd eu bod yn pryderu y byddai penderfyniad yr hoffon nhw ei wneud yn cael ei wrthdroi ar apêl. Datgenir hefyd nad oes modd i gynghorau, ac i raddau helaethach, cymunedau a phobl eraill, fforddio mynd i apêl yn wyneb grym datblygwyr mawrion. Yn wir, dyna oedd y profiad mewn achosion megis Penybanc yn Sir Gaerfyrddin a Land & Lakes yn Ynys Môn, lle gwelwyd cynghorwyr yn newid eu meddyliau o'u penderfyniadau cyntaf oherwydd pwysau gan swyddogion a datblygwyr.

7. Sicrhau nad yw awdurdodau cynllunio yn cael caniatáu datblygiadau pan fo modd diwallu'r anghenion o'r stoc tai presennol

(Gweler Bil Eiddo a Chynllunio er budd ein Cymunedau, adran 12. Diwallu'r angen lleol cyn datblygu)

Hanfod y pwynt polisi hwn yw y dylai fod yn anghyfreithlon rhoi caniatâd cynllunio ar gyfer tai newydd oni bai eu bod yn diwallu angen lleol na ellir ei ddiwallu o'r stoc bresennol. Golyga hyn na chaniateir datblygiadau hapfasnachol na thai unigol yn groes i gynlluniau lleol lle mae tai ar gael o'r stoc bresennol.

Byddai nifer o fanteision economaidd ac amgylcheddol i bolisi o'r fath gan y byddai'n rhoi hwb enfawr i'r gwaith o uwchraddio'r stoc dai bresennol a lleihau allyriadau a gwastraff o'r stoc bresennol yn ogystal â rheoli nifer y datblygiadau tai newydd yn well.

8. Rhestr Gwelliannau Arfaethedig - Cynigion Eraill

Amlinellir nifer o gynigion eraill yn ein Bil Eiddo a Chynllunio, ond yn dilyn ymgynghoriad ar y Bil, byddwn yn diwygio'n Bil gan adlewyrchu'r strwythur diwygiedig a'r elfennau ychwanegol canlynol:

1) Diben Statudol y Drefn Gynllunio:

- ◆ Diben Statudol y Drefn Gynllunio yw rheoli tir mewn ffordd sy'n gynaliadwy'n amgylcheddol, yn taclo tlodi ac yn hybu'r Gymraeg.

2) Ystyriaethau Perthnasol:

- ◆ Mae'r iaith Gymraeg yn ystyriaeth berthnasol ar gyfer ceisiadau cynllunio ym mhob rhan o Gymru;
- ◆ Gellir gwrthod neu ganiatáu cais cynllunio ar sail ei effaith ar y Gymraeg yn unig.

3) Continwmm Datblygu'r Gymraeg:

- ◆ Rhaid i awdurdod cynllunio gyhoeddi cynllun gweithredu Cymraeg fel rhan o'r Cynllun Datblygu Lleol ynghylch sut y bwriada gyrraedd sefyllfa lle'r Gymraeg fydd y brif iaith gymunedol ym mhob rhan o Gymru gan fabwysiadu un neu ragor o'r blaenoriaethau canlynol:
 - diogelu'r Gymraeg
 - cryfhau'r Gymraeg
 - hyrwyddo'r Gymraeg.

4) Asesu'r Effaith ar y Gymraeg:

- ◆ Rhaid i awdurdod cynllunio asesu effaith datblygiadau unigol ar y Gymraeg;
- ◆ Mae'r Comisiynydd Iaith yn ymgynghorai statudol;
- ◆ Rhaid i awdurdod cynllunio asesu effaith ei gynllun datblygu lleol ar y Gymraeg.

5) Parchu etifeddiaeth y Gymraeg ac enwau lleoedd:

- ◆ Ni chaniateir datblygiad oni bai bod unrhyw enwau llefydd neu enwau tai a ddefnyddir fel rhan o'r datblygiad yn Gymraeg ac y darperir arwyddion yn Gymraeg;
- ◆ Ni chaniateir newid neu ddileu enw Cymraeg ar roddir ar ddatblygiad, rhan o ddatblygiad, annedd neu nodwedd ddaearyddol heb gydsyniad Comisiynydd y Gymraeg;
- ◆ Lle bo datblygiad yn un ar gyfer tai, rhaid iddo wella darpariaeth a mynediad at addysg cyfrwng Cymraeg.

6) Anghenion Lleol fel Sail i'r Drefn Gynllunio:

- ◆ Rhaid i awdurdod cynllunio lleol gynnal asesiad angen lleol am dai cyn llunio neu adolygu Cynllun Datblygu Lleol a dylid pennu targedau tai yn seiliedig ar yr asesiad hwn.

7) Cynllunio i'r Gymuned:

- ◆ Ni chaniateir i awdurdod cynllunio roi caniatâd ar gyfer tai newydd oni bai eu bod yn diwallu angen lleol na ellir ei ddiwallu o'r stoc tai presennol;
- ◆ Gellir gwneud cais am ganiatâd cynllunio ar gyfer datblygiadau o fudd sylweddol i'r Gymraeg i'r cyngor cymuned perthnasol, neu os nad oes cyngor cymuned, i'r awdurdod cynllunio lleol.

8) Blaenoriaeth i Bobl Leol:

- ◆ Mewn ardaloedd lle mae diogelu'r Gymraeg yn flaenoriaeth, rhaid i'r awdurdod cynllunio lleol osod amodau ar ddatblygiadau newydd sy'n sicrhau'r cyfle prynu cyntaf i bobl leol a dod â phrisiau tai o fewn cyrraedd y boblogaeth leol.
- ◆ Sicrhau y caiff tai ar werth neu ar rent eu hysbysebu yn lleol

9) Sicrhau Tai Fforddiadwy

- ◆ Ni chaiff awdurdod cynllunio lleol ganiatáu cais cynllunio i dai sy'n anfforddiadwy i bobl leol.

10) Ailasesu Caniatâd Cynllunio Blaenorol:

- ✦ Rhaid diddymu yn syth unrhyw ganiatâd cynllunio a roddwyd bum mlynedd neu fwy yn ôl nas gweithredwyd neu a weithredwyd yn rhannol yn unig wedi i'r Ddeddf ddod i rym.

11) Ail Gartrefi

- ✦ Rhaid i berchnogion ail gartrefi yn gofrestredig gan yr awdurdod tai lleol;
- ✦ Rhaid i berchnogion hysbysu'r awdurdod lleol os yw'r eiddo heb ei feddiannau am gyfnod hwy na thri mis yn olynol neu gyfanswm o dri mis mewn unrhyw gyfnod o 12 mis;
- ✦ Ni chaiff perchennog eiddo nad yw'n brif eiddo iddi/o osod yr eiddo hwnnw ar rent am ran o'r flwyddyn yn unig.

12) Datganoli a Democrateiddio Trefn Gynllunio Cymru:

- ✦ Tribiwnlys Cynllunio Cymru - rhaid i weinidogion Cymru benodi Tribiwnlys Cynllunio Cymru fel y corff sy'n ymdrin ag apeliadau cynllunio;
- ✦ Caiff cyngor cymuned, Comisiynydd y Gymraeg, Comisiynydd Cenedlaethau'r Dyfodol neu unrhyw un a wrthwynebodd y cais gwreiddiol apelio i'r Tribiwnlys yn erbyn penderfyniad i ganiatáu cais cynllunio
- ✦ Mae achosion gerbron y Tribiwnlys i'w cynnal yn gyhoeddus

13) Dileu'r Hawl i Brynu:

- ✦ Dileu'r hawl i brynu tai cymdeithasol

14) Awdurdodau Cynllunio Lleol:

- ✦ Mae gan gymunedau'r hawl i greu Awdurdodau Cynllunio Lleol sy'n gyfrifol am geisiadau cynllunio o fewn eu ffiniau.

9. Casgliadau

Mae Bil Cynllunio Llywodraeth Cymru yn bell iawn o weledigaeth Cymdeithas yr Iaith Gymraeg ar gyfer trefn gynllunio a fyddai'n llesol i'r Gymraeg a holl gymunedau Cymru. Fodd bynnag, mae'n galonogol bod cymaint o gefnogaeth ar lawr gwlad i'n gweledigaeth ar gyfer trefn newydd a fyddai'n cryfhau'r iaith, yn taclo tlodi ac yn diogelu ein hamgylchedd.

Rydym yn erfyn ar i'r pwyllgor argymhell newid y Bil fel ei fod yn datganoli grym i'n cymunedau, yn rhoi lle canolog i'r Gymraeg yn y system ac yn seilio'r drefn ar anghenion lleol.

Grŵp Cymunedau Cynaliadwy, Cymdeithas yr Iaith Gymraeg

Tachwedd, 2014

Atodlen 1 - Bil Eiddo a Chynllunio Cymdeithas yr Iaith Gymraeg (2014)

<http://cymdeithas.org/cynllunio>

Nodyn Esboniadol: <http://cymdeithas.org/sites/default/files/NodynBriffio-YBilCynllunio.pdf>

Bil Amgen: <http://cymdeithas.org/sites/default/files/bil%20cynllunio%202014%20Cymraeg%20-%20CMYK%281%29.pdf>

Atodlen 2 - Gohebiaeth gyda Llywodraeth Cymru

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-y-gweinidog-carl-sargeant>

<http://cymdeithas.org/dogfen/bil-cynllunio-llythyr-swyddogion-cynllunio-llywodraeth-cymru>

Atodlen 3 - Cyngor Comisiynydd y Gymraeg

<http://www.comisiynyddygyymraeg.org/Cymraeg/Rhestr>

<http://www.comisiynyddygyymraeg.org/Cymraeg/Rhestr%20Cyhoeddiadau/20140225%20LI%20C%20Ymateb%20i'r%20Bil%20Cynllunio.pdf>

Mae cyfyngiadau ar y ddogfen hon

Ymchwiliad Pwyllgor Amgylchedd a
Chynaliadwyedd Cynulliad Cenedlaethol
PB 06
Bil Cynllunio (Cymru)
Ymateb gan Dyfodol I'r Iaith

**TO DDO
DYFODOL**

Llais i'r Iaith

**TYSTIOLAETH YSGRIFENEDIG
DYFODOL I'R IAITH**

Ymgynghoriad ar egwyddorion cyffredinol y Bil Cynllunio (Cymru)

I sylw

Rheolwr Craffu

Y Pwyllgor Amgylchedd a Chynaliadwyedd

Cynulliad Cenedlaethol Cymru

5 Tachwedd 2015

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Y CEFNDIR POLISI

Mae'n argyfwng ar y Gymraeg fel iaith hyfyw, yn yr ychydig gymunedau a threfi lle y mae hi'n dal i fod yn iaith y mwyafrif. Mae cefnogaeth eang yng Nghymru i'r syniad o gynnal yr iaith Gymraeg fel iaith gymunedol. Mae nifer fawr o Gymry nad ydynt yn ei siarad yn rhyfedd o falch o'r ffaith fod yna lefydd yn ein gwlad lle "na chlywch chi ddim byd ond y Gymraeg". Hynny yw mae bodolaeth y cymunedau ieithyddol hyn yn fater dirfodol i bobl Cymru, y tu hwnt i'r rhai sy'n siarad yr iaith.

PWRPAS CYFRAITH CYNLLUNIO

Heb gyfraith cynllunio, byddai rhyddid llwyr gan berchnogion a datblygwyr eiddo i wneud beth bynnag a fynnent ar eu tir, o godi adeiladau i brosesu cemegolion gwenwynig. Diben cyfraith cynllunio yw gosod rhyddid tirlfeddianwyr a datblygwyr yn y glorian a'i bwysu yn erbyn ystyriaethau eraill. Mae'r rhain yn cynnwys buddiannau cymdogion, yr amgylchedd neu'r gymuned, yn ogystal â materion sy'n cael eu hystyried i fod yn rhai y dylid eu diogelu o ran egwyddor e.e. henebion neu ystlumod. Felly er enghraifft, yn achos tyrbeini gwynt, rhoddir yn y glorian ar y naill law hawl y tirlfeddiannwr a'r angen am ynni glân, ac ar y llall ymyrraeth â byd natur a harddwch naturiol.

EFFAITH RHYDDID Y FARCHNAD AR YR IAITH GYMRAEG

Yn achos yr iaith Gymraeg, mae "rhyddid y farchnad" wedi gwneud lles ac wedi gwneud drwg. Er enghraifft, gellir dadlau bod y datblygu dwys a fu yng nghymoedd glofaol y de, cyn bod deddfau datblygu, wedi arwain at ddosbarth gweithiol a dosbarth canol diwydiannol Cymraeg eu hiaith sydd wedi galluogi'r Gymraeg i ddatblygu yn iaith fodern mewn modd na wnaeth yr un iaith Geltaidd arall. Mae hefyd wedi gwneud drwg, er enghraifft, ym maes ail gartrefi a thai haf.

Yng nghyd-destun y Gymraeg, gor-ddatblygu stadau tai a throi carafannau gwyliau yn anheddau parhaol ar sail eang yw'r enghreifftiau amlycaf o sefyllfa lle mae yna annhegwch sylfaenol

o ffafrio rhyddid y farchnad dros ddymuniadau pobl leol a'u cynrychiolwyr etholedig i warchod natur ieithyddol yr ardal.

PAM FOD RHEOLI DATBLYGU TAI AC ANHEDDAU MOR BWYSIG?

Nododd ffigurau'r Cyfrifiad diweddar fod cwmp wedi bod yn nifer y siaradwyr Cymraeg mewn ardaloedd a ystyrir i fod yn gadarnleodd. Mae'r rhesymau dros y cwmp ac ystyr y ffigurau eu hunain yn gymhleth. Yn sicr mae ffactorau cymdeithasol a seicolegol ar waith, yn arbennig o ran trosglwyddo'r iaith o fewn teuluoedd. Ystyriwn fod tebygolrwydd parhad yr iaith a'i throsglwyddiad yn uwch lle mae hi'n fyw fel iaith gymunedol bob dydd, ac mae rhywbeth y gellir ei wneud am hynny.

Mae'r iaith Gymraeg a chymunedau Cymraeg wedi croesawu pobl o'r tu allan erioed, ac mae amrywiaeth cyfenwau pobl sy'n siarad Cymraeg (yn Wyddelig, Seisnig, Eidalaid, Llychlynaidd, Ffrengig ac yn y blaen) yn dyst i hyn. Yr hyn sy'n wahanol nawr yw gallu'r cymunedau i gymhathu newydd-ddyfodiaid yn effeithiol, ymdrech a wneir yn anoddach fyth os cynyddir nifer y tai y tu hwnt i anghenion lleol.

Dengys gwaith ystadegol Hywel Jones (gynt o Fwrdd yr Iaith) yn eithaf clir fod iaith y "cyfarchiad cyntaf" yn troi o fod yn Gymraeg i fod yn Saesneg pan fo canran y siaradwyr Cymraeg mewn cymuned yn disgyn o dan 70%. Mewn geiriau eraill, does dim rhaid i'r Gymraeg fynd yn iaith leiafrifol cyn colli ei lle fel prif iaith y stryd.

Mae caniatáu adeiladu stadau tai mawrion sy'n mynd y tu hwnt i'r galw lleol am dai yn golygu bod y trothwy yma mewn peryg o gael ei gyrraedd yn gynt, gan (1) nad siaradwyr Cymraeg sy'n dod i fyw yno gan fwyaf a (2) fod y niferoedd gyfryw fel na ellir eu cymhathu i'r gymuned leol.

Gymaint yn fwy felly yw'r anawsterau i'r Gymraeg mewn llefydd lle mae hi'n iaith fwyafrifol o drwch blewyn, neu'n iaith lleiafrif swmpus. Yma mae'n parhau i gael ei defnyddio fel iaith gymunedol, ond nid iaith y cyfarchiad cyntaf. Mae datblygiadau tai mawrion yn prysuro ei thranc fel iaith gymunedol, ac mae'r ymdrechion i gymhathu hyd yn oed yn anos.

Gall cyfraith cynllunio helpu drwy sicrhau bod ystyriaethau fel hyn yn cael eu rhoi yn y glorian wrth ystyried ceisiadau, ac yn dwyn pwysau priodol, fel y mae ystyriaethau sy'n ymwneud â chadwraeth naturiol neu gadwraeth y "dreftadaeth adeiledig".

Er enghraifft, yn achos pentref Penybanc yn Sir Gaerfyrddin, lle mae'r Gymraeg yn iaith fwyafrifol o drwch blewyn, fe bleidleisiodd y cynghorwyr yn erbyn adeiladu nifer fawr o dai yn yr ardal ar y sail y byddai hynny'n peryglu sefyllfa'r Gymraeg.

Er gwaethaf hyn fodd bynnag, gwyrdröwyd penderfyniad y cynghorwyr yn dilyn cyngor gan y swyddogion cynllunio. Sut all hyn fod?

Mae'r ateb i'w ganfod yn natur y gyfundrefn gynllunio ei hun.

Sail y gyfundrefn yw deddfau cynllunio a wnaed yn San Steffan ac is-ddeddfau a wnaed gan weinidogion llywodraethau Whitehall a Chaerdydd.

At hyn, ceir dogfennau polisi sy'n datgan polisi canolog, a dogfennau "cyngor technegol", sy'n rhoi canllawiau i awdurdodau cynllunio sut i fynd ati i weithredu'r deddfau mewn amgylchiadau penodol.

O ran lle'r iaith Gymraeg yn y drefn cynllunio, ac eithrio pedwar paragraff go annelwig ym mhrif Bolisi Cynllunio Cymru, un o'r dogfennau "cyngor technegol" yma, sef TAN 20 fel y'i gelwir, yw'r cwbl sydd gennym.

ANNIGONOLRWYDD TAN 20

Yn y lle cyntaf, canllaw yw TAN 20, nid deddf. I'r graddau y bo'n gyfraith o gwbl, cyfraith feddal iawn yw. Dim ond talu sylw iddo y mae'n rhaid i awdurdod cynllunio ei wneud. Os na chedwir ato, beth wedyn? Mae hawl gan y datblygwr eiddo i apelio yn y fath amgylchiadau, ond dim hawl gan y cyhoedd fel y cyfryw.

Yn ail, mae TAN 20 yn weithredol ar lefel y cynllun datblygu lleol. Nid yw'n weithredol ar lefel cais cynllunio unigol.

Yn drydydd, mae pob TAN 20, gan gynnwys yr un diweddaraf, wedi pwysleisio mai "ystyriaethau cynllunio" sydd yn gorfod bod

yn drech wrth benderfynu ar geisiadau. Nid ymhelaethir ryw lawer ar hyn, ond mae'n ddigon eglur nad yw gwarchod y Gymraeg yn ystyriaeth o'r fath.

Yn bwysicach na hyn oll, oherwydd nad yw'n ddeddf, gellir *herio dilysrwydd TAN 20 ei hun* yn y llysoedd gan ddatblygwr y gwrthodir ei gais.

Mae mwy na sŵn ym mrig y morwydd fod rhai cyfreithwyr yn cynghori ei bod hi'n gyfreithiol annilys i gymryd sylw o effaith ar y Gymraeg *o gwbl* mewn penderfyniadau cynllunio, a felly bod TAN 20 ei hun yn anghyfreithlon.

Hyd yn oed os yw'r cyfreithwyr hyn yn anghywir, mae'r sefyllfa yn anghytbwys yn ei gwraidd, gan fod nerfusrwydd neu gyndynrwydd ar ran swyddogion a chynghorwyr polisi yn mynd i barhau. Ni ellir eu beio am hyn. Yn y pen draw, asesu risg yw gwaith swyddogion o'r fath. Mae'n haws rhoi cyngor diogel a gwneud penderfyniad na ellir mo'i herio yn y llysoedd, na chreu risg o gyfreitha yn erbyn yr awdurdod cynllunio.

Mewn geiriau eraill, nid yw'n eglur fod yr iaith Gymraeg yn gallu bod yn y glorian o gwbl dan y drefn bresennol, ac os yw yn y glorian, ychydig iawn iawn o bwysau y mae hi'n ei ddwyn. Yn gyfreithiol ac yn ymarferol, mae rhyddid y farchnad a'r datblygwyr yn drech na hi.

YR ANGEN AM SYLFAEN MEWN DEDDF

Beth sydd i'w wneud felly? Mae angen sicrhau dau beth:

- yn gyntaf, fod yr iaith Gymraeg yn y glorian,
- yn ail bod ganddi'r pwysau priodol mewn achosion priodol

a hynny heb unrhyw amheuaeth cyfreithiol.

Ni fydd dogfen bolisi newydd na chyngor technegol newydd yn ddigon i gyflawni hyn. Mae angen sylfaen mewn deddf.

Mae'n briodol cymharu sut y mae gan adeiladau hanesyddol, creaduriaid gwyllt ac ardaloedd pwysig o ran cadwraeth naturiol gyfundrefnau statudol sydd yn sicrhau eu bod yn cael eu diogelu

a'u rhoi yn y glorian mewn achosion cynllunio. Mae deddfau sy'n rhoi dyletswyddau, hawliau a grymoedd penodol i Cadw a Chyfoeth Naturiol Cymru yn rhan o'r cyd-destun hwn. Digwyddodd hyn gan nad oedd cyfraith feddal yn ddigonol i sicrhau'r warchodaeth angenrheidiol.

BETH YW'R ANGHENION?

Rhestr siopa fras yw hon, ond dyma y mae Dyfodol i'r Iaith yn credu sydd ei angen:

- 1. Datganiad statudol diamwys ei bod hi'n gyfreithlon i gymryd ystyriaeth o faterion yn ymwneud â hyfywedd y Gymraeg fel iaith gymunedol wrth ystyried ceisiadau cynllunio. Dyma'r lleiafswm y gellir ei ddisgwyl, ac ni fydd yn costio dim i'r pwrs cyhoeddus.**
- 2. Sefydlu cyfundrefn statudol (ar batrwm Cadw neu Gyfoeth Naturiol Cymru) dan oruchwyliaeth awdurdod lled braich oddi wrth y Llywodraeth sydd yn gyfrifol am ofalu nad yw datblygiadau yn effeithio yn andwyol ar hyfywedd y Gymraeg fel iaith gymunedol. Fel rhan o'r gyfundrefn gellid ystyried dynodi ardaloedd fel rhai o sensitifrwydd ieithyddol, lle byddai rhai mesurau penodol ar waith ee rhagdybiaeth yn erbyn caniatáu datblygiadau sy'n cynyddu nifer yr anheddau y tu hwnt i ryw ganran benodol**
- 3. Camau penodol eraill er mwyn diogelu'r Gymraeg gan gynnwys mewn perthynas ag enwau lleoedd.**

November 2014



**General principles of the Planning (Wales) Bill
A Response by Friends of the Earth Cymru**

Introduction

1. Friends of the Earth Cymru is part of Friends of the Earth England, Wales and Northern Ireland, and supports a unique network of local campaigning groups working in communities throughout Wales. Friends of the Earth Cymru inspires the local and national action needed to protect the environment for current and future generations, and believes that the well-being of people and planet go hand in hand.
2. We welcome the opportunity to respond to the Environment and Sustainability Committee's inquiry into the general principles of the Planning (Wales) Bill and would welcome the opportunity to give oral evidence and discuss this issue further as the committee undertakes its scrutiny.
3. We understand that the terms of reference for the inquiry are to consider the general principles of the Planning (Wales) Bill including the need for legislation.
4. Friends of the Earth Cymru's view is that some of the proposed legislation is unnecessary and counter-productive.

Sustainable Development

5. We are concerned at the failure to link the Well-being of Future Generations Bill aims and goals with the Planning (Wales) Bill. While Section 39¹ (Sustainable Development) of the Planning and Compulsory Purchase Act applies to the proposed National Development Framework and Local Development Plans, there should be a link on the face of the Bill.
6. We also believe it is essential to set out the purpose of planning in this Bill, and recommend that the Bill states that delivering on sustainable development is that purpose, in line with Planning Policy Wales (PPW). We refer you to paragraphs 1-10 of our response to the draft Planning (Wales) Bill which further outlines the case for this.²

¹ 39(2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development.

² <https://www.foe.co.uk/sites/default/files/downloads/proposals-reform-planning-system-wales-74131.pdf>

7. We would also draw your attention to the Aarhus Convention of which the UK is a signatory and which states in Article 1 Objective *In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.*

Public participation

8. There is duplication between the National Development Framework (NDF) and Strategic Development Plans (SDPs) and we are of the view that SDPs are unnecessary and should be dropped.
9. The most important element of public participation in planning decision-making is the right to be heard in person at local plan inquiries. This has not been afforded to persons affected by the NDF. We also note Article 7 of the Aarhus Convention which states: *Each party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public.* It also refers parties to the need for (Art 6(3)) *“The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public”* and *“for the public to prepare and participate effectively during the environmental decision-making”*. In addition Art 6(4) is extremely important *“Each party shall provide for early public participation, when all options are open and effective public participation can take place”*.
10. We recommend the Committee look carefully at the option of introducing a limited community (third) party right of appeal to rebalance the system, Given that private interests are able to appeal the decisions of planning authorities, it is broadly unfair that communities do not enjoy a set of similar but limited rights for matters of public interest.

Plan-led system and spatial planning

11. Section 8 (making 3 plans in effect the ‘development plan’ for any planning decision by a local planning authority) and the fact that the local plan has to be in conformity with the regional and national tiers, result in a much weakened local plan, with much of its responsibilities stripped away. Section 12 of the Planning Bill gives the Welsh Ministers a power to prepare a joint local development plans.
12. We note that the WLGA in their February 2014 consultation response to the draft Planning Bill expressed concerns: *“Whilst land use planning needs to operate at different spatial levels the relationships between plans need to be clear, their production must be properly synchronised and additional tiers of planning should not be introduced unless it can be clearly demonstrated how they will deliver improvement. The consultation document does not set out clearly what the benefits of proposed changes are expected to be.”*
13. In effect the Welsh Government is taking powers from local government (the opposite of devolution and subsidiarity) when it should be focusing on taking powers from Westminster. We are concerned that this pre-empts the full implementation of the Silk Commission recommendations and the impact of the Williams report in changing structure of local government in Wales.
14. We agree that there is an urgent need to tackle cross-boundary issues which is why we agreed with the principle of the Wales Spatial Plan, and there are clear issues which demand larger than local thinking e.g. mitigation of climate change emissions, adaptation

to climate change, transport, river basin management, major energy projects, and biodiversity.

Undemocratic planning

15. There is no case or evidence that introducing an undemocratic tier of planning and decision-making through strategic planning boards will enable communities across Wales to benefit from a streamlined system. In response to the draft planning bill we obtained legal advice as to the proposals for NDFs, SDPs and Welsh Ministerial decision making, which noted that this “introduces a degree of ministerial control which is unprecedented in England and Wales”.
16. We note that the WLGA have also raised concerns around dilution of democratic members’ roles and the creation of quangos in their response, and we share these concerns.
17. We are extremely concerned that corporate lobby groups who exist to promote private rather than public interest, such as volume house builders, have put themselves forward for the strategic boards (recorded in the Welsh Government’s response to the consultation). This in our view threatens public legitimacy and trust in the decisions that affect communities. Given the care taken to ensure that local planning committee members declare interests etc (see code of conduct for members), we do not see how the proposal to have a set of vested interests with no electoral accountability represented in decision-making can be reconciled with the principles of planning.
18. There must be fully democratic structures for deciding how society deals with issues such as “the strategy, population, strategic housing and employment sites, transport, retail, minerals and waste”.

Centralisation of decision-making

19. Nor do we believe that there is a case for introducing new legislation for ‘developments of national significance’. The Government could merely improve call-in powers, and focus on getting the over 50MW energy powers devolved.
20. Note also that the model for this legislation which is in the English Growth and Infrastructure Act (Section 26 - Bringing business and commercial projects within Planning Act 2008 regime) and the UK Planning Act 2008 (Part 3) sets out types of development and thresholds on the face of the legislation. Section 17 of the Planning (Wales) Bill merely inserts 62D (2) to the TCPA 1990 *A nationally significant development application is an application for planning permission for the development of land in Wales, where the development to which the application relates is of national significance.* The Explanatory Memorandum does state an intention for energy projects between 25MW and 50MW to be classified as Developments of National Significance (3.71) but no thresholds are mentioned for other types of developments.
21. Many significant developments will have huge local impacts – and the costs and impacts of the development will be felt locally (e.g. on services, transport, social and cultural heritage).
22. We would prefer to see an ATLAS style level of support to boost capacity around local government in Wales, to enable there to be a harmonious partnership between the skills and resources required to tackle the decision-making on major projects and the local government role³.

³ http://www.atlasplanning.com/page/about_atlas.cfm

23. Front-loading the development management process by making provision for pre-application services is welcomed but should be better integrated with the process for planning application consultation. The applicant for development has a vested interest in the outcome and therefore is not independent. Concerns are often raised by the public that they are not being listened to. Accountability is an important part of ensuring trust in a system.
24. We are also very concerned about the changes in relation to applications to register town and village greens. Sustainability requires us to think of the long term future of our communities. Land that is used for recreation is a valuable social and public asset, and protecting that land from development increases the value assigned to the area as a whole – both socially and economically. Developers do not necessarily have a long term interest in the area. This Section should be removed.

The Committee asks whether there are potential barriers to the implementation of these provisions and whether the Bill takes account of them.

The Committee’s pre-legislative scrutiny of the Draft Planning (Wales) Bill and the extent to which the revised Bill takes account of the Committee’s recommendations

25. We are disappointed that so many crucial issues raised by the committee’s pre-legislative scrutiny, and by many respondents to the public consultation to the Draft Planning (Wales) Bill, have not been addressed. We refer the committee to our response and recommendations to the draft bill⁴ which support the committee’s recommendations, as well as to specific comments below.
26. We support the Committee’s recommendation⁵ to include a Statutory Purpose for planning on the face of the Bill as recommended by the Independent Advisory Panel, and are disappointed to find that it has not be included in the Bill or even discussed in the Explanatory Memorandum (EM).
27. There is a total failure to address the Committee’s request to provide an explanation as to how the revised structures for land use planning are expected to function alongside other regimes such as for natural resources, transport and marine⁶. The Well-Being of Future Generations, Environment, or Heritage Bills are not mentioned in the Bill or EM.
28. No additional clarity has been provided for the definition of a Development of National Significance⁷ besides the proposal mentioned in the EM for energy developments between 25 and 50 MW to be categorised as Developments of National Significance.⁸
29. It is highly disappointing and of great concern that neither the Bill nor the EM contain a clear statement, as recommended by the Committee and by Planning Aid, setting out how the public can engage at each level of the proposed development plans⁹.
30. The Committee’s concerns over Strategic Development Panels, including that a third will be non-elected members, has not been addressed and the Government has not included in the Bill any way that ensures local communities will be heard in the planning process.

⁴ <https://www.foe.co.uk/sites/default/files/downloads/proposals-reform-planning-system-wales-74131.pdf>

⁵ Environment and Sustainability Committee letter to Carl Sargeant, Minister for Housing and Regeneration, on its findings and recommendations following scrutiny of *Positive Planning* and the Draft Planning Bill, 10 April 2014,

⁶ Ibid at para 2.6

⁷ Ibid at para 4.3

⁸ Explanatory Memorandum at para.3.71

⁹ Supra 3 at para.2.3

The EM merely asserts that the unelected members will comprise of representation from social, economic and environmental organisations, however this has no statutory footing.

31. The Bill fails to deal with the current delivery arrangements for planning in Areas of Outstanding Natural Beauty or give them equal protection from inappropriate development as is given to National Parks.¹⁰

Whether there are any unintended consequences arising from the Bill

32. In our view there are four major unintended consequences.

33. The first is that the local plan-led system is undermined because of the need to align three tiers of statutory plans. Transition, timings and co-ordination could mean that Wales simply has no effective development plan system for a number of years. In our view the local plan should remain the pre-eminent plan, and the Welsh Government should aim to maintain stability and ensure that plans in Wales are not immediately rendered out of date either by new legislative arrangements or unnecessary changes to PPW. While developers may welcome a free for all, the costs of speculative and short term decisions on development will fall on the taxpayer and local communities. We recognise that there are problems with the current local plan making system which need to be resolved, such as the flawed population projections to determine the demand for housing, but local plans remain the cornerstone of local land-use planning and public involvement.

34. The second unintended consequence is the impact on public participation and democratic accountability.

35. With regard to public participation, this happens in two ways;
- a. By undermining the local plan, the right to be heard and contribute through local plan inquiries becomes devalued as the plan's value and influence on development decisions falls or disappears.
 - b. Centralised decisions that bypass local government mean that opportunities such as speaking rights at planning committee, and the opportunity to speak to ward councillors or local planning committee councillors in people's local area are no longer relevant. It is clear that there is more value to the public in speaking at planning committee than there is in submitting a consultation response which can easily be set aside by national decision-makers.

36. In terms of democratic accountability, the democratic deficit is widened when the decisions are made nationally by Ministers on an increased number of decisions, or regionally by Boards that are not fully democratically representative.

37. Thirdly, there could be a perverse incentive for developers to scale up their proposals, e.g. for housing developments, in order to fall under the definition of Developments of National Significance and be subject to what might be seen as less rigorous process of decision by Welsh Ministers. This could result in housing developments that are not appropriate for the needs of the community.

38. And fourthly, the ability for developers to "bypass" local authorities is considered in the Impact Assessment as having the effect of reducing the number of applications made to an 'average' local planning authority by 50% (para 7.432 of the Regulatory Impact Assessment) – that has been designated as 'poorly performing'.

¹⁰ Ibid at para. 3.5

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)

39. We are concerned that the Welsh Government has not looked at the external costs and benefits for communities, having engaged with authorities and the development industry as explained in the Regulatory Impact Assessment: “The costs and benefits associated with each option have been produced using the best available information at the time. This information has been prepared through discussion with key stakeholders, including the Welsh Local Government Association (WLGA) and development industry.”
40. Indeed we cannot understand why the Welsh Government uses figures presented by the UK Secretary of State, Eric Pickles, in a speech in September 2011 as evidence, and the Killian Pretty Review, which was criticised at the time for failing to quantify the benefits of planning regulation.
41. The costs for the introduction of SDPs is put at £3.5 million, and interestingly relies on a ‘light touch’ LDP. It says that it will reduce “duplication” but essentially the same planning job will have to be done and planning departments are currently under-resourced. This figure is in our view is probably an under-estimate. And there is no indication of how the costs will pan out after local government reorganisation. We are concerned that there does not seem to be a reference to Audit Office figures here and would welcome clarification. Nor does the Welsh Government consider the “cost” to communities, it merely says that it will result in lower costs for the development industry as they will have to take part in fewer inquiries (paragraph 7.71 of the Regulatory Impact Assessment).
42. There is no estimate of the “external” costs – only the “cost of delay” to the development industry is quantified. This is a very internalised view of costs which says nothing about the costs to services, the public purse and the wider economy about decisions made poorly and in haste because of a particular private interest driver.

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)

43. Given the increase in Welsh Ministerial powers over planning decisions and structures that this Bill confers, we would recommend caution in the provision of significant further powers for Welsh Ministers to make subordinate legislation.
44. In particular we are concerned about the powers conferred in Section 17 relating to the criteria and type of developments to be dealt with as Developments of National Significance, and Section 22 - the procedure for considering applications made to Welsh Ministers.
45. If such decision-making powers are to be put in the hands of Welsh Ministers there should at the very least be assurance that the procedures for considering and determining those applications are to be fully scrutinised and open to amendments by the Assembly. Otherwise the power lies completely in the Minister’s hands not only as to what type of application they should decide upon, but how, to what timescale and who to consult. This is an unacceptable level of control to rest in a Minister’s hands.
46. A series of checks and balances is essential, and we would recommend that these provisions are set out in primary legislation to ensure full scrutiny and Assembly involvement, with changes made by Affirmative procedure in future.

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.

47. We would welcome clarification on the monitoring and reporting mechanisms that measure the positive benefit of the planning system i.e. in delivering affordable homes, ensuring adaptation and securing amenity and high quality places to live and work with connected services and so on.

Conclusion and summary

48. We are disappointed that this Bill as drafted would be a step backwards for public participation and local democracy in Wales, does not embed sustainable development in the planning process, and does not answer the concerns expressed by many organisations, and the Committee, during consultation on the draft Bill.

49. We would recommend the following key changes to this Bill;

- That the Bill states that delivering on sustainable development is the purpose of planning, and refers to the Well-being of Future Generation Bill.
- That the Welsh Government drop the proposals for Strategic Development Plans and Boards. These will duplicate the NDF on the one hand and the LDP on the other. However for cross border issues such as adaptation or river basin management, transport and biodiversity, it could be useful to prepare regional spatial evidence bases (that can be held as part of the NDF) and regional specific policies that could be adopted into the local development plans.
- That the Welsh Government drop the proposals for enabling developers to bypass local authority planning processes either due to those local authority in question being designated or the proposal being Developments of National Significance. Call-in powers should be improved instead.
- That the Bill introduce a community right of appeal to help redress the balance between developers and local communities, to create greater accountability, and enhance public participation in decision-making.

We would welcome the opportunity to give oral evidence to the committee during the scrutiny process.

Open Spaces Society response to call for evidence: Inquiry into the general principles of Planning (Wales) Bill

Summary

- The Open Spaces Society objects to part 7 of the Planning (Wales) Bill which will prevent local people from applying to register land as a town or village green when it is threatened with development.
- There is no evidence that the TVG process is undermining the planning process.
- The changes will severely prejudice local people, their health and well-being.
- We propose alternative measures which bring the village green process closely in line with the planning process, remove vexatious applications and speed up determination, without amending the law.

The Open Spaces Society (formerly the Commons, Open Spaces and Footpaths Preservation Society) was founded in 1865 and is Britain's oldest national conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and people's right to enjoy them, throughout England and Wales.

The society took a lead role when the Commons Bill (now Commons Act 2006) went through Westminster. It is this 2006 Act which the Planning (Wales) Bill proposes to amend. We are a statutory consultee under the Commons Act 2006. The society is represented on Wales Environmental Link and the Welsh Commons Advisory Group. We work with community councils, local authorities and the public. We are named as statutory consultees in regulations, under Playing Fields (Community Involvement in Disposal Decisions) (Welsh) Measure 2010.

This response deals solely with Part 7, 'changes in relation to town and village green legislation'. The society believes there is no need to introduce these provisions.



The Society strongly disagrees with the suggestion that the proposals strike a balance between the need to preserve land used as a town or village green (TVG) and providing greater certainty for developers. There is no evidence that the TVG process is undermining the planning process. The Independent Advisory Group (IAG) report concluded that the planning system is conceptually sound and not in need of root-and-branch reform. At point 5.58 the report stated that parallel procedures should be permitted unless there is a good reason for putting a planning permission in place first.

The report confirms that responses from town and community councils, other voluntary groups and the public showed it was difficult to engage in the LDP process or to influence policy decisions due to the combination of complexity, length of process and lack of transparency.

The IAG report notes the conclusion of the Penfold report; however the proposals go way beyond Penfold's conclusions. Penfold's recommendation H was that there be a review of the operation of the registration of TVGs in order to reduce the impact of the current arrangements on developments that have received planning permission. The report concluded that where the possibility of a TVG application has been considered as part of planning, the subsequent granting of planning permission should then provide protection from TVG application for the duration of the permission.

There is little evidence to justify such a proposed restriction on TVG applications. We are dismayed that the Welsh Government should advocate change when it has no up-to-date evidence to prove that change is necessary. We are also dismayed that it proposes to copy the Westminster Government in making these changes.

The Society proposes amendments to regulations and guidance, rather than new legislation, to improve the current system (see our appendix 1).

Potential barriers to the implementation of these provisions

One of the main difficulties is to align the greens system more closely to the planning process and to enable local people to apply to register rights to use land as they have for many years, while ensuring there are no delays.

To clarify, the Penfold review 2010 was concerned with consents required for a development other than for planning permission. It identified changes to ensure greater certainty, speedier decisions and reduced duplication. Non-planning consents (of which the village green process is but one) play an important role in delivering a wide range of government objectives. We trust that all of these are being looked at, rather than singling out the village green process, which has little or no impact on the planning system.

Across Wales over 90 per cent of planning applications are granted consent, 80 per cent of which are determined by some authorities within eight weeks (Independent Advisory Group report). We urge you to consider carefully the Penfold recommendations, which were that there be a review of the operation of registration of town and village greens in order to reduce the impact of the current arrangement on developments that have received planning permission. The report concluded that, where the possibility of a town or village green application has been considered as part of planning, the subsequent granting of planning permission should then provide protection from town or village green applications for the duration of the permission.



Unintended consequences

Our fear is that people will not know that the land they have used and loved is under threat from planning until it is too late to save it. Most people do not engage with the planning system, nor do they know that in order to protect their customary use of the land they must register it as a green. It is only when land is under threat that they realise that their use and enjoyment of it is at risk. It is grossly unfair to local people to introduce a system whereby they lose their rights with no opportunity to record them.

Green spaces in urban and suburban areas are vital for the health and well-being of the population, it is essential to have places where people can walk and children can play, which are close to home. These spaces may not be anything special, just a bit of scruffy land perhaps, but they give people a sense of place, and are of crucial importance. The proposals undermine the ability of local people to protect the places they love.

We feel that speculative planning applications will be made deliberately to engage one of the proposed new 'trigger events' and this will prevent genuine applications to record the historic rights of local people who have used the land for recreation for many years. The introduction of the landowner statements further restricts the rights of local people to apply to register land as a village green.

Financial implications of the Bill

The Department for Environment, Food and Rural Affairs (Defra) carried out a recent survey of village green applications (published June 2014). The figures show there are still few applications and that the new system, (following amendments to the Commons Act 2006 in England) with the cost of introducing it, has not reduced the total number of applications. Officer hours have more than doubled from 67 in 2011 to 148 in 2013. The number of applications is still low and in 2013 was only one fewer than in 2011 (2011: 123 applications; 2012: 132; 2013:122). However no such surveys have been carried out in Wales.

In addition new guidance and training will need to be provided.

The changes proposed in the Bill will require additional work for all planning authorities who will have to carry out research and respond to questions from the officers processing town and village green applications as to whether any 'trigger events' from Schedule 6 have taken place.

Conclusion

The Society proposes a more balanced approach.

1. Before allocating land for development, the local authority must be satisfied that the land is not capable of being registered as a town or village green, ie that local people have not enjoyed 20 years use of the land for informal recreation without being stopped or given permission.
2. If the authority is not satisfied with this, it must give early notification to local people so that they may gather evidence and submit an application for registration as a green if they wish to do so. The authority may allow sufficient time for local people to do this and must not process a planning application until the green status is resolved.

3. In addition, the process for registering town and village greens could be improved and should empower registration authorities to reject vexatious applications, as proposed in our appendix 1.

The Welsh Government has, in implementing other parts of the Commons Act, taken a different and better route than England. For instance, there has been no implementation of Part 1 of the Act, concerned with amendments to the common-land register, before the register has been digitised. We welcome the provision of funding by the Welsh Government for research in this area.

There are no exemption orders for works on common land in Wales, all works require ministerial consent. The severance provisions, allowing leasing of grazing rights, have been introduced in line with *Glastir* for the protection of common land.

In England, however, the government has attempted to mitigate against the draconian measures which restricted the rights of local people to apply to register land as a town or village green, (as contained in this Welsh Bill). This is the Local Green Space (LGS) designation, introduced under the National Planning Policy Framework (2012). This provision allows local people to apply to register the land as an LGS if it satisfies the criteria. The land then receives enhanced protection. While we are sceptical of the effectiveness of LGS and have yet to see how it will work, we are concerned that there appear to be no mitigation measures accompanying the Planning Bill.

We urge that the society's alternative proposals are considered and adopted. Representatives from the society have met the Minister, Carl Sargeant, and we should welcome the opportunity to continue discussions to find a workable solution.

Nicola Hodgson
Case Officer
6 November 2014



Appendix 1

Village greens in Wales The Open Spaces Society's proposals to improve practice and guidance without changing the law

The Open Spaces Society is calling for the following changes in law and procedure to safeguard land which in Wales which is registrable as a town or village green.

New provisions in planning law

Before allocating land for development, the local authority must be satisfied that the land is not capable of being registered as a town or village green, ie that local people have not enjoyed 20 years use of the land for informal recreation without being stopped or given permission.

If the authority is not satisfied of this, it must give early notification to local people so that they may gather evidence and submit an application for registration as a green if they wish to do so. The authority must allow sufficient time for local people to do this and must not process a planning application until the green status is resolved.

New guidance for greens registration authorities (no change in law needed)

Reduce the time and cost of determining greens applications

1. Tighten up the process whereby registration authorities determine that an application is 'duly made', by requiring applications to pass a basic evidential test. For instance, this could be a minimum number of evidence forms (perhaps related to the population of the locality or neighbourhood). If an application does not pass the test, it can be resubmitted with better evidence, but within a limited period.

Introduce time limits through the process

2. At present, the only statutory time-limit in the process is that the registration authority must allow a period of not less than six weeks, after an application has been published, during which objections can be lodged. We suggest the introduction of time limits as follows.
 - (a) The authority to determine when an application is duly made within x weeks of receipt.
 - (b) The authority to inform the applicant whether the application is duly made within x days of determination.

- (c) The authority to publicise the application within x weeks of determining that it is duly made.
 - (d) The authority to determine the application within x weeks of the closing date of notice period.
3. The authority to have the power to dismiss irrelevant objections.
 4. Applications normally to be determined by written representations or occasionally a hearing, not an inquiry. Use the Planning Inspectorate not barristers as inspectors.
 5. Decisions to be delegated to a subcommittee of the registration authority, which meets as often as is necessary to determine them.
 6. Introduce a simple appeal process (eg some form of tribunal) for both side, to avoid judicial review.

Deterring vexatious applications

7. Introduce an application fee, which is recoverable if the application is deemed to be valid.
8. Introduce a power to award costs against applicant where application is clearly fraudulent.

Attempting to reach agreement

9. Once an application is judged to be duly made, the registration authority consults the landowner to see if an agreement can be reached, between those with an interest in the land and the applicant, perhaps leading to a voluntary registration of the area, or part of the area, applied for, or for another area in exchange.

Ensure greater awareness between local authority departments

10. Duly-made greens applications to be logged with planning departments, and planning departments to inform registration departments of any planning applications affecting a potential green (CCRI research report 2009*, para 7.7.1 and 2). Successful greens applications logged with planning department (7.7.3).
11. Local planning authority to consult commons registration officer in preparing Local Development Plans and LDPs to be sent to commons registration officer on adoption (7.7.5).

*'Study of determined town and village green applications', by the Countryside and Community Research Institute (CCRI) and Asken Ltd, commissioned by Defra and published October 2009.



Environment and Sustainability Committee

Planning (Wales) Bill: Consultation on general principles

Submission by Planning Aid Wales

1. About Planning Aid Wales

1.1 Planning Aid Wales is the independent charity providing planning aid services in Wales. With funding support from Welsh Government we work to help individuals and communities engage more effectively with the planning system. We provide impartial information and guidance via a website, guidance publications, an advice Helpline and training programmes. We also work with planning authorities and Welsh Government to encourage meaningful community involvement in the planning process.

1.2 Our services are delivered by a small staff team supported by a Wales-wide network of around 70 planning and community volunteers. An independent Management Board of Trustees oversees the running of Planning Aid Wales and sets the direction and strategy for the organisation. For more information, please visit:

<http://www.planningaidwales.org.uk/about-us>

1.3 When seeking to influence national policy development, Planning Aid Wales aims to make the planning system more accessible and equitable by removing barriers to community involvement.

2. Key issues

2.1 Our observations on the general principles of the Planning (Wales) Bill fall under four main headings: Integrated explanation of planning hierarchies; Development plan hierarchy; Development management hierarchy, and; Pre-application consultations.

Integrated explanation of planning hierarchies

2.2 The Planning (Wales) Bill as introduced will significantly change the 'shape' of the Welsh planning system. The changes will have significant impacts on the opportunities available for local communities to understand and engage meaningfully with the main components of planning process - development plan preparation and development management.

2.3 Our experience of helping local communities to engage with the planning system demonstrates that understanding the general ‘shape’ of planning is an essential prerequisite before effective engagement can happen. Without some understanding of broader context, communities seeking to influence outcomes in the planning process are placed at a disadvantage. This applies to community involvement in both plan-making and deciding planning applications.

2.4 **An integrated and carefully structured explanation of the new planning hierarchy is needed to help address this.** The explanation, or ‘route map’, should express clearly all the opportunities for public participation in planning, from the national strategic level down to implementation on the ground. The route map will help local planning authorities, developers and others to engage more fruitfully with communities when they seek useful comments on planning applications or set out to involve the public in plan-making.

2.5 To generate maximum benefit, the route map will need to make explicit the links between principal elements of the proposed development plan and development management hierarchies. Examples of the need to explain such links are between the National Development Framework and Developments of National Significance, or between the Local Development Plan and Major Developments, or between the Local Development Plan and Place Plans.

2.6 While these links may be evident to the seasoned planning professional, our experience suggests that lay people will struggle to understand and engage with the reformed planning process without a carefully crafted route map to illustrate the connections.

Development plan hierarchy

2.7 The new hierarchy will introduce two completely new elements - the National Development Framework and Strategic Development Plans (SDPs). Local Development Plans will continue to be prepared for each planning authority area, but in conformity with the National Development Framework (and SDP if applicable).

National Development Framework

2.8 There is no clear strand of public engagement proposed for preparation of the National Development Framework (NDF), which will be the most important part of the Development Plan for all parts of Wales. **There needs to be systematic and early engagement of the general public, local communities in areas of likely development pressure, and other stakeholders in devising a shared vision for Wales.**

2.9 The proposals for preparing the NDF will be less rigorous than for a Local Development Plan, and there will be less opportunity to ensure it is robust. The

Framework will be produced in-house by Welsh Government with public engagement limited to a statutory twelve week period.

2.10 Since the NDF will provide a framework for decisions taken on Developments of National Significance, and all Strategic Development Plans and Local Development Plans will need to be in conformity with it, it is vital that there are clear opportunities for the general public to be involved in its preparation.

Strategic Development Plans

2.11 In those areas where a Strategic Development Plan is proposed, there need to be meaningful opportunities for local communities to participate directly in its preparation process.

2.12 Planning Aid Wales recommends introduction of a statutory mechanism to allow proportionate and effective community engagement during the early stages of Strategic Development Plan preparation. Such a mechanism will help to manage expectations whilst maintaining public confidence in the planning system.

2.13 Local community interests should also be represented on the SDP Panels. This is important given that one third of the members will not be democratically elected, eroding the necessary links between communities and decisions on strategic plans.

Local Development Plans

2.14 Planning Aid Wales identifies the early, strategy-setting stages of Local Development Plan preparation as a particularly effective and meaningful route for community engagement in planning. It is vitally important that early-stage community engagement is conducted by local planning authorities as a concrete demonstration of their, and the Welsh Government's, commitment to maintaining a transparent and accountable planning system.

Clarification of the role of Community and Town Councils and Place Plans

2.15 Planning Aid Wales strongly supports the principle of Place Plans and we are committed to helping Welsh Government achieve its objectives for community engagement through Place Plan preparation.

2.16 However, local communities in those areas without a community or town council (comprising around 30% of the Welsh population) will not have an opportunity to work with local planning authorities to develop Place Plans. Urban areas in particular, where development pressures tend to be concentrated, have relatively poor local council coverage.

2.17 We urge consideration of a mechanism allowing preparation of Place Plans (or equivalent) in areas not covered by community or town councils.

We also suggest that planning authorities should be encouraged to work with groupings of community or town councils to develop Place Plans.

2.18 We also consider that secondary legislation is needed to usefully define the role of Community and Town Councils in planning, preparation of Place Plans and requirements on local planning authorities to support their preparation.

Development management hierarchy

2.19 The development management hierarchy will introduce new elements including Developments of National Significance, Direct Applications to Ministers, and pre-application consultation on Major Applications. There will be new ways of processing some planning applications and changes to the opportunities offered to third parties to be involved in decision-making, which have the potential to create confusion.

2.20 As above (paras. 2.2 to 2.5), we see the need for a clear route map showing the opportunities that will be available for the public to participate in decision-making on the different types of planning application at different levels in the new development management hierarchy.

Pre-application consultations

2.21 Planning Aid Wales supports the principle of pre-application consultation on major developments. However, it will only be of value if it is done well. A current Welsh Government consultation (*Frontloading the Development Management System* – see: <http://wales.gov.uk/docs/desh/consultation/141006frontloading-consultation-document-en.pdf>) outlining proposed procedures to be followed by scheme promoters suggests that the full potential is unlikely to be realised. In essence, the consultation envisages promoters of major schemes as consulting local people before the application is submitted in much the same way as the planning authority will consult local people once the application is submitted. Care will be needed to ensure that this new process adds value and does not contribute to consultation fatigue.

2.22 Our work with local communities demonstrates that robust consultation processes serve to improve people's trust in the planning system, while poor consultation experiences often serve to undermine confidence.

Environment and Sustainability Committee Planning Bill

Sustrans submission to Environment and Sustainability Committee's inquiry into the Planning (Wales) Bill

November 2014

Summary

1. Sustrans Cymru welcomes the opportunity to contribute to the committee's enquiry into the Planning (Wales) Bill as introduced by the Welsh Government. We previously responded to the consultation on the "Positive Planning" White Paper issued by the Welsh Government.¹
2. Sustrans is a leading UK charity enabling people to travel by foot, bike or public transport for more of the journeys we make every day. We work with families, communities, policy-makers and partner organisations so that people are able to choose healthier, cleaner and cheaper journeys, with better places and spaces to move through and live in.
3. While having clear national guidance on planning strategy is important, we have concerns that the Planning (Wales) Bill could negatively impact on local community involvement in the planning process. In particular, the creation of Strategic Development Plans (SDPs) adds an extra tier higher up in the process.
4. We welcome the fact that transport is now considered a key element of SDPs. In the White Paper transport was not listed as a key area for cross local authority planning. Travel to work areas cross local authority boundaries, and with the effective dissolution of the Regional Transport Consortia, it is important there is a mechanism for combining transport and planning at a regional or travel to work area level.
5. Town and Village Green applications are often used in a way that was not intended, and as a delaying tactic. As a smaller organisation, the time and cost of dealing with these applications can be costly. We support the Welsh Government's planned reforms of Town and Village Green applications, but it is of vital importance that community involvement in the planning process is increased in other areas.
6. There is a clear link between planning and public health – for example by designing our communities so that cycling and walking is the most direct way to get around. The legislation could aid this by introducing mandatory Health Impact Assessments in certain circumstances, and by making Public Health Wales a consultee at a national and strategic planning level.

National Planning Framework and Spatial Development Plans

7. Sustrans Cymru believes that planning system has greater potential to engage with local communities, ensuring active community participation to utilise land for the public good. As part of our work, we engage local people at the earliest possible stage in shaping their communities; for example as part of the 'Greener Grangetown' project with Welsh Water, and our recent National Cycle Network (NCN) programme funded by the Big Lottery Fund, where each project had a local steering group involving members of the local community.
8. However, there is a role in planning for national and regional strategy. New national strategy that comes out of the National Development Framework could be useful in helping to 'tidy up' existing planning policies. Lessons should be learnt from the development of the National Planning Policy Framework in England, however, where in places there have been discrepancies between policy and guidance. It is important that all participants in the planning system can have a clear understanding of policy and guidance.
9. There is also need for planning at a sub-national level, which crosses local authority boundaries. In particular, travel to work areas cross council boundaries and so planning policy needs to be developed across authority boundaries.
10. In section 5.29 of the Positive Planning White Paper, transport was not listed as a key issue that the SDPs would need to cover. We welcome the alteration in the draft Bill, which makes it clear that transport is crucial in cross authority planning. This is especially important considering the effective dissolution of Regional Transport Consortia, bodies which had previously assumed a role in regional transport planning and delivery.
11. While these national and regional plans are important, Sustrans is concerned that the legislation moves planning policy further away from local communities and will become overly centralised. There is a risk that while the national framework approach will provide greater certainty for developers, that local issues and communities could be disengaged from the process. We believe the legislation could be improved to ensure greater community involvement as part of the planning process.
12. In principle, Sustrans Cymru has no objections to pre-application notification and consultation. However, the Bill does not make it clear how non-statutory bodies and members of the public can engage with these processes on matters of national significance. We would welcome additional guidance in this area.
13. Moreover, as written the Bill may place local authorities and local communities on the defensive when it comes to new development in Wales and may mean only well-resourced national groups could get involved in the process. Sustainable Development is built around the involvement of local communities in their own future
14. Community involvement is an essential element in delivering sustainable development, and reform of the planning system must ensure that people are able to shape their surroundings more effectively.²
15. With local government reform on the horizon following the reporting of the Williams Commission, Sustrans would welcome further information as to how the legislation and guidance will be future-proofed. In particular, a reduction in the number of councils would impact on SDPs. As the City Regions develop, we would welcome further clarity about how this level of governance would be included as part of the planning process.

Town and Village Green applications

16. Sustrans – in Wales and across the United Kingdom – has experience of dealing with Town and Village Green applications. Our main work is building (or supporting the building of)

paths for active travel. It is unclear, both to developers and communities, about what level of development is permitted on a Town and Village Green.

17. We have also begun to see this legislation used retrospectively as a delaying tool by local communities to prevent agreed development. This can add significant delays and costs, which can put projects at risk. In Wales, the majority of funding for walking and cycling projects from the Welsh Government comes in an annual cycle, meaning unexpected delays in the planning system can cause the cancellation of a project.
18. As we have expressed earlier in our response, it is important to engage local communities in the development of their community. This is why, for example, we gave evidence calling for extensive consultation as part of the Active Travel (Wales) Act.^{3 4}
19. Sustrans, therefore, supports the Welsh Government's plans to reform the application of registering Town and Village Greens, but we stress that the planning system must support increased community engagement at earlier stages.

Other issues

20. Sustrans Cymru supports the provisions to allow an appeal against a Local Planning Authority (LPA) failing to lodge a planning application. Sustrans Cymru is involved in a number of planning applications where the LPA is unfamiliar with the detail and therefore can request an inappropriate amount of material to validate the appeal.
21. On occasion, information provided by LPAs can be conflicting and lead to extended delay. For example, incorrect information on how to provide payment to register a planning application can cause delay. Therefore, Sustrans Cymru supports the ability to appeal against the non-registration of a planning application by an LPA.
22. We are concerned that introducing fees to cover the costs of Welsh Ministers may make it impossible for smaller organisations, local communities and individuals to appeal planning decisions, and we would welcome further information and guidance as to how this would work in practice.
23. There are clear links between planning and improving public health; for example by designing our communities so that cycling and walking become the normal and obvious way to make everyday shorter journeys. Sustrans believes there is merit in making Public Health Wales a statutory consultee as part of the planning process, and bringing forward Health Impact Assessments (HIAs) to ensure that public health considerations are taken into account.⁵
24. Sustrans Cymru believes that local communities can benefit from the planning system through the application of section 106 funds and the Community Infrastructure Levy. Therefore, it is important that the Planning Bill aids local communities in making the most of these funding streams.
25. Sustrans Cymru recognises the need to review the role of Design and Access Statements, however we are concerned that without guidance on their future use this change will send the wrong message to developers. In preparing schemes it is important that developers demonstrate how the design and layout of a proposed development will provide safe and attractive routes and how these will link with existing communities and facilities.
26. The Design and Access Statement should be a tool for communicating how these decisions are made and how all users will be accommodated in the development. It is also an

opportunity for developers to explain how the local community have been involved in identifying and prioritising routes and links and contributing to the design process overall.

Conclusion

27. Sustrans Cymru has no practical objection to a National Development Framework or Strategic Development Plans. However, we believe the planning system should support local community involvement, and we remain concerned that this legislation provides clarity for developers, but risks making it more difficult for local communities to engage.
28. We welcome the inclusion of transport as a key element of Strategic Development Plans.
29. We support the Welsh Government's proposed changes to the registering of Town and Village Green applications, but urge caution that this change must come while ensuring local communities have real say in the planning of their local area.
30. The legislation could develop a greater link between planning and public health.

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¹ Sustrans Cymru submission to Welsh Government's Positive Planning White Paper Consultation, February 2014 <http://www.sustrans.org.uk/sites/default/files/images/files/2014-02%20Positive%20Planning%20Welsh%20Government.pdf>

² Civic Voice response to the Department of Communities and Local Government's review into the National Planning Policy Framework, February 2011, http://www.civicvoice.org.uk/uploads/files/National_Planning_Policy_Framework_Civic_Voice_submission.pdf

³ Sustrans Cymru response to Enterprise and Business Committee enquiry into the general principles of the Active Travel (Wales) Bill, March 2013

<http://www.sustrans.org.uk/sites/default/files/images/files/policy/submissions/2013-03-08%20Enterprise%20and%20Business%20Committee%20Written%20Evidence%20AT%20Bill.pdf>

⁴ Sustrans Cymru response to the Welsh Government consultation on the Delivery Guidance accompanying the Active Travel (Wales) Act, July 2014, <http://www.sustrans.org.uk/sites/default/files/images/files/2014-07%20Active%20Travel%20Act%20Delivery%20Guidance.pdf>

⁵ Sustrans Cymru submission to Welsh Government's Public Health White Paper Consultation, May 2014, <http://www.sustrans.org.uk/sites/default/files/images/files/2014-05%20Public%20Health%20White%20Paper.pdf>

Eitem 7.1

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



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref LF/CS/1240/14

David Melding AC
Cadeirydd
Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
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2 Rhagfyr 2014

Annwyl David Melding AC

Bil Cynllunio (Cymru) – Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol – Rhagor o Wybodaeth

Diolch am fy ngwahodd i'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ar 10 Tachwedd 2014 i roi tystiolaeth ar Fil Cynllunio (Cymru).

Yn y cyfarfod, ymrwymais i roi rhagor o wybodaeth i'r Pwyllgor ynghylch nifer o bynciau. Mae'n bleser nawr cael rhoi'r wybodaeth honno. Mae hi i'w gweld isod, gyda rhagor o fanylion i esbonio rhai pwyntiau a godwyd gan Aelodau'r Pwyllgor. Rwyf am ddelio â phob pwynt yn ei dro:

1. Disgrifio'r gorgyffwrdd rhwng y Biliau Cynllunio, Llesiant Cenedlaethau'r Dyfodol a'r Amgylchedd

Gweler yn amgaaedig yn Atodiad 1 y ddogfen y cyfeiriais ati yn y Pwyllgor. Mae'n esbonio'r cysylltiadau rhwng y Bil Cynllunio, Bil Llesiant Cenedlaethau'r Dyfodol a Bil yr Amgylchedd.

2. Manylion ceisiadau Rhyddid Gwybodaeth o ran y broses cyn ymgeisio. Ceisiadau Rhyddid Gwybodaeth a sut mae hyn yn gweithio gyda'r broses cyn ymgeisio?

Bydd yr is-ddeddfwriaeth sy'n ymdrin â gwasanaethau cyn ymgeisio yn darparu pryd y bydd angen gwasanaethau cyn ymgeisio, natur y gwasanaeth a'r gofyn i gyhoeddi dogfennau a gwybodaeth. Bydd hyn yn ei gwneud yn ofynnol i awdurdodau cynllunio lleol a Gweinidogion Cymru gadw cofnodion y gwasanaethau cyn ymgeisio a

chyhoeddi gwybodaeth am y mathau o wasanaethau cyn ymgeisio a ddarperir. Bydd hyn yn sicrhau bod y broses yn agored ac yn dryloyw ac yn sicrhau na all y gwasanaethau cyn ymgeisio fod yn destun llygredd na chamdrin ariannol.

Os caiff Llywodraeth Cymru neu awdurdod cynllunio lleol gais Rhyddid Gwybodaeth am wybodaeth a ddelir ar wasanaethau cyn ymgeisio, bydd yn rhaid ei datgelu. Fodd bynnag, wrth benderfynu p'un ai i ryddhau gwybodaeth ai peidio, bydd hynny'n dibynnu a oes ymrwymiad ar y corff cyhoeddus i ddiogelu'r wybodaeth honno. Wrth ddatgelu gwybodaeth, rhaid i gorff cyhoeddus ddilyn y cyfreithiau sy'n ymwneud â thrin gwybodaeth. Ceir tri darn o ddeddfwriaeth sy'n rheoli sut i drin ceisiadau am wybodaeth:

- Deddf Diogelu Data (DPA) 1998.
- Deddf Rhyddid Gwybodaeth (FOIA) 2000.
- Rheoliadau Gwybodaeth Amgylcheddol (EIR) 2004.

Dywedais yn ystod y broses graffu y byddai angen imi ofyn a oes gennym Gymhwysedd mewn cysylltiad â cheisiadau Rhyddid Gwybodaeth, hynny mewn perthynas â chael cyngor ar effaith datgelu gwybodaeth ar hawliau dynol. Rwyf wedi cael cadarnhad nad oes problemau o ran cymhwysedd ynghylch datgelu gwybodaeth.

3. Ystyr Datblygiadau o Arwyddocâd Cenedlaethol; (DNS).

Yn Cynllunio Cadarnhaol, ymgynghorais ar y cynnig mai Gweinidogion Cymru fydd yn penderfynu ar geisiadau a ddiffinnir fel Datblygiadau o Arwyddocâd Cenedlaethol (DNS). Dyma'r diffiniad o Ddatblygiad o Arwyddocâd Cenedlaethol yn Cynllunio Cadarnhaol:

“... (ni) cheir llawer ohonynt o ran eu nifer ond (maent yn) bwysig iawn i Gymru oherwydd eu manteision a'u heffeithiau posibl. Gall materion technegol cymhleth fod yn gysylltiedig â hwy ... Yn y pen draw, mae llawer o'r ceisiadau hyn eisoes yn cael eu cyflwyno i Weinidogion Cymru benderfynu arnynt, naill ai drwy gael eu galw i mewn, neu, fel rhan o apel...”

Cafodd y categorïau a'r trothwyon a gynigir ar gyfer DNS eu cyhoeddi yn Atodiad B, sydd wedi'i atgynhyrchu yn Atodiad 2 y papur hwn. Roedd bron 70% o'r ymatebwyr yn cytuno â'r categorïau yn Atodiad B a dywedodd rhai nad oedd gan yr ACLlau yr arbenigedd angenrheidiol i allu ymdrin â rhai o'r materion. Dywedwyd hefyd y dylai'r meini prawf ar gyfer DNS fod yn ddigon hyblyg iddynt allu cael eu newid neu eu hestyn.

Holwyd hefyd yn Cynllunio Cadarnhaol ynghylch y broses ar gyfer ystyried y ceisiadau hyn, gan gynnwys yr angen am ymgynghoriad gorfodol cyn ymgeisio. Roedd 97% yn cytuno â'r cynnig hwn. Yn yr un modd, cafwyd cefnogaeth fawr i godi ffioedd am gyngor cyn ymgeisio ar geisiadau o arwyddocâd cenedlaethol.

O ran caniatadau cysylltiedig, roedd mwyafrif yr ymatebwyr, 81%, yn cytuno â'r cynnig ar gyfer trin caniatadau cysylltiedig gan gredu y deuai â buddiannau, gan gynnwys ystyriaeth fwy cynhwysfawr i gais ac y byddai un corff penderfynu'n cyflymu'r broses. Dywedwyd hefyd gan ymatebwyr y byddai'r cyhoedd a'r rheini yr

ymgynghorir â nhw yn eiwa ar y broses gan y byddent yn gallu llwyr ystyried effeithiau cynllun yn ei gyfanrwydd ar ddechrau'r broses ymgysylltu.

Ymdrinnir â Datblygiadau o Arwyddocâd Cenedlaethol yn y Fframwaith Datblygu Cenedlaethol (FfDC) fydd yn destun ymgynghoriad cyhoeddus am 12 wythnos, gyda Gweinidogion Cymru yn ei ystyried wedi hynny. Caiff drafft terfynol yr FfDC ei roi ger bron y Cynulliad am gyfnod o 60 diwrnod iddo ei gymeradwyo. Dim ond y datblygiadau hyn a'r rheini sy'n bodloni'r amodau yn y rheoliadau fydd yn cael eu cyfrif fel Datblygiadau o Arwyddocâd Cenedlaethol. Gellir arolygu ac adolygu'r FfDC unrhyw bryd cyn belled â'i fod yn cael ei graffu ymhellach. Caiff arweiniad ei gyhoeddi yn disgrifio'r broses hon.

- 4. Y rhesymau dros ddefnyddio gweithdrefnau negyddol a chadarnhaol mewn cysylltiad â'r adrannau newydd sydd wedi'u mewnosod gan adrannau 44 a 45 y Bil yn Neddf Cynllunio Gwlad a Thref 1990. Yn arbennig, o gofio bod adran 44 a pharagraff 18 Atodlen 4 y Bil yn gosod beichiau ariannol ar y cyhoedd, pam ydych chi wedi dewis y weithdrefn gadarnhaol ar gyfer paragraff 18 Atodlen 14 (a fewnosodir gan adran 303(1B)) a'r weithdrefn negyddol ar gyfer adran 44 (a fewnosodir gan adran 322C).**

Mae paragraff 18 Atodlen 4 yn ymdrin â'r ffioedd a godir gan Weinidogion Cymru mewn cysylltiad â'u swyddogaeth pan gyflwynir cais iddynt. Codir am y ffioedd hyn cyn gwneud cais a gallai olygu rhai beichiau ariannol ar yr ymgeisydd. Mae'r gwelliant yn mewnosod darpariaethau yn adran 303 Deddf Cynllunio Gwlad a Threfn 1990 ac mae'r rheoliadau yn yr adran honno eisoes o dan y weithdrefn gadarnhaol.

Ar y llaw arall, mae adran 322C yn ymdrin â chostau y mae Gweinidogion Cymru neu bartïon cais, apêl neu atgyfeiriad at Weinidogion Cymru wedi'u hysgwyo. Bydd Gweinidogion Cymru yn cael gorchymyn yr ymgeisydd, yr apelydd, yr atgyfeirydd, yr awdurdod cynllunio lleol neu barti arall i dalu am y costau hyn neu ran ohonynt. Gallai Gweinidogion Cymru hefyd wneud gorchymyn ynghylch costau'r ymgeisydd, apelydd neu barti arall. Bwriad yr adran hon yw sicrhau, os yw parti wedi ymddwyn yn afresymol, bod dyfarniad yn gallu cael ei roi i bartïon eraill i ad-dalu iddynt y gost ychwanegol y bu'n rhaid iddynt ei hysgwyo o ganlyniad i'r ymddygiad afresymol. Caiff Gweinidogion Cymru bennu swm dyddiol safonol sy'n adlewyrchu'r costau hynny. Bwriedir i'r swm dyddiol safonol adlewyrchu'r swm a wariwyd gan Weinidogion Cymru. Gallai newid yn rheolaidd yn ôl ffactorau economaidd a staffio. Bwriedir i'r costau adlewyrchu'r costau adeg delio â'r achos ac o'r herwydd, rhaid wrth hyblygrwydd.

Y gwahaniaeth pennaf rhwng yr adran hon ac adran 303 yw fel a ganlyn. O dan adran 303, rhaid talu ffioedd cynllunio ac eraill, waeth beth yw'r amgylchiadau. Mae'r ffioedd a bennir yn yr adran hon i bob pwrpas yn pennu lefel yr incwm y bydd awdurdodau cynllunio lleol yn ei dderbyn wrth wneud eu gwaith rheoli datblygu. Yr unig amrywiad yw'r newid yn nifer y ceisiadau a ddaw i law. Ar y llaw arall, o dan adran 322C, rhaid i orchymyn costau adlewyrchu'r costau sydd wedi'u hysgwyo (bydd gofyn iddynt fod yn rhesymol yn achos rhai Gweinidogion Cymru, yn unol ag egwyddorion y gyfraith gyhoeddus). Canlyniad i ymddygiad yr ymgeisydd, apelydd

neu berson arall y rhoddir gorchymyn iddo yw'r costau hyn. Gellid mewn gwirionedd fod wedi osgoi'r "baich ariannol" trwy beidio ag ymddwyn yn afresymol.

Mae'r darpariaethau cyfredol sy'n ymwneud â chostau i'w gweld yn adran 42 Deddf Tai a Chynllunio 1986 ac adran 250 Deddf Llywodraeth Leol 1972. Mae adran 322C, ymhlith pethau eraill, yn dod â'r drefn gostau ar gyfer penderfyniadau cynllunio i gyd mewn un lle. Ceir darpariaeth yn adran 42 Deddf Tai a Chynllunio 1986 hefyd sy'n galluogi Gweinidogion Cymru i bennu swm dyddiol safonol yn unol â'r weithdrefn negyddol.

Yn ogystal â'r wybodaeth y cytunais i'w darparu yn y Pwyllgor, rydych yn gofyn yn eich llythyr am fwy o fanylion ynghylch nifer o gwestiynau. Dyma atebion manwl isod i'r cwestiynau hynny:

1. Pam o dan Atodlen 4D, paragraff 1(2) Deddf Cynllunio Gwlad a Thref 1990 (a fewnosodir gan Atodlen 3, paragraff 1) y caiff "swyddogaeth benodedig" (*specified function*) ei diffinio yn y rheoliadau yn hytrach nag ar wyneb y Bil?

Rhagwelir y caiff yr Arolygiaeth Gynllunio ei phenodi i gynnal rhai swyddogaethau mewn cysylltiad â cheisiadau uniongyrchol opsiynol, fel derbyn ceisiadau, dewis y rhai yr ymgynghorir â nhw, ystyried ymatebion a phenderfynu ar geisiadau. Ar gyfer ceisiadau DNS, disgwylir i'r Arolygiaeth Gynllunio gynnal swyddogaethau gweinyddol ac ystyried y cais DNS, ond Gweinidogion Cymru yn unig fydd â'r hawl i benderfynu ar y cais. Lle bo'n fwy effeithiol i awdurdod cynllunio lleol gynnal rhai pethau (fel codi hysbysiad y safle), ceir darpariaeth yn y Bil i alluogi Gweinidogion Cymru orchymyn ACLlau i gynnal rhai swyddogaethau.

Ceir pwerau yn Atodlen 6 Deddf Cynllunio Gwlad a Thref 1990 i benodi a/neu ddiddymu neu newid y personau a benodir unrhyw bryd. Yn ôl Atodlen 4D, ceir gwneud hyn hefyd mewn cysylltiad â cheisiadau uniongyrchol opsiynol a DNS. Rhaid wrth is-ddeddfwriaeth er mwyn rhagnodi swyddogaethau penodol ar gyfer y personau a benodir, yn hytrach na bod y penodiadau'n cael eu gwneud yn unol â gofyn yr achos. Bydd hyn yn rhoi hyblygrwydd i Weinidogion Cymru gynnal rhai tasgau os gwelant fod angen hynny.

Gallai fod yn briodol hefyd adolygu'r ddeddfwriaeth hon yn rheolaidd, wrth i weithdrefnau'r DNS a'r ceisiadau uniongyrchol opsiynol gael eu monitro a'u diweddarau.

Ystyrir bod y weithdrefn negyddol yn briodol gan mai manylyn cymharol ddi-nod yw hwn mewn cynllun deddfwriaethol sy'n rhagnodi'r swyddogaethau y bydd Arolygydd yn hytrach na Gweinidogion Cymru yn eu cynnal. Hefyd, nid yw'r darpariaethau'n rhoi pwerau galluogi i newid y ddeddfwriaeth sylfaenol, yn rhoi pwerau arwyddocaol i Weinidogion Cymru, yn cynyddu neu'n gosod beichiau ariannol arwyddocaol ar y cyhoedd, nac yn creu nac yn rhoi pwerau anarferol. Ceir pwerau tebyg yn Atodlen 6 Deddf Cynllunio Gwlad a Thref 1990 mewn

cysylltiad ag apelau ac achosion a elwir i mewn. Daw'r rhain o dan y weithdrefn negyddol.

- 2. A fyddai'r pŵer i wneud rheoliadau o dan Atodlen 4D, paragraff (1)(3) Deddf Cynllunio Gwlad a Threfn 1990 (a fewnosodir gan Atodlen 3, paragraff 1) yn cynnwys y pŵer i newid deddfwriaeth sylfaenol ac os byddai, pam mai'r weithdrefn negyddol sy'n briodol?**

Ffrwynir y pŵer o dan sylw i'r graddau y caniateir ei ddefnyddio i roi'r ddarpariaeth yn erthyglau 1(1) ac 1(2) ar waith. Nid yw'n galluogi Gweinidogion Cymru i newid deddfwriaeth sylfaenol. Nid oes unrhyw beth ar wyneb y Bil sy'n awgrymu bod paragraff 1(3) yn cynnwys pŵer i newid deddfwriaeth sylfaenol, a phe bwriedir i'r ddarpariaeth roi pŵer o'r fath, gellid disgwyl gweld cyfeiriad penodol at hynny yn yr adran.

- 3. Beth yw'r rhesymeg dros ddefnyddio'r weithdrefn negyddol wrth wneud gorchymyn o dan adran 75A(1) Deddf Cynllunio Gwlad a Thref 1990 (a fewnosodir gan Atodlen 4, paragraff 7) o gofio sgôp gorchymyn o'r fath i newid deddfwriaeth sylfaenol?**

Mae Atodlen 4(7) yn mewnosod Adran 75A yn TCPA 1990. Pwrpas adran 75A yw caniatáu i orchymyn datblygu gymhwyso (neu ddatgymhwyso) deddfwriaeth arall rhag iddi amharu ar allu Gweinidogion Cymru i benderfynu ar geisiadau DNS, ceisiadau uniongyrchol opsiynol neu geisiadau cysylltiedig.

Mae'n debygol y bydd y gweithdrefnau ar gyfer y ddau fath o gais yn efelychu gymaint â phosibl y prosesau a'r gofynion a ddilynir fel arfer wrth gyflwyno cais i awdurdod cynllunio lleol. Hynny er mwyn sicrhau trefn gyson a chyfarwydd i randdeiliaid, gan gynnwys yr ymgeisydd, y gymuned leol a'r ymgynghoreion statudol. Er mwyn sicrhau proses mor debyg â phosibl, mae Adran 75A(1) yn galluogi defnyddio darpariaethau o ddeddfau cynllunio eraill, gan newid neu beidio â newid ceisiadau a wneir yn uniongyrchol iddynt, gan gynnwys ceisiadau 'cysylltiedig'.

Bydd y pŵer hyn yn caniatáu defnyddio prosesau a gofynion sy'n bod eisoes ar gyfer gwneud cais i awdurdodau cynllunio lleol wrth wneud cais uniongyrchol i Weinidogion Cymru. Er enghraifft:

- Y gofynion sy'n bod eisoes ar gyfer gwneud cais dilys, fel ffurf y cais a dull ei gyflwyno yn ogystal â'r wybodaeth a gynhwysir gydag e.
- Y gofynion o ran cyhoeddusrwydd ac ymgynghori.
- Ffurf a chynnwys hysbysiad y penderfyniad.

Ystyrir bod y weithdrefn negyddol yn briodol gan fod y ddarpariaeth yn rhagnodi materion gweithredol sy'n ymwneud â gwneud cais a phenderfynu arno. Bydd rhai ohonynt yn cynnwys creu trefniadau ar gyfer dilysu ceisiadau, y cyhoeddusrwydd y mae'n rhaid ei roi a'r mater o hysbysu penderfyniad.

Rhaid wrth yr hyblygrwydd hefyd i newid y trefniadau ymgeisio o dro i dro er mwyn ymateb i amgylchiadau newydd. Er enghraifft, gyda'r gweithdrefnau ar gyfer y ddau fath o gais yn debygol o efelychu'r rhai sy'n bod eisoes, efallai y bydd angen i unrhyw newidiadau i'r gweithdrefnau presennol o dan is-ddeddfwriaeth gyfredol sydd eisoes o dan y weithdrefn negyddol adlewyrchu hefyd ceisiadau uniongyrchol i Weinidogion Cymru. Diben hynny fyddai sicrhau trefniadau cyson i randdeiliaid, gan gynnwys ymgeiswyr, y gymuned leol a'r ymgynghoreion statudol.

Nid yw Adran 75A yn galluogi Gweinidogion Cymru i newid deddfwriaeth sylfaenol o dan unrhyw amgylchiadau. Y pŵer a geir yn yr adran honno yw'r pŵer i alluogi Gweinidogion Cymru i ddarparu mewn gorchymyn datblygu bod deddfiad neu ofyniad (fel y'i diffinnir yn adran 75A(2)) yn gymwys, gyda neu heb newidiadau, neu ddarparu nad yw'n gymwys, yng nghyd-destun cul ceisiadau a wneir i Weinidogion Cymru, er mwyn sicrhau bod y darpariaethau perthnasol yn effeithlon.

- 4. Yng ngoleuni achosion yr Uchel Lys am bwysigrwydd trafodion y Cynulliad a dogfennau a gynhyrchir gan y Cynulliad neu Lywodraeth Cymru wrth ystyried cymhwysedd, a fyddai Llywodraeth Cymru'n barod i rannu asesiad hawliau dynol fydd wedi'i gynnal wrth baratoi'r bil â'r Pwyllgor?**

Ystyrir bod materion sy'n ymwneud â hawliau dynol mewn cysylltiad â'r Bil yn rhan o'r cyngor cyfreithiol cyffredinol a roddwyd i'r Gweinidogion. Diogelir pob cyngor cyfreithiol gan Ffaint Proffesiynol Cyfreithiol.

Mae Llywodraeth Cymru'n credu bod y cynigion a geir yn y Bil yn gyson â Hawliau'r Confensiwn, hynny am fod y system gynllunio o'i hanfod yn gorfod cadw'r ddysgl yn wastad rhwng hawliau'r unigolyn a buddiannau'r gymuned ehangach.

- 5. Mae'r deddfwriaeth cynllunio gwlad a thref eisoes yn rhwymo'r goron. A fydd y newidiadau sy'n cael eu gwneud gan y Bil hefyd yn rhwymo'r Goron? Os ydyn nhw, oni fyddai'n well datgan hynny'n glir?**

Mae Deddf Cynllunio a Phrynu Gorfodol 2004 a Deddf Cynllunio Gwlad a Thref 1990 yn rhwymo'r Goron ac o'r herwydd, bydd y newidiadau a wneir i'r Deddfau hyn trwy'r Bil hwn, hefyd yn rhwymo'r Goron. Nid oes angen felly datgan hynny.

- 6. Ydy Llywodraeth Cymru'n credu bod angen cydsyniad y Frenhines a/neu'r Tywysog ar gyfer y newidiadau a wneir i'r deddfau cynllunio gwlad a thref gan y Bil, ac os ydyw, pam?**

Fel y mae pethau ar hyn o bryd, dwi dim yn creu bod angen cydsyniad y Frenhines na'r Tywysog ar gyfer y Bil. Mae'r cydsyniad sydd eisoes wedi'i roi i Ddeddf Cynllunio a Phrynu Gorfodol 2004 yn ddigon gan nad yw'r newidiadau y

mae'r Bil yn eu gwneud yn effeithio ar fuddiannau'r Goron mewn ffordd sylweddol.
Cedwir golwg ar yr agwedd hon wrth i'r Bil fynd ar ei daith trwy'r Cynulliad.

Rwy'n hyderus bod fy ymatebion i'r Pwyllgor a'r wybodaeth ychwanegol rwyf wedi'i darparu wedi helpu Gweinidogion i graffu ar Fil Cynllunio (Cymru). Os oes gennych chi neu unrhyw Aelod gwestiynau eraill neu os hoffech ragor o wybodaeth am unrhyw agwedd, croeso ichi gysylltu â fi.

Rwy'n anfon copi o'r llythyr hwn at Gadeirydd Pwyllgor yr Amgylchedd a Chynaliadwyedd.

Yn gywir



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

Copi at: Cadeirydd Pwyllgor yr Amgylchedd a Chynaliadwyedd

Deddfwriaeth dros ddatblygu cynaliadwy i sicrhau llesiant tymor hir Cymru

I Gymru allu datblygu'n gynaliadwy, mae angen newid y gyfraith er mwyn darparu'r prif elfennau sydd eu hangen i hyn allu digwydd:

Syniad clir o'r hyn rydym yn anelu ato a deall y prif egwyddorion fydd yn ein harwain ato;
Darlun clir o'r adnoddau naturiol sydd gennym, y peryglon sy'n eu hwynebu a'r cyfleoedd y maen nhw'n eu cynnig; a
Proses effeithiol i sicrhau bod y datblygiad iawn yn digwydd yn y lle iawn i wneud i hynny ddigwydd.

Tudalen y pecyn 136



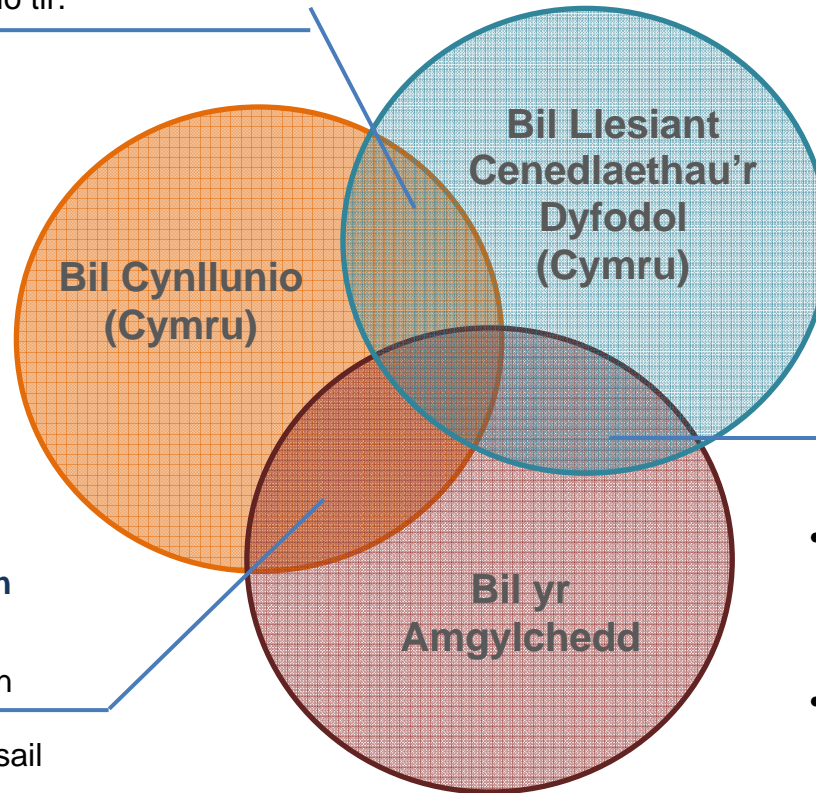
I'n helpu i wireddu'r amcanion, rhaid inni gynllunio sut ydym yn defnyddio'n tir a sut bydd ein dinasoedd, trefi a chymunedau'n newid dros amser

- Gyda **system sy'n seiliedig ar gynllun**, rhaid i Awdurdodau Cynllunio Lleol ddeall beth sydd ei angen ar eu cymunedau. Bydd dyletswydd ar Awdurdodau Cynllunio Lleol i ystyried y 'cynllun llesiant lleol' a gyhoeddir gan y Bwrdd Gwasanaethau Cyhoeddus (PBS)
- Trwy ymwneud yn fwy yn y **cam cyn ymgeisio**, bydd cymunedau yn cael cyfrannu'n fuan yn y broses gynllunio i ddylanwadu ar gynigion datblygu.
- Bydd **Cynlluniau Datblygu Strategol** yn canolbwyntio ar feysydd sy'n bwysicach na'r lleol. Yr allwedd yw ymdrin â datblygu sydd o natur strategol. .
- Bydd y **Fframwaith Datblygu Cenedlaethol** yn nodi blaenoriaethau Llywodraeth Cymru o ran defnyddio tir.

Tudalen y pecyn 137

Rhaid cysylltu'r ffordd rydym yn defnyddio'n tir â'r ffordd rydym yn rheoli'n hadnoddau naturiol.

- **Rheoli adnoddau naturiol** - yn dylanwadu ar ffaenoriaethau a chyfleoedd trwy dystiolaeth ar sail ardal.
- **Sail tystiolaeth** sy'n fwy cyson a phroactif ac wedi'i blaenoriaethu, ar gyfer defnyddio adnoddau naturiol i gyd-fynd ag amcanion cenedlaethol a lleol
- Cyfleoedd wedi'u blaenoriaethu i fod yn sail ar gyfer penderfyniadau a sicrhau'r **datblygiad iawn** i gefnogi cynllunio positif.



Mae ein hadnoddau naturiol yn hanfodol inni allu sicrhau llesiant Cymru gynaliadwy:

- Adlewyrchir cydnerthedd a'r ffordd y defnyddir ein hadnoddau naturiol yn y 6 **amcan** llesiant
- Mae Cyfoeth Naturiol Cymru yn un o'r 44 o **gyrff cyhoeddus** sy'n dod o dan y ddyletswydd datblygu cynaliadwy ac sy'n aelod o **Banel Cyngori Comisiynydd Cenedlaethau'r Dyfodol** Cymru.
- Yr **Adroddiad ar Gyflwr Adnoddau Naturiol (SoNaRR)** fydd yn darparu'r sail dystiolaeth ar gyfer ein hadnoddau naturiol gan ddylanwadu ar Fyrddau Gwasanaethau Cyhoeddus wrth iddynt asesu llesiant.
- Bydd Cyfoeth Naturiol Cymru'n aelod statudol o bob **Bwrdd Gwasanaethau Cyhoeddus**, gan gefnogi partneriaethau ar draws y sector cyhoeddus i wneud y gorau o'u cyfraniad at yr amcanion llesiant.
- Bydd **datganiadau ardal** yn nodi anghenion, cyfleoedd a heriau lleol o fewn cyd-destun cynlluniau rheoli adnoddau lleol a llesiant lleol.

Dosbarthiadau Ceisiadau Cynllunio - Trothwyon a Meini Prawf

Datblygiadau Cenedlaethol eu Harwyddocâd (DNS)

Rhestrir y categorïau a'r trothwyon arfaethedig isod.

Math o Gais	Trothwy
Cyfleusterau Storio Nwy Tanddaearol nas adeiladwyd gan gwmni cludo nwy, at ddibenion storio nwy o dan y ddaear mewn ceudodau neu strata anhydraidd	Capasiti gweithio o 43 miliwn o fetrau ciwbig safonol o leiaf neu uchafswm cyfradd llif o 4.5 miliwn o fetrau ciwbig safonol o leiaf y dydd.
Newid unrhyw fath o gyfleuster storio nwy tanddaearol	Capasiti gweithio o 43 miliwn o fetrau ciwbig safonol o leiaf neu uchafswm cyfradd llif o 4.5 miliwn o fetrau ciwbig safonol o leiaf y dydd.
Cyfleusterau Nwy Naturiol Hylifedig (LNG)	Capasiti storio o 43 miliwn o fetrau ciwbig safonol o leiaf neu uchafswm cyfradd llif o 4.5 miliwn o fetrau ciwbig safonol o leiaf y dydd.
Cyfleusterau Derbyn Nwy	Lle y disgwylir y bydd yr uchafswm cyfradd llif yn fwy na 4.5 miliwn o fetrau ciwbig safonol y dydd.
Piblinellau a adeiladwyd gan Gwmni Cludo Nwy	Piblinellau a adeiladwyd gan Gwmni Cludo Nwy sydd: yn fwy na 800 milimetr mewn diamedr ac yn fwy na 40 kilometr o hyd neu y byddent yn debygol o gael effaith sylweddol ar yr amgylchedd; â phwysedd gweithredu wedi'i ddylunio o fwy na 7 lled bar; cludo nwy i'w gyflenwi (yn uniongyrchol neu'n anuniongyrchol) i o leiaf 50,000 o gwsmeriaid, neu ddarpar gwsmeriaid, un cyflenwr nwy neu fwy.
Gwaith datblygu ac adeiladu sy'n gysylltiedig â maes awyr	Cynyddu'r capasiti o 10 miliwn o deithwyr y flwyddyn, neu dros 10,000 o achosion o gludo nwyddau drwy'r awyr y flwyddyn.
Cyfleusterau harbwr	Yn achos cyfleusterau ar gyfer llongau amlwyth: unrhyw beth islaw 500,000 TEU;

	<p>Yn achos llongau 'ro-ro': unrhyw beth islaw 250,000 o unedau;</p> <p>Yn achos cyfleusterau ar gyfer llongau cargo o unrhyw ddisgrifiad arall, unrhyw beth islaw 5 miliwn o dunelli.</p> <p>Yn achos trothwyon cymysg, yr effeithiau cronol sydd o fewn yr uchod ond heb fod yn uwch (caiff unrhyw beth uwch ei benderfynu o dan y gyfundrefn Prosiectau Seilwaith Cenedlaethol eu Harwyddocâd (NSIP) yng Nghymru).</p> <p>Mae'r uchod yn berthnasol onid yw'n 'ddatblygiad a ganiateir' o dan Ddosbarthiadau B a D o Ran 17 o Atodlen 2 i Orchymyn Cynllunio Gwlad a Thref (Datblygiad Cyffredinol a Ganiateir) 1995.</p>
Rheilffyrdd	<p>Gwaith i'r rhwydwaith rheilffyrdd cenedlaethol nas cwmpesir gan hawliau datblygu a ganiateir (fel y'u cynhwysir yn Erthygl 3 o Orchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995); gwaith sydd ar hyd parhaus o fwy na 2 kilometr, nad yw ar dir a oedd naill ai'n dir gweithredol yn perthyn i gwmni rheilffordd yn union cyn i'r gwaith ddechrau neu sydd ar dir a gaffaelwyd yn gynharach at ddibenion y gwaith. Nid yw hyn yn cynnwys gwaith a gynhelir ar dir gweithredol yn perthyn i gwmni rheilffordd oni chaffaelwyd y tir hwnnw at ddiben y gwaith hwnnw.</p>
Cyfnewidfeydd rheilffyrdd nwyddau	<p>Cyfnewidfeydd sy'n cwmpasu o leiaf 60 hectar a lle yr ymdrinnir ag o leiaf bedwar trên nwyddau bob dydd.</p>
Argaeau a chronfeydd d r	<p>Yn gallu dal neu storio mwy na 10 miliwn o fetrau ciwbig o dd r.</p>
Trosglwyddo adnoddau d r	<p>Yn gallu trosglwyddo mwy na 100 miliwn o</p>

	fetrau ciwbig o dd r y flwyddyn.
Safle trin d r gwastraff	Yn meddu ar gapasiti uwch na'r capasiti a all ymdrin â phoblogaeth sy'n cyfateb i 500,000 o bobl.
Cyfleusterau gwastraff peryglus	Safleoedd tirlenwi neu storfeydd dwfn a all ymdrin â mwy na 100,000 o dunelli y flwyddyn. Yn unrhyw achos arall, cyfleusterau a all ymdrin â mwy na 30,000 o dunelli y flwyddyn.
Piblinellau <u>nas</u> adeiladwyd gan gwmni cludo nwy	Piblinell islaw 16.093 km o hyd sy'n llwyr neu'n rhannol yng Nghymru.
Gorsafoedd cynhyrchu (ar y tir)	Unrhyw beth rhwng 25 megawatt a 49 megawatt, gan gynnwys y mesuriadau hynny.

Datblygiadau Mawr

Rhestrir y trothwyon a'r meini prawf cyfredol ar gyfer datblygiadau mawr o dan Erthygl 2 o Orchymyn Cynllunio Gwlad a Thref (Gweithdrefn Rheoli Datblygu) (Cymru) 2012/901 i Gymru. Rhestrir y trothwyon a'r meini prawf hyn isod.

Trothwyon a Meini Prawf ar gyfer Datblygiadau Mawr
(a) cloddio a gweithio mwynau neu ddefnyddio tir ar gyfer dyddodion gweithio mwynau (i gael diffiniad o “ <i>dyddodion gweithio mwynau</i> ” gweler adran 336 o'r Ddeddf Cynllunio Gwlad a Thref (c.8))
(b) datblygu gwastraff
(c) darparu anhedd-dai lle— (i) mae nifer yr anhedd-dai a gaiff eu darparu yn 10 neu'n fwy; neu (ii) caiff y datblygiad ei godi ar safle ag arwynebedd o 0.5 hectar neu fwy ac nid yw'n hysbys p'un a yw is-baragraff (c) (i) yn berthnasol i'r datblygiad.
(d) darparu adeilad neu adeiladau lle mae arwynebedd y llawr i'w greu gan y datblygiad yn 1,000 o fetrau sgwâr neu fwy

(e) datblygiad a godir ar safle ag arwynebedd o 1 hectar neu fwy

Datblygiadau Lleol

Mae datblygiad lleol yn unrhyw gynnig datblygu nad yw'n bodloni'r categorïau ar gyfer datblygiadau cenedlaethol eu harwyddocâd a datblygiadau mawr, oni chaiff ei ddiffinio fel datblygiad a ganiateir. Diffinnir y mathau o ddatblygiad sy'n cynnwys datblygiad a ganiateir yng Ngorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995/418 i Gymru (fel y'i diwygiwyd) (dolenni i ddeddfwriaeth fel a ganlyn: <http://www.legislation.gov.uk/uksi/1995/418/contents/made>).

Eitem 7.2

01 December 2014



Alun Ffred Jones AM
Chair, Environment & Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Dear Chair

Thank you again for inviting me to provide oral evidence at the recent session on the inquiry into Fuel Poverty and Energy Efficiency in Wales. As requested, I am writing with additional Wales-specific disaggregated data and points of clarification.

SSE pre-payment meters in Wales (as a proportion of UK total- 2014)

Wales	UK	Wales as % of total
216,592	1,128,650	19.1%

Number of SSE customer home visits in Wales (as proportion of UK total- 2013/14)

Wales	UK	Wales as % of total
9,000	64,000	14.1%

There are also three further points of interest I would like to briefly address in the context of this investigation, at which we did not arrive organically during the evidence session:

National Pricing - Customers in Wales currently pay more for their electricity than other parts of Britain due to regional network charges. North Wales is the second most expensive region out of 14, and South Wales is third. SSE is calling for the Regulator and Government to flatten these charges across the UK so that everyone pays a fairer amount wherever they live, saving Welsh customers around £30-40 per year.

Funding Schemes Fairly - Funding policies such as ECO through energy bills is regressive and can mean that the most vulnerable customers pay proportionately more than others. SSE want to see these costs shifted into means-tested taxation so that those least able to afford to pay for such schemes are sheltered from the burden, including those living in rural off-gas grid areas, who effectively pay 'twice' for schemes from which they will not necessarily benefit.

Fuel Poverty Agency - SSE believe that the creation of a Fuel Poverty Agency would resolve many of the issues highlighted in the inquiry evidence relating to data-sharing. A single cross-departmental body would also be better able to find customers and make better assessments of

need than energy companies, and would have a range of tools for improving peoples' circumstances, far exceeding those offered by energy companies.

Site Visit - Finally, our frontline customer service provision has been highlighted in an earlier evidence session as an example of industry best practice, and I reiterate my invitation to the committee members to visit the site in order to meet our staff and see first-hand some of the assistance we provide.

If you require anything else please let me know, I look forward to seeing the committee's final report.

Yours sincerely

Dr Gareth Wood
Head of Collections
SSE

Alun Ffred Jones AM
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

3 December 2014

Legislating for a 'health in all policies' approach through the Well-being of Future Generations (Wales) Bill

Dear Alun Ffred Jones AM,

We welcome the recent publication by the Environment and Sustainability Committee of the Stage 1 Report on the Well-being of Future Generations (Wales) Bill. We would, in particular, wish to express our support for recommendations 29 and 30 of the report which refer to the need for the Bill to be improved regarding its ability to deliver a 'health in all policies' approach.

As you may be aware, the idea of introducing a 'health in all policies' approach was consulted upon favourably by the Welsh Government in 2012 as part of the then Public Health Green Paper. The Minister for Health and Social Services, subsequently indicated in his Ministerial foreword to the Public Health White Paper earlier this year that the approach would now be delivered through the Well-being of Future Generations (Wales) Bill.

However, our view is that the concept has not been sufficiently taken forward by the Bill in the way it has been initially drafted and we therefore welcome the fact that the Environment and Sustainability Committee has now concluded it shares this concern.

In the Public Health Green Paper, the concept of a 'health in all policies' approach was described as testing *"any new policy to assess its impact on health, in order to minimise any damage and increase any benefit it might cause"*. We very much support such an approach to delivering 'health in all policies'.

We therefore hope that any amendments to the Bill that may now be considered to take forward recommendations 29 and 30 of the Stage 1 report will therefore deliver a 'health in all policies' approach

Ysgrifennydd Cymreig/Welsh Secretary:

Dr Richard JP Lewis, CStJ MB ChB MRCP MFFLM Dip IMC RCS(Ed) PGDip FLM

Prif Weithredwr/Chief Executive:

Keith Ward

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along the lines of this previously considered definition. We hope we can secure your support for such an approach to now be incorporated into the Bill.

Yours sincerely,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Dr Stephen Monaghan
Chair, Welsh Council Legislation Subcommittee

Eitem 10

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