



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Amgylchedd a Chynaliadwyedd **The Environment and Sustainability Committee**

Dydd Iau, 13 Mawrth 2014
Thursday, 13 March 2014

Cynnwys **Contents**

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

Bil Cynllunio (Cymru) Drafft: John Davies
Draft Planning (Wales) Bill: John Davies

Bil Cynllunio (Cymru) Drafft: Arup a Fortismere Associates
Draft Planning (Wales) Bill: Arup and Fortismere Associates

Bil Cynllunio (Cymru) Drafft: Land Use Consultants
Draft Planning (Wales) Bill: Land Use Consultants

Bil Cynllunio (Cymru) Drafft: Parciau Cenedlaethol Cymru
Draft Planning (Wales) Bill: National Parks Wales

Bil Cynllunio (Cymru) Drafft: Cymdeithas y Gyfraith a Chymdeithas y Bar ar Gynllunio a'r
Amgylchedd
Draft Planning (Wales) Bill: The Law Society and the Planning and Environment Bar
Association

Papurau i'w Nodi
Papers to Note

Y Wybodaeth Ddiweddaraf gan Gwilym Jones, Aelod o Gabinet, Comisiynydd

Amaethyddiaeth yr UE
Update from Gwilym Jones, Member of Cabinet, EU Agriculture Commissioner

Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mick Antoniw	Llafur Labour
Yr Arglwydd/Lord Elis-Thomas	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Llyr Gruffydd	Plaid Cymru The Party of Wales
Julie James	Llafur Labour
Julie Morgan	Llafur Labour
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Antoinette Sandbach	Ceidwadwyr Cymreig Welsh Conservatives
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Alison Blom-Cooper	Cyfarwyddwr, Fortismere Associates Director, Fortismere Associates
Martin Buckle	Aelod, Awdurdod Parc Cenedlaethol Bannau Brycheiniog Member, Brecon Beacons National Park Authority
Lyndis Cole	Pennaeth Cynllunio a Rheoli Tirweddau, Land Use Consultants Head of Landscape Planning and Management, Land Use Consultants
John Davies	Cadeirydd y Grŵp Ymgynghori Annibynnol Chair, Independent Advisory Group
Morag Ellis CF/QC	Cymdeithas y Bar ar Gynllunio a'r Amgylchedd, Planning and Environment Bar Association
Jane Gibson	Cyfarwyddwr Cynllunio, Awdurdod Parc Cenedlaethol Arfordir Penfro Director of Planning, Pembrokeshire Coast National Park Authority
Kieron Hyams	Swyddog Cyswllt—Cynllunio, Polisi ac Economeg, Arup Associate—Planning, Policy and Economics, Arup
Gwilym Jones	Aelod o Gabinet, Comisiynydd Amaethyddiaeth yr Undeb Ewropeaidd Member of Cabinet, European Union Agriculture Commissioner

Aneurin Phillips	Prif Weithredwr, Awdurdod Parc Cenedlaethol Eryri Chief Executive, Snowdonia National Park Authority
Kay Powell	Cynghorydd Polisi, Cymdeithas y Gyfraith Policy Adviser, The Law Society
Huw Williams	Partner—Cyfraith Gyhoeddus, Geldards Partner—Public Law, Geldards

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Alun Davidson	Clerc Clerc
Graham Winter	Y Gwasanaeth Ymchwil Research Service
Catherine Hunt	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 10:04.
The meeting began at 10:04.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

[1] **Lord Elis-Thomas:** Bore da, John. We meet in a slightly more formal context than the last time that we discussed this issue. It is a pleasure to have you here. I have just one or two things to mention. Joyce Watson has sent her apologies for the morning, but will join us later in the day. I always repeat on these occasions that we have an empty place on this committee that cannot be filled because it is filled by a Deputy Minister. One day, this might be resolved.

Bil Cynllunio (Cymru) Drafft: John Davies
Draft Planning (Wales) Bill: John Davies

[2] **Lord Elis-Thomas:** John, we are delighted that you are able to spend time with us to talk about your report. Could you remind us of your long and illustrious career in the planning system in Wales, from Glamorgan to being the director of planning?

[3] **Mr Davies:** Yes. Glamorgan was a while ago. I joined Glamorgan as a systems analyst in its treasury department. I bumped into a colleague who had left to join Cardiff city council as a research officer; he had just been promoted and said that his job was vacant, so I ended up at Cardiff city council. I became a planner; I studied and did the Royal Town Planning Institute exams. I spent 15 years with Cardiff, working with people who included, for a short period, a certain Mr Rhodri Morgan, in the South Glamorgan days. I then joined the Planning Inspectorate in 1990, and spent 20 years there, mostly in England at first, and then I transferred back to Wales and ended up as director of the Planning Inspectorate, responsible for the Planning Inspectorate's work in Wales. I then retired, notionally, in 2011, but I had a phone call one morning and then ended up chairing the independent advisory group and spent some time writing a fairly lengthy report. So, that is where I am today.

[4] **Lord Elis-Thomas:** We are interested in how your report has been translated into what we have so far in the draft planning Bill. I am particularly interested—obviously, because of my previous activities—in the split between primary and subordinate legislation and the question of planning guidance, and how you think this Bill will work in that context. I would also be interested to hear any opening views that you might have, having worked in

both planning areas—that is, both England and Wales—on what you think is now emerging to be a different tendency in the Welsh planning system, compared with our friends over the Marches.

[5] **Mr Davies:** First, with regard to what is in the report, we were asked to look at the delivery of the planning system. We strayed somewhat outside, in some ways, our remit. We tried to concentrate on that, but we tried to address all of the issues that were brought up. As a result of that, we ended up with fewer than half of our recommendations requiring primary legislation—maybe only a third, I suspect. So, much of what we suggested has not been addressed directly in the Bill, although it is in the consultation paper.

[6] As far as the way that things are emerging, from my point of view, and that of most of the other members of the group, we are very pleased that much of what we have recommended is now being seen in the context of either legislation or suggested changes outside, which might require secondary legislation or just policy changes.

[7] As for differences, the significant difference from my point of view is that the Welsh Government has done a huge amount of research, has asked questions of a lot of people, and what is in the Bill is backed up by a considerable number of reports. I do not know whether you would see that in England, as I do not work in England now. One of the big issues that we had in the Planning Inspectorate was that there was a group of inspectors working in Wales, but sometimes we would call an inspector over from England or a Welsh inspector would go across and work in England, because of the need for resources, and that became increasingly difficult because of the differences in policy as much as anything else. Primary legislation did change, but inasmuch as the policy changes became more and more significant. One of the things that I have done since I finished was to do some training courses. I have been asked to go to councils in England that are having particular problems with appeals and so on, and I have realised that the policy has become even more different between England and Wales, in certain aspects. However, that is for England to decide upon and it is for the Government there to take it forward. The Welsh Government wishes to go in a certain way, and has developed this in response to research in Wales. So, this is a response to circumstances in Wales, as I see it.

[8] **Lord Elis-Thomas:** I have one final question on that point, before I call Julie. So, the argument about a Welsh planning inspectorate that is separate from that of England is redundant because, de facto, it exists.

[9] **Mr Davies:** Well, we did deal with it. We had two suggestions that there should be a separate planning inspectorate. We looked through it very carefully and came to the conclusion that the system is working, so why change it? However, I have noticed since I have left that there are more moves towards making it more self-contained, as time goes on. It has just advertised, for the first time, to my knowledge, for inspectors to directly join the Welsh planning inspectorate. The system was that you joined the inspectorate and, most of the time, you were trained in England and then moved back to Wales later. However, now, they are looking for direct recruitment to the Planning Inspectorate.

[10] **Julie James:** Turning to the Bill and the consultation document, do you think that the balance between policy and law is right on the face of the Bill? It is noticeable, for example, that for some of the main tenets of what we think of as Welsh policy, like sustainable development or marine protection, you cannot find any of those words on the face of the current draft Bill. We are being told that that is because they will all be contained in policy documents that will supplement and enhance the Bill. Do you think that the balance of that is right?

[11] **Mr Davies:** I think so. As far as sustainable development goes, that has been at the

forefront of minds at the inspectorate for many years, since I was there. The Welsh Government prepares a sustainable development scheme—it has to prepare it. That has been translated very strongly into policy. There are specific statements about it; if you look through the thread of how development is to be located, it is all to be done in a sustainable manner. So, in terms of sustainable development, I think that, yes, the balance is right. Marine issues are covered by a separate Bill, and there is a separate control for marine consents anyway.

[12] I think that you need to see the Bills that are being put forward as part of a jigsaw, if you like. I would say—I would, would I not?—that the planning Bill sits in the middle of that jigsaw. It is a crucially important delivery mechanism. However, it is delivering many of the overarching policies that the Welsh Government has, if you think about it. Planning is about delivery, to me. We need houses, jobs et cetera. The way that the planning system works, and should work, is ensuring that things are built in the right place. Probably the main criterion is the right place being a sustainable location; that is how I see it working. Sorry that I kept you from coming back in.

[13] **Julie James:** No, that is fine. Actually, that leads me on to my next point: do you think that the balance in this Bill between enabling development and protecting much-valued local amenities, which are often open spaces or protected sites, is right?

[14] **Mr Davies:** Yes, I do, because I think that the planning system works in its protectionist role, if you want to call it that, by directing development to where it should take place. So, if you have a particularly important green space, you should not direct your development towards it. The planning system should ensure that that does not take place. One of the ways, for example, that it would take place—one of the arguments in England—is the five-year land supply, and it is in Wales, as well. The idea behind it is that councils have a five-year land supply and they are, therefore, in a stronger position when somebody comes along and builds on somewhere that is not allocated for development. However, if you do not have sufficient land allocated for development, it is difficult then to argue, sometimes, against some of the proposals being put forward. So, it is about directing development.

[15] I think that the framework in the planning Bill ensures that that takes place. It is not changing the fundamental precepts, if you like, of planning; it is trying to make it work better. That is the idea that we had, and that is the response that we had to the call for evidence when we did the work as the independent advisory group.

[16] **Julie James:** In terms of that national supply of land, directing things and so on, we have had evidence before committee—forgive me, Chair, as I cannot remember what we have had in private and what we have had in public—where we have been told, for example, that, at the moment, there is no thought for the Welsh Government to be able to direct a single local authority to produce its local development plan or, indeed, to step in and do that for the authority where it has not done so. Those of us who have been dabbling in planning for a while know that, where there is no LDP, you have a certain amount of chaos. What do you think about the balance of those sorts of powers, in terms of encouragement and enforcement to get that structure in place so that those decisions that you have just mentioned can be taken in that structured way?

[17] **Mr Davies:** I have had these discussions and have been involved, when I was with the Planning Inspectorate, with the planning division. The idea of the Welsh Government stepping in is fairly impractical, I think, because the Welsh Government does not have the resources just to step in, take over and prepare an LDP; it is a massive task. As for directing authorities, I think that authorities are under a duty to do it anyway. Essentially, authorities are going to find themselves in an impossible position when they come up against professionals who work for house builders who need houses to be built if they do not have a proper LDP to give them a background. So, that is the stick for authorities to get on and do

the work. The problem that I have seen is that authorities simply have not listened. A lot have started and have run against problems later in the process because they have not looked at the lessons that have been learnt, and that are well known and out there, about how you go about preparing a local development plan.

10:15

[18] **Julie James:** I do not disagree with you, but, unfortunately, it has not seemed to spur them on into doing it. We have a large number that are yet to produce such a plan.

[19] **Mr Davies:** Yes. Some have run into problems in the process and others have been completing their unitary development plan. There is plan coverage of—I do not know what the exact figure is—virtually the whole of Wales, not in LDP terms, but in unitary development plan terms as well. There are others too. Certain well-known cases have gone down the road and have been told by an inspector, ‘I’m sorry, it’s not going to work’. One of the things that we in the independent advisory group suggested was that maybe there is a way of picking out those that are going down the wrong road at the start of the process, but that is one of the issues that has to be thought through. This is where something such as the planning advisory and improvement service might help.

[20] **Julie James:** I will leave it there for a moment, Chair.

[21] **Lord Elis-Thomas:** Llyr is next, then Mick, Antoinette and Julie Morgan.

[22] **Llyr Gruffydd:** I just want to pick up briefly on the point that Julie was making about the balance between a functional Bill and policy issues, and the clear message from Government that it does not see this as delivering policy, but creating a functioning system. However, you recommended in your report that a statutory purpose be given to planning. Why did you feel that that was important?

[23] **Mr Davies:** One of the things that we felt was needed—and it comes out in the ‘Positive Planning’ consultation—was a change in the way certain parts of the planning system think and approach their task, to try to get it to be more positive, not a process or system that is there to prevent development, but a process to facilitate development in the correct place and manner. We thought that that might be one way of helping. That was the idea behind it. Whether that was necessary or not, what was behind it was to try to help to focus on the purpose of the planning system.

[24] The other thing is that people have regarded the planning system as the thing that will fix everything, and the Welsh Government has been fairly clever in the past in using the planning system where it did not have other primary legislative powers to do things, and, in some cases, you could say that the planning system may not have been designed to do some of the things that it was being asked to do.

[25] The planning system has changed hugely since I started. When I started, one of the circulars at the time said that design was a matter between the person who bought the house and the person who built the house. I am paraphrasing, but, essentially, it said that you should not be getting involved as a planning authority in what it looked like or how it was designed. That is such old hat now and a silly attitude, but that was the way when I started in Cardiff and that was the Government advice that was put out. It has changed considerably since then. However, arguably, you may have gone too far the other way when you go into the detail of the actual construction. Should that be left for something else, such as the building regulation system? That is one of the things that we suggested. So, that definition was partly to help focus minds on what we thought was the purpose, which is land use planning and sustainable development.

[26] **Llyr Gruffydd:** What about the consequences, therefore, of not including it?

[27] **Mr Davies:** There are other ways. You look at the policy context in which the system works and look at other things that might be in there. I have always thought that the planning advisory service is one that is needed. In our discussions in the group, we often came back to thinking that somebody needs to do this, somebody needs to bring together the best practice and make sure that everybody knows about best practice, and somebody needs to bring together training needs and programmes and make sure that there is an overall thread in the way that it is done. So, we need to do something like that.

[28] Training is a huge issue. If you think about the amount of training that takes place around Wales by the Welsh Government, individual authorities and the RTPI, you need somebody to bring it all together, to co-ordinate it. That is the sort of thing. It is about how you concentrate minds. The fact that it is not there is not a great issue; it is about how the system works eventually. It was one way of trying to get it to work; there are other ways in the consultation paper. The Welsh Government taking a more direct and interventionist role is one of them, and that comes through clearly. The general thread through most of what was said to us was that the Welsh Government needs to get involved more closely in the development management side—planning applications and how we process them.

[29] **Llyr Gruffydd:** To come back to the earlier point about the Planning Inspectorate and looking at an independent Welsh inspectorate, do you feel that having an independent Welsh inspectorate would contribute to that cultural change in terms of mindset, setting us apart from other mindsets?

[30] **Mr Davies:** In terms of mindsets, it is an interesting one. It is strange, but a lot of people think that the inspectorate is separate anyway. When I tell them, or used to tell them, that the inspectorate was a single inspectorate and that Wales is just part of it, they did not appreciate that sometimes. Some people thought that all the inspectors appeared from over in Bristol, magically, and others thought that there was a Welsh inspectorate. Some thought that all inspectors worked in Bristol and travelled—no, it does not work like that.

[31] It is a possibility, yes. When we looked at it very carefully, we went through the whole argument and we were unanimous at the end of it in questioning what it would achieve. We could not see anything that it would achieve, because there is a system that works at the moment and, of course, by being part of a larger organisation, there is support as well—you have 15 to 20 inspectors in Wales and there are 300 in England, and there was that interchange of experience. Although policy changes, the way that the work is done by inspectors does not change, in many ways. With experience of legal issues and policy issues, there is an interchange between them anyway. That was one of the good things about it. We decided that if it is not broken, let us not fix it. To answer your point, I think that it effectively works as a separate planning inspectorate now and it is increasingly having its own identity.

[32] **Mick Antoniw:** Do you have any anxiety about the fact that we are considering this at the moment? What may become a sort of framework policy legislation—what was the sustainability Bill and is now the future generations Bill—is still in an embryonic stage, yet it may have a significant impact. Do you think that there is a concern about there being conflicts in direction or operation with this Bill or not?

[33] **Mr Davies:** I do not think so. I think that they are trying to do two different things, as I understand it. The planning Bill is the delivery mechanism, or the planning system is the delivery mechanism. They should be working and I am sure that they will be working. I sit on the programme board for the planning Bill and there is a separate programme board, which Rosemary Thomas is on, for the sustainable futures Bill. There is co-ordination with that at

official level and, I am sure, at ministerial level. I would not imagine that there is going to be an issue. The Bill is trying to tweak the way that the system works in delivering the planning policies of the Welsh Government. I would not see any conflict appearing. I know that it is lovely to have some of these things in a different sequence—it might sit more comfortably and it might be clearer to see the picture—but I do not think that that can happen all the time. The two had been developed in parallel and we have come to a situation where there is a series of reports on the planning system, pointing to things that need to be done, so the planning Bill is setting out to address the issues that are being brought up in those reports.

[34] **Mick Antoniw:** Within the draft Bill, the references to sustainability are kept as ‘sustainability’, so that it is either other policy directives or, effectively, the future generations Bill that will set the framework. I suppose the point that I am getting at is that it then makes sense within this Bill not to over define some of these things. Is that right?

[35] **Mr Davies:** Yes, I get the point exactly. We had a long debate on whether there should be a definition of ‘sustainable development’ in the planning Bill. We had a lawyer on the group and we came to the unanimous view that you should not. There are several reasons for that, one being that once it is in the Bill, it becomes more difficult to change it to respond to the way that the world is changing, so the definition of what we regard as sustainable development—. If you look through ‘Planning Policy Wales’, there are a number of ways that it is set out and defined and it is not just one small paragraph, it is a considerable amount. Sustainable development is a concept, in a way, and how you define it is how you want to implement it to meet the needs of the current world. In 20 years’ time, the idea and the concept might be the same, but the way that you implement it might be slightly different. If it is in a Bill, or in an Act, it becomes more difficult to change, but, as a policy, it is much easier to expand on, to tweak and to change to reflect the current policies of the Government and the current needs of society.

[36] **Mick Antoniw:** May I just ask one thing? I think that a lot of that makes sense if you see the other legislation as complementary, or framework-type legislation. I suppose that the one area that concerns me a little is that, in all of the things that have to be taken into account in preparing national plans, and so on, we will have definitive legislation now through the planning Bill, and we will have a future generations Bill that will set the framework, but will also make certain directions, or recommend or empower certain actions that are not contained in the planning Bill, which will have to be taken into account. For example, there is a future generations commissioner who, in their overall regard for sustainability, has to have regard and can intervene or require, but you then have nothing within this Bill that would actually take account of that and empower the effect of the other legislation. I think that the problem with having two things coming in two stages is that you might then miss opportunities to give empowerment within the planning process to the powers that you want to give to the body that might be actually setting the framework for all of this.

[37] **Mr Davies:** Although the planning system works in accordance with the planning Act, if there is another piece of legislation that imposes a duty—it can be a general duty that can be operated—the planning system can have regard to that other duty under a different Act. I do not see it as a problem. If the other Act gives the person or the system certain powers, well, they exist anyway, and the planning system cannot just ignore them. If it is meant to work in a certain way, the planning system has to have regard to that, as well. The planning system sets out the legal framework for the planning system, but there are other systems that will sit alongside that and there are other requirements.

[38] There are a number of permissions that you need to build anything. Let us put it this way: you need a number of permissions—you might need planning permission, but you might also need hazardous waste consent, or an environmental permit. The fact that you get planning permission does not actually change that requirement, so those systems will work

together in parallel. They could work together better sometimes, but that is one of the challenges of any system. So, if there is another piece of legislation that sets some sort of requirement, the planning system will work in parallel with it, and I would not see that as a problem.

[39] **Antoinette Sandbach:** Do you think that the current proposed Bill reflects the financial implications for—. I am thinking particularly about the equality of arms of the ordinary man in the street who has to use the planning system with an increasing centralisation of powers to Welsh Government that actually has a huge amount of resources available to it. How do you see that balance being struck in the Bill and where is the protection for the ordinary-man-in-the-street user, rather than big developers that perhaps have more resources?

[40] **Mr Davies:** There is always a tension between the local and national agenda and the requirements of a district, or a region, wherever you have that. Let us take Cardiff as an example: it needs housing development, but where the housing development goes will have an impact on the local people affected by it, but other people living in other parts of Cardiff need houses, so where are they going to live? You always have that issue. We had a long and very good debate on third-party rights of appeal. Where there is planning permission, if someone objected but was a neighbour, they currently could not appeal against that; only the person who has the permission turned down can do that. We came to the view that the examples that we were given showed that the planning system does not work as it should work. The planning system should actually put forward proposals for people to comment on. The most difficult thing is that you cannot go and ask people, because what are they going to do? People need to react, and that is one of the most difficult things. You present them with proposals and then the argument is, 'Well, you've made your mind up, haven't you?' It is very difficult; it always is difficult. We came to the view, and made recommendations, which are reflected in 'Positive Planning', that we should put more emphasis on what happens before the application is submitted.

10:30

[41] So, there are two things, and there are two phases to that. There is the pre-application consultation—the pre-application work with the local authorities. The consultation, if you like, is consulting the residents and neighbours, and there is the work with the planning authority. When I worked in Cardiff, a huge amount of my time was spent talking to people before applications came in. That has become more and more difficult as pressures have increased, but it is part, as I see it, of the duty of local authorities to talk to applicants before the application is submitted. That is how you get an application that should be a lot easier to process when it arrives. Part of that process is to talk to residents and to find out from them what they think. As an inspector—and every inspector will tell you the same thing—I have found that there have been so many instances that have gone to appeal and the residents have said, at some point, 'Well, why didn't they tell us? We just didn't understand what was being proposed.' Someone has fallen down. It could well be the developer and the applicant, but it could well be the local planning authority. However, that needs to be addressed, and there are measures in the Bill to address that.

[42] **Antoinette Sandbach:** What I am concerned about, for example, are very small-scale developments—take on-farm diversification or something like that, for example. In the way that this Bill is structured, it seems to me that there is a potential imbalance with concentration of power towards the Welsh Government, where there is an inequality of arms and a lack of resources available, comparatively, to challenge decisions. Perhaps you could comment on that in relation to the appeals process and how you feel that that is catering for a process where it is a small man against the state.

[43] **Mr Davies:** I am not sure that the Bill is changing that, in the sense that the Welsh Government wants to take some powers to itself, but it is only for a very small number of major nationally significant developments. For the small things, they would remain with the local authorities. One thing that inspectors are always extremely conscious of is the equality of arms, and we have seen situations where you have people coming along—you are talking possibly about the applicant—and are up against the local planning authority. They may have lots of experience, as the person doing it, but it is the one time that they come up against the planning system. The inspector is going to be extremely conscious of the need to give that person every help to put their case across.

[44] The strength of the appeals system is that the inspector is not from the area, does not know the area and does not know anyone there. In Wales, they tend to meet the planning authorities very frequently, and perhaps do get to know them, but they are completely independent and they will give you an impartial view, as they see it. I think that the appeals system has tremendous strengths, and it is the one way to protect people like the ones whom you are talking about. The sad thing, I think, really, is that inspectors do not want to be doing appeals, because that is the very end of the process, which might take an awful long time—sometimes years. In those years, as inspectors, we would have said, ‘Surely, you could have got together and actually come up with an answer’. We did suggest mediation, which has not been taken forward and I understand the reasons for that—mediation is a very difficult thing. On the face of it, it seems like a wonderful opportunity to get the people together to come up with an answer, but it is not as easy as that. It is extremely difficult. Having said that, there must be a need for authorities to work closer with applicants to try to come up with solutions, sometimes, which you would see at the very end of a process, which should have been seen earlier.

[45] **Antoinette Sandbach:** You spoke about nationally significant projects. Take, for example, energy: I think that the designation in the Bill of the starting point at which an energy project would be considered ‘nationally significant’ is quite low. It is something like 9 MW—

[46] **Mr Davies:** It is 25 MW.

[47] **Antoinette Sandbach:** Is it 25 MW? I am sorry. I understand that that would be nine turbines; that is where I got that figure from.

[48] **Mr Davies:** Yes, it could be nine turbines.

[49] **Antoinette Sandbach:** At the moment, as I understand, 25 MW projects are decided by local authorities. Given, for example, the technical advice note 8 process and that a lot of the designated windfarm development is on Welsh Government land, do you see that there is, potentially, a conflict and that setting such low limits is removing protections from local people? Again, it is reducing that equality of arms and putting it into the hands of a powerful Welsh Government with a lot of resources, which sets the policy and is now, in effect, also going to determine the application, as it were, and it owns the land.

[50] **Mr Davies:** I think that the thresholds are, in a way, a result of where the Welsh Government finds itself, because it cannot do anything over 50 MW. So, that sets the top—

[51] **Lord Elis-Thomas:** That is at the moment.

[52] **Mr Davies:** At the moment, yes; I am aware of that. So, that is where the limits are set at the moment. I think that it is a reflection of that limit. We had a lot of evidence that the energy consenting process in Wales was very difficult and confusing, and there was a separate report, which said that, I think, the average time to process a windfarm application was two

years or more. I do not think that anybody has ever—whatever it says in TAN 8—got through the process more quickly than that. I think that that is disgraceful, frankly; it should not happen. There is no reason why anything should take that long, in my view. Something needed to be done—that was a strong message that we had, and it was a strong message in the Hyder report as well, that something needed to be done.

[53] There might be nine turbines, but you could have a number of these. Yes, nine turbines is 25 MW, but the most likely thing is that you are going to get them at about 49 MW. That is what most of them would be, I would have thought. Some of them are set at that figure because going above that means that they go through the NSIP process, which is set nationally. So, some come in at that level for that reason, namely that it is done at a local level, but the developers come up against the fact that it takes a long time for the local authorities to process them. That is one reason to change the system.

[54] When they are processed, the local authority would be gathering views and looking to neighbours and residents, seeking their views and preparing its view as an authority with that in mind, and forwarding it to the Welsh Government. It is likely that the inspectorate will look at it and take it forward from there and, eventually, a report will come forward, in the same way as a call-in application is considered, with a report to the Minister. So, in that sense, I do not see—. I think that that system protects everybody. At the end of the day, it gives the Minister an independent view, or ‘independent’ in the sense that it is an inspector who is looking at it, looking at the policy, the view of the authority, the views of residents and the impact of that proposal. So, in that sense, I do not think that it is changing the principles; it is changing the way that it is done and, hopefully, ending up with speedier processing of an application. When you look at the amount of information that is provided as part of the applications, environmental impact assessments, landscape assessments and such information are there at a fairly early stage. So, I do not think that there is any reason why it should take that long, and that is one reason why it has been proposed in the Bill that it be done in this way.

[55] **Antoinette Sandbach:** This is my last question. You referred to mediation. That was one of the recommendations and you have now said that you have accepted that that is not an appropriate way forward, but mediation applies in a lot of what I call high-conflict situations—family being one example. So, is there not some merit in exploring that, bearing in mind that it can dramatically reduce the costs? Even if the mediation is not successful in resolving all the issues, it may be successful in narrowing down issues and really focusing on where there is a problem. I wondered why you felt that that is not now appropriate, bearing in mind that that was a recommendation that you had actually made.

[56] **Mr Davies:** When I said ‘not appropriate’, what I meant was that it is a difficult thing. We put it in here and we were trying to come up—. We had this instinctive reaction that there must be a way that mediation can be made to help the process better. We talked about appeals; appeals are the wrong time, in a way. It is too late. When it comes to an appeal, it is usually because there are entrenched views on either side. When you think of mediation, who pays for it? All right: the developer might pay for it, because it thinks that it will get something out of it. Who is mediating? Almost certainly the officers of the council. Who is making the decision? Probably, it will be the councillors, on a sensitive case, or maybe a large case. It will not be delegated to officers. Where are the neighbours in that mediation process? There are a lot of things to think about.

[57] **Antoinette Sandbach:** Could not a planning inspector mediate?

[58] **Mr Davies:** Planning inspectors are not mediators; that is the thing.

[59] **Antoinette Sandbach:** If they were trained.

[60] **Mr Davies:** Yes, they could be trained to mediate.

[61] **Antoinette Sandbach:** All that I am saying is that there are ways. I would not agree with an official mediating who was also responsible for making a decision. You need to have a third-party mediator—a trained mediation service. It seems to me that it would be possible for there to be designated planning inspectors who are trained in mediation. On small-scale appeals, which are extremely costly and go through a process where there may be, as you described, an appellant in person who has not professional help, that may actually help both sides considerably.

[62] **Mr Davies:** The thing to remember, of course, is that mediation does not need a planning Bill anyway. Mediation can take place in any event. It does take place now. I know of cases where house builders have called in mediators to help them forward when they have an impasse with local authorities on all sorts of things. It does happen; it happens now. We were trying to create ways where it could be brought into the system, and the Welsh Government has decided not to go down those routes, but there are difficulties that I think that we did not have time to explore in great depth. In the time that we had, we had a number of issues to deal with and we tried to come up with things because we saw a possible use of mediation. It is still there. It can still be taken forward. What we have in the report would take an awfully long time to go through in total. There is a massive amount that has already been put into the consultation paper. Mediation is still there. There has been a separate report. Inspectors have been trained. The inspectorate has been involved in the study of mediation, and some inspectors were trained in mediation. The inspectorate would see it as trying to get people to work together at an earlier stage. The crucial thing is called the statement of common ground. The proposal is that the statement of common ground is put in with the appeal.

[63] **Antoinette Sandbach:** You cannot do that.

[64] **Mr Davies:** Yes, you can. Why not? Why can you not do it? A statement of common ground is a crucial document from the inspector's point of view, though everybody seems to dismiss it. If there are four reasons for refusal, it might well be that there is only one important one. It may be that people are able to reach agreement. Inspectors do not want to hear lots of arguments about the three reasons that people agree on. Of course, because it is an appeal, the professionals on both sides will have to put forward their reasons for those three. The crucially important thing is that there may be only one reason for refusal. If you use the statement of common ground—there are six months to appeal—why cannot the applicants and the local authority get together to talk about their differences and agree what the differences are? It seems simple to me. That is it—there we are. The point about it is that the way that it would work is that the appellant would put it in and the local authority would then have time, as part of looking at the appeal documents, to say, 'Yes, we agree with it'. It would not necessarily be an agreed statement of common ground right at the start; it would be a draft put in with the appeal documents. Then the authority has the option to agree to it.

[65] **Lord Elis-Thomas:** Julie Morgan, then Julie James has a short supplementary question.

[66] **Mr Davies:** I am talking too much; sorry.

[67] **Julie Morgan:** It seems a shame that mediation is not taken further in the Bill.

[68] **Mr Davies:** I do not see any reason why it should not be. The fact that it is not in the planning Bill, and it is difficult to legislate for it—that is one of the issues. It can be taken forward in any event.

10:45

[69] **Julie Morgan:** Okay. Thank you. I would like to ask you about the Williams commission and your reaction to that, in view of your recommendations. If the Williams commission's proposals were to go forward, what changes would they make?

[70] **Mr Davies:** We did the report in the context of there being 25 planning authorities. It was outside our remit to look at suggesting other things. I think that there will always be a need, in some parts of Wales, to plan across boundaries, wherever those boundaries are. So, if you go down the route of forming combined planning authorities, it might minimise the need in some parts of Wales, but, if you take south-east Wales, which is one of the areas, I cannot see that you would have an authority where you would no longer need to plan across boundaries with your neighbours. That is one of the issues that I see. When we talk about setting figures, it might well be that the Welsh Government decides in certain areas or regions of Wales that certain levels of population growth are expected. How that is divided up is where the local issues start to emerge. There may be a different grouping of authorities and it may be that, when you have planning authorities working together, they will decide on a different strategic mix of authorities, but the planning Bill, in that sense, will create a framework that will work, whatever happens as a result of the work of the Williams commission.

[71] **Julie Morgan:** So, even if we go down to 10 or 12 local authorities, you think that your proposals will still apply.

[72] **Mr Davies:** There is no reason not—. What we suggested, and what the draft planning Bill is suggesting, is the legal framework to enable strategic authorities to be formed for strategic planning to take place, however that is required within that particular context. So, if you have 25, you might have 10 authorities in south-east Wales forming one strategic group. If you go down to a smaller number of authorities, you might have four or five in south-east Wales. That does not mean to say that, because you have four or five, you do not need to do that strategic plan. If you think about Cardiff and the Vale, then you might ask, 'What about Caerphilly or Torfaen, Newport and Monmouth?' How do you bring them into that process? If you look at the travel-to-work areas in this part of the world, and at the retail, shopping and housing market areas, the housing market goes way beyond the boundaries of Cardiff and of Cardiff and the Vale. So, to me, there is always a need to do that. The idea was to have a system that enables you to plan outside your boundaries and to allow authorities to think outside their boundaries. At the moment, under the local development plan system, an authority has to justify its own LDP. So, it looks at the population growth within its area and where the housing will go within its area. Although it can work with authorities, at the end of the day, it cannot decide to have a housing area outside its boundary to meet its housing need. If you are planning on a regional basis, you can look at where that housing site or that major employment site would meet the needs for housing and employment in that region, rather than in a particular council area.

[73] **Julie Morgan:** In terms of representing a Cardiff seat, for the LDP process that we have been going through, it would have been a huge advantage had it been possible to do it on a regional level. Would there be a case for joint LDPs being put in in any case?

[74] **Mr Davies:** Yes, I think that there would. Yes, there would. Pembrokeshire and the national park have done it in the past and had problems with it, but, if you look at Pembrokeshire and the national park, it is an odd geographical mix and, for them to work separately and to prepare separate plans is not logical. So, you would imagine that there would be a clear example there of a joint LDP being put forward.

[75] **Julie Morgan:** I think that it would be very helpful in this area, if, for example, Cardiff, Caerphilly and the surrounding areas had a joint LDP.

[76] **Mr Davies:** Well, there is nothing to stop them now.

[77] **Julie Morgan:** They could do that now.

[78] **Mr Davies:** They could do that now. The Bill would enable the Minister to direct more than one to prepare a joint LDP, but the strategic plan is not meant to go down to that level of detail; the strategic plan is meant to be a much higher level document in which you can look at some of the issues, such as housing. The example that we took was the one for the TAYplan region in Scotland. That plan is about 30 pages long, and was prepared by three people. It is brilliant. It won the RTPI Silver Jubilee Cup. It is an extremely good example of how you can do something like this, and that is what we are envisaging.

[79] **Julie Morgan:** In this area, we hope to have a metro as well, so that is another layer.

[80] **Mr Davies:** Well, there you are, and that metro is not going to go just between Cardiff and the Vale or to Caerphilly—it is going to cover a much wider area. Transportation is a clear example of how you need to do things. I chaired a group of local authorities, which included Cardiff, when Cardiff was preparing its LDP, and one of the ideas was to look at the issues that affected all of them, and how Cardiff needed to interact with the adjoining authorities. Transport was one of the main issues.

[81] **Julie James:** Turning to a couple of the other issues in the consultation report, one of them is about the pre-application advice matters that you have discussed, much of which, I think, is to be welcomed. However, in terms of the legalities of it, one of the biggest complaints that you get from developers is that they have indulged in pre-application conversations with the local planning authority, they submit the planning application, and lo and behold, all the advice that they had been given before turns it out to be completely unreliable. Are you intending that the pre-application advice should be something that the authorities are stopped from changing their opinion on, unless there is some material change of circumstance? How is that to work?

[82] **Mr Davies:** You can see at some point a lawyer coming along and saying, ‘Hang on, yes, okay’—

[83] **Julie James:** Perish the thought.

[84] **Lord Elis-Thomas:** You do not need them to come along; they are here already. *[Laughter.]*

[85] **Mr Davies:** It is an issue; it is a serious issue. I have heard of different ways of tackling it. One was in Shropshire, I think, which has a system of community panels on which you have members and local residents. When you have a project or discussion like that, they are involved in it. They may not be directly involved in the meetings, but they are told about the advice and what is going on. That gets the information across to them, but it also means that the officers have told someone and have got some sort of feedback as well that they can feed back to the applicant. The crucial point is that authorities need to be aware of what they are doing when they are involved in this process, and not to give advice which they have not thought about very carefully, and to give serious, professional advice.

[86] Developers are well aware that, if they are given advice, it might well be that councillors and members will need to give their own views on it at some point in the future, and they take that on board. I do not think that they expect that the application will sail

through on the nod every time. I am sure that they do take that advice on the basis, if it is given in the right spirit, that, 'This is our professional advice as planning officers; this is what we feel'. There is nothing to stop the officers from going back and talking, for example, to the chair of the planning committee. That would, to me, be a sensible thing to do. As far as I know, they have regular meetings, certainly with officers and chief officers, and where they may need to be involved, they can be told at that stage. Involving them directly in discussions, I suspect, is not going to be practicable. However, as long as authorities regard that as an important aspect of their work—. It is a lot of work to do it, but the benefits for the authority could be considerable.

[87] **Julie James:** I entirely understand the benefits, but I think that it also sounds like a growth industry for a lot of lawyers who might have been struggling for work elsewhere, given the legal aid circumstances.

[88] Moving swiftly on from that, one of the other issues that bothers me in this consultation document is that one of the biggest disputes that you get in local planning decisions is about who was notified about an application, and what is the meaning of 'neighbour' or 'vicinity', for example. We have been told by officials here that there is no proposal at the moment to change or define that in any particular way. I can tell you that my postbag is absolutely full of correspondence from people who live next door but one to a really quite significant development in their village or local area, but who were not told about it. Would you like to comment on the need for some kind of rigid guidance for inclusion in the Bill, or some other proposal? I cannot believe in your years as an inspector that that was not one of the frequently voiced problems.

[89] **Mr Davies:** Actually, no, it really was not, because people were there; they had found out. It might be that they addressed it to the council. They did not address it to us. I suspect that they did understand. Sometimes, people said, 'We were not told about it,' and we usually said, 'Well, yes, but you are here today; so, what do you have to say, and what are your views?' So, it was not really an issue in that sense. To me, that is something for sensible interpretation by an authority. I really do not see why it should be an issue. I do not think that you can give—. You might be able to give guidance on it, but you cannot give rigid rules on it. We did a talk about this, and there is a small section in the report about it. If you are talking about a windfarm, the neighbours you might want to notify are quite difficult, because you can see windfarms from miles away, probably, and some people will not be bothered at all, and others can see them and therefore they think that they should be notified and should have the opportunity to talk about them.

[90] **Julie James:** However, if you are demolishing a house in a village of 26 houses, and the only people to be notified are next door—

[91] **Mr Davies:** Should you notify all 26? Well, all right, I can only—

[92] **Julie James:** I can give you a number of examples of that sort of thing.

[93] **Mr Davies:** Personally, I would have said that that is a matter for the authorities to determine for themselves and to use common sense. At the end of the day, if they are notifying three or four people, and could notify 10, what is the difference? One of the things, of course, is that with social media, and the way that things are developing, there are ways to get the message out more smartly, or in smarter ways, than in the past.

[94] **Julie James:** I suppose that the issue there is whether that should be left to the neighbours themselves, or whether it should be an imposition on either the local planning authority or the person proposing the planning change.

[95] **Mr Davies:** It is interesting. I think that there are some requirements somewhere. Maybe Scotland has done something on requiring developers to do notifications. The people who receive the application are those in the planning authority. I think the responsibility should be on them to notify people. It is just about thinking about the best ways to ensure that anyone who thinks that they should have the chance to comment has the chance to comment. That is one of the things that we said. People should have the opportunity to comment if they feel that they are being affected in some way. The fact that the authority might not feel that they are affected should not alter the fact that, if people themselves feel that they are being affected by something, they should know about it and have the opportunity to comment on it.

[96] **Julie James:** Perhaps that is the wording for the guidance. Let us hope so. Anyway, may I turn to—

[97] **John Davies:** That would be the guidance, rather than the—

[98] **Lord Elis-Thomas:** I am afraid that I am going to have to—

[99] **Julie James:** Could I ask one last question?

[100] **Lord Elis-Thomas:** Yes, but then I have to go to Powys. We have spoken so much about Glamorgan, and the men of Powys have been extremely patient.

[101] **Julie James:** My last question was about the planning committee. You mentioned conversations with the Chair in pre-application discussions, and so on. One of the omissions from this consultation is the proposed scheme of delegation, around which a lot of the proposals for the size and function of planning committees are based. Do you want to comment on the omission of that scheme of delegation? For example, there could be a scheme across Wales of the same advice being given to planning committee members about declaring an interest if they have already had a conversation about a pre-application discussion.

[102] **Mr Davies:** When you say ‘omission’, the actual scheme is not—

[103] **Julie James:** No, it is not there. We have asked, and it is not drawn up yet.

[104] **Mr Davies:** No, well, I mean—

[105] **Lord Elis-Thomas:** It may appear.

[106] **Julie James:** Well, it may, but it was not drawn up the last time that we asked, was it?

[107] **Mr Davies:** No, but I would have expected it to come at a later stage. It does not need to be in the Bill, so I would expect it to be in a secondary form, whether it is legislation or advice. I would have expected it to be separate. Our view is quite clear: you need to have the authorities—however many there are—working in the same way. When somebody goes from one authority to the next, to be fair to the professionals and the developers, they should know what they are going to have when they come to a committee. Not that, in some cases, they will not be allowed to speak at all, in other cases, they will have three minutes, and, in other cases, they will have as long as they like. They should know how it is handled and what the delegation process is. Authorities need to work in the same way. I think that—

[108] **Julie James:** I am not disagreeing with that. I am just saying that it is difficult to agree on what is on the face of the Bill, if you do not know what the—

[109] **Mr Davies:** That to me—. I would have thought that that would be something that

needs to be worked on with authorities, obviously, and with the planning officers' society within the Welsh Local Government Association. I am not surprised by it; I would have thought that it would come later.

[110] **Lord Elis-Thomas:** William Powell is next, and then Russell George.

[111] **William Powell:** Moving on to another important area within the overall planning sphere, town and community councils, we have had a certain amount of mixed messages on this one. In the Williams commission and other places, we have had an emphasis on an enhanced role, perhaps. On the other hand, we have the move towards a more robust centralised approach in other respects. What is your view about the role of town and community councils currently, and how could they appropriately contribute to the improvement of the planning service in Wales?

11:00

[112] **Mr Davies:** I think that, currently, it is not at the level at which I think that it should be, partly because, in some cases, there are some councils that are very small and might not have the capability to do it. The other reason is just about opportunity and the understanding of the system. For somebody like me who has been in the planning system for a long time, it always puzzles me, then I think, 'I know it; it is just ingrained in me'. People ask me what I think are simple questions about how you get involved. So, it is about the opportunities, I think, as part of the problem.

[113] We looked very closely at the neighbourhood development plans that are being drawn up in England and the way that they were being done. We thought, 'We have a layer here; we have town and community councils'. There are some of them that are well capable, in terms of their scale and size, to be able to do the work themselves and work with authorities on things like village plans, which were being used some time ago. So, we thought that what we should be doing is looking at helping town and community councils to get more involved; that is, in preparing plans, but also in publicising, which was your point.

[114] Town and community councils should have very good links with local communities. You might be saying, 'Perhaps the authority should be telling people directly', but why not use the networks that are already set up? If you have something that the town and community council should have to contact people, use it. That would be just to tell people and to feed things back. We were very impressed by the work that Planning Aid Wales had done in Brecon. Whatever happened with the plan itself, in terms of quality or whatever you might want to say, the process seemed to have helped the local community to become involved through the community councils.

[115] **William Powell:** I certainly endorse what you have just said about Planning Aid Wales, because it has done a huge amount of good work centrally within authorities, but also in going out to run workshops with clusters of town and community councils, some of which were quite small. It has empowered and upskilled. Is there not a danger that, with the place plans that are currently being discussed, we may have a problem with expectation management, ultimately because of the status of those plans, and that town and community councils, and those people whom they represent, may feel that they have been short changed or that they have engaged in what I described earlier as an occupational therapy exercise, without having the impact and say at the end of the day?

[116] **Mr Davies:** That is a major issue, and that is the tension between the local agenda and centralisation. The 'place plan' was the phrase coined in Shropshire, I think; it may have been coined in other places, as well. We talked to the officer there, and his comment was, 'This is a 24/7 job'. He was in all sorts of evening meetings to talk to people and to get it

working.

[117] **William Powell:** Given the rurality of that county, in particular.

[118] **Mr Davies:** The payback for them was that they got the plans through; they got everything through, they were collecting money under the community infrastructure levy and it worked really well. It was a huge amount of work and they had a lot of staff, apparently; somebody from Powys said to me, 'It is all very well for Shropshire, as it has all of these planning officers washing about in its system'. However, it seems to have worked, in the sense that many people understood what they were talking about. They asked people what they wanted in their area and tried to work toward delivering that—maybe not all of it, but some of it.

[119] If people feel that there are some improvements from development in their areas—. It is a natural thing; if you see development, and you are getting some benefit from it, you are a lot less likely to be violently opposed to it, shall we say? It does not mean that it is going to sail through, but it helps with the process. It is an idea; it has worked somewhere and it is the best practice principle. If somebody is doing something that works, why can you not adopt it elsewhere? Why can you not adapt it elsewhere, possibly, as well? So, it might be that there are ways to make it work.

[120] However, yes, I think that expectation is one of the issues. When it came out in England and it was changed, there was great expectation. The idea would be that there would be an allocation and there would be a policy. How that works on the ground would be translated with the help and close involvement of local people.

[121] **William Powell:** You have mentioned the community infrastructure levy. Is it a matter of concern to you that there are currently no plans, as the Minister confirmed in an answer to a question in Plenary earlier this week, to have Wales-specific guidance about how that is taken forward? Currently, I understand that, in Wales, we rely on English planning guidance in that area. Is that an issue of concern? It is an issue that has been brought to me by people who have had experience of this in Carmarthenshire and Caerphilly. I wonder whether that is a matter of concern that needs addressing.

[122] **Mr Davies:** I know that some authorities in Wales are working on guidance anyway. Caerphilly is taking a lead on this, as far as I understand, with Caerphilly being one of the first to do its LDP and is now well down the road towards its CIL. Bearing in mind that the CIL is an England and Wales system, it should not make any difference in that sense. Whether it should be an England and Wales system is another issue entirely, but, as it is now, it is something that applies across the two countries, and, therefore, the guidance for the system in England should apply equally in Wales, with sensible interpretation where it is needed, but there are some Welsh authorities working on that.

[123] **William Powell:** I have one final brief question, and it relates to the planning framework and the local development plans. Concerns have been expressed to me that, currently, there is not enough emphasis on the deliverability of some of the land-supply allocations. This can sometimes relate to not the will of the landowners, but other important external factors, such as issues around invasive non-native species or the investment programme of utility companies, such as Dŵr Cymru and Severn Trent Water, in relation to sewerage capacity. Is there a need for having a more joined-up approach there, in order to deliver on the housing targets that the Welsh Government and the localities have?

[124] **Mr Davies:** Deliverability should be, and is, a crucial factor for all the inspectors who are examining LDPs, and that has been one of the factors that have caused problems for authorities as well. I have heard serious complaints from house builders who say that the

authorities are getting away with things, but I do not know about that. This is since I have left, so I do not know. Do not ask me anymore; I have left and I have retired in theory. So, it is an issue. It is about viability, in terms of what you are asking to be delivered. CIL is coming forward, developers are there to make a profit, and that raises another issue. On issues such as invasive species, these are all sorts of things that authorities should take into account. Housing-land availability studies, which inspectors get involved in, are meant to monitor this and make sure that authorities have 100 sites deliverable, for example. Maybe a third of the sites are deliverable now. It is about which ones are deliverable in five to 10 years.

[125] **William Powell:** It is a phased approach.

[126] **Mr Davies:** Yes, that is right. Some of the ones that they think are deliverable in five years have been allocated for 15 years. Why do they not come forward? I gave a talk very early on, when they were talking about the LDP system, and a councillor said, 'We've had a site allocated in our village for the last 15 years, and I've told the council that it's never going to be built on because the farmer won't sell it. So, why is it still allocated for development?' That is just not realistic. That village needs housing, and that was the councillor's point, that it cannot build any, and the authority has allocated a site that will not be built on.

[127] **William Powell:** It is acting as a block then to searching elsewhere.

[128] **Mr Davies:** Yes, there is a block, and we know about that through working with people and listening. That could be a great example of when you go to the local community and you say, 'Right, you need something. Where would you put it? What site would you want to see being used, and can that site be brought forward? What are the issues and what are the problems?'

[129] On statutory undertakers, Dŵr Cymru and the others, yes, authorities complain bitterly about the fact that they do not get a response providing the information that they need to prepare their LDP within the allotted time. There is something in the 'Positive Planning' document about requiring them and putting a duty on them to respond, and we referred to it in the IAG report as well. It needs to be looked at and addressed.

[130] **Russell George:** You suggested that ancillary development of over 50 MW is decided by the Welsh Government, rather than local authorities. So, we are talking about windfarm connections or grid connections to windfarms. It is picking up on the theme of local democracy, which was picked up earlier, and taking that decision making away from the local community to a decision maker that is further away. That is what is behind my question. Can you talk particularly about that recommendation?

[131] **Mr Davies:** I presume that you mean the recommendation about developments of national significance, and creating this basket of schemes that would be dealt with by Welsh Government and everything that goes with them. That is one of the confusing things for authorities and developers at the moment—what is dealt with by authorities and what is dealt with elsewhere. The idea is that, in Wales, there would be a process of bringing them together. It is an issue. I fully understand people's concern about the decision being taken away from the authority. There is still an opportunity for the authority, which will be asked and required to prepare a report. That report will take account of the views of the councillors, their local plans and the views of residents. That will be fed into the process of a report being prepared by an inspector—I think that that is the thinking at the moment—which will be presented to the Minister for a final decision. I appreciate the point, but I think that there is a need to recognise that some developments have implications outside the local town, the local community and the local authority. This process is trying to recognise that some of these decisions should be made at a different level. Of course, there is already the process of call in.

[132] **Russell George:** You mentioned that local authorities will still have an input. I think that I am right in saying that you suggest that local authorities should be compensated or paid a fee by the Welsh Government for that involvement. Have I got that right?

[133] **Mr Davies:** We suggested that there is an implication for the authority. Some authorities have already raised this issue regarding the system of national schemes of above 50 MW and other major schemes that are dealt with by the inspectorate—the major infrastructure schemes. There is an issue there because they are already required to prepare these local impact reports, as they are called, but I do not think that they get a fee for that although there is a considerable amount of work for them. I think that we raised it as an issue to be considered. I do not think that the door is closed on that. That is a separate issue—fees and things like that would be set outside the Bill itself by secondary legislation and that process.

[134] **Russell George:** We have only briefly mentioned the Silk recommendations, but they suggest that powers over developments of up to 350 MW should be devolved to the Welsh Government. That is since your recommendations. What are the implications of that? Could you just talk to that?

[135] **Mr Davies:** In terms of delivery and the process, what we suggested would cater for whatever the size of the scheme—it could have been any scheme—and so will the planning Bill proposals. The planning Bill is creating a system where developments of national significance will be defined in a piece of secondary legislation and those will be dealt with in accordance with the framework set by the Bill. Whether it is 50 MW or 350 MW, it comes down to the detail of how it gets processed. Schemes of 350 MW may be more complicated—almost certainly, they will be more complicated—the size of the environmental impact assessment may increase, and the sorts of things that we are talking about are the technical complexity of some of these cases, which is where the authorities have struggled. Some authorities will have great experience of dealing with energy from waste schemes or windfarms, but some authorities may have one for the first time and think, ‘We don’t even know what questions to ask; we don’t understand the evidence being presented to us’. The inspectorate has specialists within it; it has engineers, scientists and planning inspectors who have looked at this and are used to absorbing and dealing with that volume of information. The process would possibly be different, but the framework that you need to process that level of scheme is no different.

[136] **Russell George:** What about the level of resource within the Welsh Government to deal with those applications of 350 MW?

[137] **Mr Davies:** There may be an issue there, but the Welsh Government has within it a number of specialist divisions and a lot of people with highly technical, skilled knowledge who could be called upon to advise on these things. The process that was set up to deal with these schemes in England, which currently process this level, does not have one person who does that work—there is a team of people working on it, frequently. They are people who are specialists in dealing with different things who will eventually advise on the content of the report that goes to the Minister.

[138] **Russell George:** Earlier, you mentioned that there is a larger pool of experience within England, but that that pool is a smaller pool within Wales.

11:15

[139] **Mr Davies:** Yes.

[140] **Russell George:** I am just asking about the correlation in terms of what you have just

said, really—between there being that resource within the Welsh Government, or a smaller pool, too.

[141] **Mr Davies:** I did not actually just mean the Planning Inspectorate on its own. It will be the Welsh Government dealing with this. The Welsh Government would be asking the inspectorate to write a report perhaps, but it could equally be asking someone in one of the specialist divisions of the Welsh Government—the pollution branch or whatever—to look at a particular issue and to advise on and write a specific part of the report. In the past, the inspectorate has employed specialists. On Trawsfynydd, for example, a specialist was brought in. In other cases, when I was there, we would sometimes employ someone with specialist knowledge as an adviser to the inspector; they would write a little separate report on a particular topic, giving the inspector advice on a specific issue. I think that that must have been on radioactivity. It must have been. However, it is done. So, that could be done. Alternatively, of course, because the Welsh Government has, within its many employees, specialists with technical knowledge, they could be asked to deal with specific issues if they come up in a particular application.

[142] So, it would not necessarily mean that the inspectorate would have to do it; the inspectorate might be processing and bringing the evidence together, and the inspector writing the report. Then again, when I was there, we sometimes asked for an inspector from England, not because of their specialist knowledge but because there simply was no-one available at the time to do something. That is usually the case. I would say, would I not, that the Welsh inspectorate has, among its small ranks, a very broad breadth of knowledge of a number of issues and experience—the experience that you build up over time in dealing with these things? You get inspectors who specialise. You usually have some inspectors who have dealt with many windfarms—‘dozens’ may be an exaggeration, but many more than a local authority planning officer would have dealt with—and they build up the experience and knowledge to be able to understand the evidence that is presented to them for that reason. They deal with complex evidence and complex cases, and they also get the knowledge from doing that.

[143] **Lord Elis-Thomas:** I think that that praise for your colleagues at sea is a good signal for us to thank you. Before you do that—

[144] **Mr Davies:** I apologise for that, Chair—

[145] **Lord Elis-Thomas:** Not at all. I have one quick question. You have a section in your report about improving the call-in procedure. In the light of what you mentioned just earlier, you would imagine that call-in would still be available to the Welsh Government despite this category of national importance.

[146] **Mr Davies:** Yes, I think so. I do not think that there is any suggestion that it would not be. When I first talked about the IAG report that we did, which discussed this, someone said, ‘Well, you’ve got the call-in. Why do you need this as well?’ My answer then, and it is still the same, was this: the call-in takes some time. The call-in itself takes up part of the process, and it has to be gone through in each case. There are such questions as, ‘Are you going to call it in?’ So, if someone has to suggest it, why do we not define the things that we know are going to go to the Welsh Government to start with? You know that from the first day, and you save that much time in doing it. Everyone knows where they are and those things will be considered by the Welsh Government. The call-in will still stay because there will be instances where someone might want that to happen and it is not a development that is classed as one of national significance, which the Welsh Government will take anyway.

[147] **Lord Elis-Thomas:** Russell has one more point.

[148] **Russell George:** On that particular point, I think that you suggested a nine-month period for deciding on a call-in. What was the rationale behind that? Why is it that particular length of time?

[149] **Mr Davies:** One of the criticisms that we had was that the Welsh Government takes too long. It was a response to that. We came up with a figure. You could argue that it should be 12 months. I think that, for a development of national significance, it might be 12 months but you could say six months. Pick a figure. We picked nine months after a little bit of discussion, and it was not huge. Saying that it was symbolic is perhaps going too far, but it was that idea. You need to have your time set for doing anything like that. It is no good calling them in and then, as one of the consultants has said, them disappearing. The Welsh Government also needs to be under a time constraint to process these things.

[150] **Lord Elis-Thomas:** Diolch yn fawr, John.

[151] **Mr Davies:** Thank you.

[152] **Lord Elis-Thomas:** There will be a few minutes' break while we turn around.

[153] **Mr Davies:** I apologise if I have caused you to run late today.

[154] **Lord Elis-Thomas:** No, it was not you; it was our questioning.

*Gohiriwyd y cyfarfod rhwng 11:20 a 11.26.
The meeting adjourned between 11:20 and 11:26.*

**Bil Cynllunio (Cymru) Drafft: Arup a Fortismere Associates
Draft Planning (Wales) Bill: Arup and Fortismere Associates**

[155] **Lord Elis-Thomas:** I am sorry for the delay, but Mr John Davies had a lot to tell us. While you are settling down, I would like to remark on the extent of the research material that we have seen that you have been involved with and how impressive it is.

[156] **Mr Hyams:** Thank you.

[157] **Lord Elis-Thomas:** We heard a bit earlier from John Davies, as we have heard from our advisers as well, about the importance of the evidence base in the Welsh planning system that you have helped generate. I would like to ask you especially about the process that you undertook in developing the research and evidence base. Did you find that what you did was absolutely new in the sense that no such research of that quality had been done before in the Welsh planning system?

[158] **Mr Hyams:** There are four separate answers to that, because each study had its own methodology. From the committee side of things, my colleague Alison Blom-Cooper had undertaken some similar work previously in England. I am sure that we can come on to that when you want to do so. For the enforcement research, the methodology itself of having a survey, a focus group and a seminar was not particularly innovative, but I think that that was the first time that it has really been applied to the enforcement field with that level of rigour.

[159] On the new approach to managing development in Wales, I think that we saw that as a sort of outward-looking mirror to the independent advisory group report. While the IAG report examined Wales, I think that it was a similar approach, but looking outwards in terms of external, alternative approaches. I think that the housing research probably was quite innovative, particularly the appendix to the housing research, where we detailed our case

studies. What we have tried to do in the housing research is to illustrate, over time, whose court the ball is sitting in, and that is where you might unpick where the sources of delay or controversial elements are coming from.

[160] **Lord Elis-Thomas:** What interests this committee in particular is that, clearly, when we conclude this inquiry, we will be moving on in July—hopefully not later than that—to receive the actual Bill. Therefore, we are very interested in the Government’s emphasis on and its approach to the evidence base. Are you able to make some comparisons with the work that you have been doing in England that might help to enlighten us? Could I ask you that question, Alison?

[161] **Ms Blom-Cooper:** Specifically in relation to the committee research, we can certainly do that, and obviously, we can apply what we have done to other pieces of research. As you may be aware, the Department for Communities and Local Government has not commissioned very much research in the past year, so—

[162] **Lord Elis-Thomas:** Well, I was not going to say that, but since you have said it, that is alright, is it not? [*Laughter.*]

[163] **Mr Hyams:** Historically, we were both involved in the Barker review and the Killian and Pretty review, so we do have that comparison. However, that, as I say, is a little less timely.

11:30

[164] **Ms Blom-Cooper:** In relation to the work around committees, we had done quite a lot of work with individual authorities across England, looking at the way that the committee system was operating, and we applied some of that knowledge to the work that we did in Wales and took forward some of the ideas. I know that one of the issues that is coming forward is around the involvement of members at the pre-application stage. So, since the Localism Act 2011 has been in force, there has been an increase in the involvement of members in English authorities at the pre-application stage. A number of them have set up mechanisms so that proposals are put before the planning committee at that stage and an informal steer is given to the applicants on that. A number of authorities have taken that approach. It seems to be working quite well. One of the authorities that I am working with currently in England has a community engagement process, which occurs at the moment during the application stage. We want to bring that development management forum process to the pre-application stage in order that that can also feed into the planning committee and consideration of the proposals for big and controversial applications at that pre-application stage.

[165] **Lord Elis-Thomas:** The outcome there would be to create a more informed lay democratic voice alongside specialist planning advice in the process.

[166] **Ms Blom-Cooper:** Yes, it also gives more certainty to applicants in terms of what the issues are for members in a particular context. I went to observe Hackney, as it is one of the authorities that is currently operating this system. It was quite interesting to see that its emphasis is very different to that of its neighbouring authority, particularly concerning parking standards. It wants to reduce the amount of car parking that the applicants wanted, so the applicants came away with the very clear steer that they had to go back to look at that again.

[167] **Yr Arglwydd Elis-Thomas:** Llyr **Lord Elis-Thomas:** Llyr is next. sydd nesaf.

[168] **Llyr Gruffydd:** Byddaf yn gofyn fy nghwestiwn yn Gymraeg. Hoffwn godi pwynt a godais yn gynharach ynglŷn â chreu pwrpas statudol i'r drefn gynllunio yng Nghymru. Yn amlwg, roedd John Davies, yn adroddiad y grŵp annibynnol, yn argymhell gwneud hynny, a hoffwn glywed eich barn chi ynglŷn â'r gwerth o gael pwrpas statudol i gynllunio yng Nghymru.

Llyr Gruffydd: I will ask my question in Welsh. I would like to raise a point that I raised earlier regarding the creation of a statutory purpose for the planning system in Wales. Clearly, John Davies, in the independent group's report, recommended doing that, and I would like to hear your view regarding the value of having that statutory purpose for planning in Wales.

[169] **Mr Hyams:** I am sorry, just to clarify your question, did you mean in relation to the function for the local planning authority?

[170] **Llyr Gruffydd:** No, a statutory purpose for planning in Wales. It is recommended by John Davies, and I wonder what you feel the value of that would be.

[171] **Mr Hyams:** Do you mean as the objective?

[172] **Llyr Gruffydd:** Yes.

[173] **Mr Hyams:** I heard John Davies's answer earlier, and any time you define something, you are potentially limiting the flexibility that you have to apply that. However, there is no harm in having those objectives. To some extent, with 'Planning Policy Wales', you already have that. It is a very comprehensive document that, in turn, is very succinct in the objectives for each of the various chapter headings of the system, as it pertains to the policy that it is setting out.

[174] **Llyr Gruffydd:** Have you seen the recommended wording from John Davies in his report?

[175] **Mr Hyams:** I do not have it in front of me, but I have read it.

[176] **Llyr Gruffydd:** He says that 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. Do you have any thoughts on that?

[177] **Mr Hyams:** That is absolutely right and admirable. What I think John—and I do not want to put words into his mouth—is trying to achieve with that is to reel back some of the additional burden that has been placed on the planning system. As I am sure that you are well aware, the planning system often only comes into contact with certain sites, people or uses at key points in its lifespan. That definition reflects that realistic, pragmatic approach to the system. However, if I were to give a grander objective for the planning system, it is about having happy people, good places and healthy living—it is all of those wider objectives. So, I guess that it is about where you want to place the line. What John and his IAG have done is to take a very pragmatic approach to what planning can directly deliver and achieve.

[178] **Llyr Gruffydd:** He suggested in an answer earlier that this could be seen as being part of that effort or that push to change the culture around the whole outlook towards planning in Wales. Would you agree that such a statutory purpose would help in that respect as well?

[179] **Mr Hyams:** Yes, absolutely. To some extent, the analogy that I would use is the logic chain. What you really care about are the outcomes and the impacts; what you can measure are the outputs and the process. That definition, to me, focuses on the process and the outcomes. All things being equal, if you have the right objectives and the right policy, you

have gone through the right process and delivered those outputs, then, hopefully, that will lead to those outcomes and those impacts, which are much harder to measure and, certainly, to attribute to planning.

[180] **Mick Antoniw:** I come to this committee without any planning expertise, so this is a learning curve for me. It is the breadth of the principle behind it that is of major concern to me, because we have a Bill that is described as a delivery mechanism. We know that planning decisions impact massively on people's lives, so, if it is, essentially, a delivery mechanism, albeit one that is far more centralised than anything that we have at the moment, that centralism takes away a high degree of local involvement and engagement, for all its good, and all its bad as well; I can understand wanting to have a streamlined process. So, at the same time as this, we have a whole series of background policy mechanisms to influence this. We also have a sustainability Bill, now called the future generations Bill—we are not completely clear what the format of that will be, but it looks as though it is going to be a form of framework directive on sustainability and all the protection-related things that come with that. Is that a very satisfactory environment in which to be centralising? Do you think that there are enough in-built safeguards for communities—local voice, town voice, city voice or whatever—within this, or is it sufficient just to look at it as a delivery mechanism and to be more concerned about the framework around it?

[181] **Mr Hyams:** If you do not mind me saying, I think that that is quite an interesting take on it. I did not perceive it, particularly, as centrist versus localist. Within our committee's research, something that we were very concerned to address and look at was the way in which public participation in the decision-making process at committees plays out. What we noticed was inconsistency in terms of who is able to speak and who is not, and the amount of time and the level of guidance and information that is available. So, our recommendations in that regard were very much pitched bottom-up, in trying to engender involvement. From some of the observations that we made through the various bits of research, not just the committees, if people are aware of the process and understand it, you are halfway there—they might not always get the outcome that they want as a local resident or a community group, but at least they have understood, they were listened to and there was a process that was played out.

[182] **Ms Blom-Cooper:** May I add to that? I think that that goes to the heart of why the pre-application involvement of communities is so important. By the time that it gets to committee, the proposal is very firmed up, there is not much scope for changing or amending it at that stage, and that is why the involvement at a much earlier, pre-application, stage is critical for proposals that are coming forward, but also in the plan making. The critical part for engaging with communities is the plan-making stage.

[183] **Mick Antoniw:** We know that a lot of communities are trying to get people to engage on something in the general, and planning is very difficult. It almost comes up in retrospect, when people start saying, 'Well, I wasn't involved and does this really affect me?' and so on. That is a general problem. I think that the point that you make about pre-application engagement is really important. Do you think that we need to strengthen the content of this legislation to be far more definitive about what we mean by 'pre-application engagement'? There is a whole variety of consultation processes and methods of consultation around. There is no need to name names, but there are some places that I think are very good at it and others that are absolutely awful, which regard consultation as basically a process that leads to the pre-determined conclusion. It is that area of a delivery mechanism that does not have enough guarantees as to protecting that element.

[184] **Ms Blom-Cooper:** Yes, I do not think that you can legislate for that, though. I think that that is best practice and using what you are proposing around the planning advisory improvement body to disseminate some of that, but also, what is appropriate in one place is not appropriate in another place. Communities are different, and different approaches work

better or less well in some places than others. So, it is about making sure that you design something appropriate to whatever it is that is on the table, what the proposal is and what your communities in that situation need. So, one size does not fit all, and I think that legislation would not help in that sense. What you are doing, or what is being proposed, around getting applicants to take part in pre-application engagement prior to submitting applications is right. However, the format needs to be different in different places.

[185] **Mr Hyams:** As would have been mentioned, this is a culture change issue that relates to all actors in the system. So, it is about the public trying to get involved, but it is also about the profession facilitating and guiding that process. It is about the stakeholders making it clear and speaking in concise ways—not just with pre-application discussions, but the creation of policy. An effective development-management approach is something that front-loads, so front-loading the decision making to pre-application discussions, and trying to establish principles of use, and what is the best thing to go where, or not go somewhere, through policy. It is really critical you get involvement up front.

[186] **William Powell:** What are your views on the key obstacles that exist to appropriate housing development within the planning system currently? We have issues that have been raised with us regarding the unwieldy nature of the local development framework that we currently have. What are your views on how that could be improved?

[187] **Mr Hyams:** The key obstacles are at every stage, to be honest. As I hope our study shows, there is no stereotypical, single silver bullet, unfortunately. A lot of the time it is about policy. We came across cases where sites were allocated in a plan, but in a way that just was not deliverable. They had not had that forethought of decision, either because the plan was out of date, or the situation had changed, or enough work had not been done by either the developer of the proposal for the site, the authority considering the site, or the relevant consultee in engaging with that process. There are lots of instances where, on very major schemes, pre-application advice was not taken up. Frankly, the opportunity for a free go, if you like, when an application is refused—you get the chance to resubmit for free—means that the statutory process becomes the pre-application process in some cases. At the tail end, once there is a decision or a resolution to grant planning permission by a committee or through officers, then to some extent the foot comes off the accelerator. Things like section 106 agreements tend to extend the process.

[188] **Ms Blom-Cooper:** Just to add to that, one of the things we found was statutory consultees not giving timely advice—particularly the Environment Agency and so on. That was often a factor. It is a problem that they have tried to grapple with in England as well, and I do not think they have found a solution yet. That is a big issue.

[189] **William Powell:** One issue that I raised earlier in our session with John Davies was around the difficulties in terms of dealing with some of the statutory undertakers, particularly water authorities, where the responsibility for sewage and drainage infrastructure can very often delay development by years. We have not really got clear control of that area. Are there any proposals around how that can be improved?

[190] **Mr Hyams:** Again, it is about culture change. Some of these organisations are being pulled in different directions, with the public and private interests all coming together in the round. Again, it is about being upfront, and front-loading. One case that I can think of was a site where the applicant did not choose to take up pre-application advice, submitted an application that then required a slight change to the flood consequences assessment, and it took them six months to go away and do that again. So, straight away, that application is never going to meet its target. The timeliness of the advice itself was in some ways questionable. So, yes, I think that it falls on all parties.

[191] **William Powell:** Do you have any experience on the role, beneficial or otherwise, of rural housing enablers in facilitating some of the communications that, by implication, can be missing, with serious consequences. We talked about allocations that are inappropriate and not deliverable because of the absence of will to sell or to allow something to go forward, or whatever. Have you any experience of that particular group of professionals, who I have had some dealings with, which were broadly positive? I would be interested to know if that is replicated elsewhere in your experience.

[192] **Mr Hyams:** To be honest, I have very little experience in Wales, and slightly more in England, mainly around the infrastructure delivery plan element of plans in England. It is about front-loading and getting the information about requirements: what, when, where, how.

11:45

[193] **William Powell:** Chair, a final question, if I may, relating again to issues around allocations that never come forward. Is it, in your view, appropriate that some further steps should be taken to make it difficult for developers to land-bank in a major way, to cynically do a little bit of the necessary groundwork to activate permission, and then sit upon it for a number of years with no deliverability of the housing, but also very often to the detriment of the local environment, because of unsightly and overgrown sites, which can also be an area where invasive non-native species can take hold with further adverse consequences?

[194] **Ms Blom-Cooper:** That is an extremely difficult one, because you cannot make somebody develop a site. You can give them planning permission. You can try to facilitate, and try to find the blockages in why it is they are not delivering, but, at the end of the day, it is sometimes a choice that they wish to make, that they do not want to deliver that site to a particular timeline. It is not easy to see how you can make them do that.

[195] **Mr Hyams:** There are experiences elsewhere, and our 'A New Approach to Managing Development in Wales: Towards a Welsh Planning Act' report touches on this. There is something called 'land readjustment', which is effectively re-shuffling land ownership to free-up the site that the planner is interested in. So, the landowner still owns a similar proportion of land, just not the same parcel of land. It is much more intrusive than land swapping; it is a sort of alternative to a compulsory purchase order. That is something that we looked at, although we would not necessarily recommend it. However, it is something that is worth considering, and that was the recommendation that we made—that it be considered.

[196] Other approaches are around trying to create a more competitive market in allocation terms. For example, an authority might have a housing need for 50 units, but you might allocate for 75 units within the plan, and say that it is for the first 50, or within a certain phasing, to try to incentivise something to come forward. So, there are other approaches, but I am not aware of them being tested elsewhere.

[197] **William Powell:** Where has the land-swap approach been used with any degree of success?

[198] **Mr Hyams:** I think that it is a German approach, but read the report.

[199] **William Powell:** It has been and done.

[200] **Julie James:** To continue that point, in your housing report there is quite a bit of discussion around what should be included in a pre-application discussion. One of the sections that I was particularly interested in was the section 106 discussion, about what should be included at that stage. Your report tries not to be astonished at the number of times that a

council changes its requirements, and so on. However, is that not driven by land values? The elephant in the room with all of these discussions is the land value. One of the problems with this whole planning system is that, in a scarce supply situation, land values always rise. The discussion about affordable housing, for example, is part of section 106, as is infrastructure developments. There is a continuous discussion between the developer and the local authority on whether a scheme is affordable or not, and the local authority officer is often not only the planning officer, but also the officer responsible for delivering the LDP. So, they are not completely objective in the sense of what they are trying to achieve. Obviously, the developer is trying to maximise the value and minimise the social housing/infrastructure. I worry that the earlier you do that in the process, the more you are likely to drive the land value up.

[201] **Ms Blom-Cooper:** It comes back to having a clear policy about what you want in terms of section 106, and having that in your plan; I think that that sets the basis for it. However, the real issue is the viability of the site. One thing in which planners have traditionally lacked skills is viability of the site; they do not feel confident about that. There are not necessarily the skills in local authorities elsewhere to do that. There used to be many more valuers around. So, it is about making sure that you understand what the viability of the site and the scheme is, and what it can bear. The cake is only so big and it is about how you cut it up. It is not just about what you are seeking in section 106; it might be what you are seeking in terms of the code for sustainable homes requirements or other requirements that you might have, which all need to be taken into the mix.

[202] **Julie James:** The land value tends to drive you to the lowest common denominator, because once you have approved one scheme with lower than normal social housing or lower than normal code BREEAM, or whatever—if you have dropped your insulation requirements or your green-space requirements—all the land values surrounding it go up and you drop again to the next lowest common variable. I understand entirely where you are coming from, from a planning point a view. However, I think that it has the unintended consequence of driving the land values up at an earlier stage in the process, which will actually make the housing supply more restricted as an odd, unintended consequence.

[203] **Ms Blom-Cooper:** I think that is interesting in the context of what we are seeing, certainly in England at the moment, which is that people are coming back and renegotiating the section 106 agreements, saying that they cannot deliver them because they are no longer viable.

[204] **Julie James:** Exactly. That is the exact argument, is it not? It is not viable, because it is no longer affordable, because the land value is no longer as high, et cetera.

[205] **Mr Hyams:** Whether that is true or not—I am not professing to be a development economist—whether you are doing that earlier in the process, when the development is still not solidified in its scheme terms, in terms of the mix, tenure, number, layout and whether there is a playground or whether there is not, I just think that, all things being equal, it is better to have that discussion earlier, when there is a chance to influence, rather than once something has come in the door and the clock is ticking.

[206] **Julie James:** I take your point. I think that, in planning terms, you are absolutely right. However, my worry is that, if you then have that on the table and it is renegotiated at a later stage, it actually drives the development down and the land values surrounding it up, which exacerbates the problem elsewhere. However, we will not agree. So, thank you, Chair.

[207] **Lord Elis-Thomas:** Antoinette Sandbach is next, then Julie Morgan.

[208] **Antoinette Sandbach:** Picking up on that, I wonder what you felt that the role of permitted development was, particularly in rural areas. I know that there is experience in

England where permitted development has changed, for example, in relation to redundant farm buildings. Do you feel that, particularly in areas where there is a limited supply of housing, like rural areas, and where there is a real call for more local and affordable housing, permitted development has a greater role to play?

[209] **Ms Blom-Cooper:** I think that it is too early to say what the impact is in England, because it has only just come into effect. So, we do not know what it is going to look like. I think that allowing permitted development is not necessarily the solution, though, to meeting affordable housing needs. I think that there needs to be a plan-led approach to how you are going to do that—not by freeing up and deregulating, because that means that you do not necessarily get the housing where you want it to be or need it to be.

[210] **Antoinette Sandbach:** On the other hand, at least you get some housing. It seems to me that there are a lot of Nimbys, who say, ‘not in my back yard’, in that they have a nice small village and they do not necessarily want to—.

[211] **Ms Blom-Cooper:** Perversely, the one thing that we do see in England is a lot of rural exception sites. The way that people get planning permission is only if it is for affordable housing in rural areas, so I am not sure that I would share that view.

[212] **Antoinette Sandbach:** I do not know whether that is the experience in Wales, though.

[213] **Ms Blom-Cooper:** I do not know. I am not sure that converting barns into housing is necessarily going to give you affordable housing. I think that it might give you a plethora of second homes, and not affordable housing for local people.

[214] **Mr Hyams:** There is a slight subtle distinction in terms of permitted development. Not all permitted development is created equal, so there is the ‘I can do an extension and I can put a satellite dish up, for which, if I really wanted to, I could get a lawful development certificate’ development versus the permitted development that is the change-of-use type, which is what the Department for Communities and Local Government has introduced, which has a prior-approval process behind it so that there is still involvement with the local planning authority. That is just a point of clarification, more than anything; it is not necessarily universal in its approach.

[215] **Antoinette Sandbach:** So, you could get a degree of control and planning through that.

[216] **Ms Blom-Cooper:** Very limited.

[217] **Mr Hyams:** It is more a chance to steer and have the ‘Are there any showstoppers?’ sort of discussions, rather than asking, ‘Can we really say no to this?’

[218] **Antoinette Sandbach:** I wanted to talk about your enforcement recommendations, because there has been a recommendation for fixed-penalty notices. I do not know whether or not your—. I have to say that I have not read the proposals in detail, but, obviously, with the enforcement process as it currently stands, there are criminal penalties attached to it. Is it your view that that would remain a criminal process? It seems to me that there is a risk then that, with fixed penalty notices, you will criminalise, perhaps unintentionally, a large number of people where there are unintentional breaches of planning rules—potentially by fixing a satellite dish to your listed home, or something.

[219] **Mr Hyams:** The first thing to say is that a lot of the enforcement recommendations are made in a minority of cases, so this is not about Joe and Joanna Public, to some extent.

For those people who have done something in error, as a genuine mistake, often a letter, visit or conversation from the local authority, and an awareness of what the potential ramifications could be, can quite quickly fix those scenarios. It is when there is resistance, or, dare I say it, a subversion of the planning system, that we would see the fixed-penalty notice element coming in. Our recommendation around fixed-penalty notices was predominantly around use-type offences, as opposed to development-type offences. You would not necessarily have a fixed-penalty notice for building an extension illegally—that might not be the best tool in the tool box for planners to use, but in cases where there are camp sites, for example, or caravan parks exceeding their allocations and profiting from it, that might be a more effective and commensurate route compared with going down the Proceeds of Crime Act 2002 route or something, which would be a bit ‘sledgehammer for a walnut’.

[220] **Ms Blom-Cooper:** It is also worth pointing out that it is not a criminal offence to put up something; it only becomes a criminal offence when you have gone all of the way through the enforcement process and you have been to court and secured a conviction. So, it is not a criminal offence in itself, and that is one of the problems and difficulties for enforcing—it is not a criminal offence and people think that they can do it and they can argue the toss for years and years before it actually does become a criminal matter.

[221] **Antoinette Sandbach:** Well, I have concerns about the increasing criminalisation of members of the public, particularly when it is a small man versus a state, as it were, and the respective equality of arms issues in terms of access to legal advice and access to experts. So, I would like to sound a note of caution on that. However, given the proposals that are in the ‘Positive Planning’ paper on enforcement, which, in fact, do not include fixed-penalty notices, do you think that that is sufficient to address, particularly with the—?

[222] **Mr Hyams:** We did recommend fixed-penalty notices and I think that we would stand by that recommendation. The pivotal, most important recommendation in the enforcement report was about the ability to require a retrospective application and the ability to refuse to determine one. It was to create that sort of forked approach. So, if we had only one thing, it would have been that, and that, pleasingly, is in the consultation document.

[223] **Antoinette Sandbach:** My final question, particularly in relation to the major infrastructure projects that you were talking about, is: can you tell us a bit about your experience of the Localism Act 2011 and of how that has been working in the planning system in England, because, I have no knowledge of that at all and I would like to know whether you—

[224] **Mr Hyams:** How long have we got? [*Laughter.*]

[225] **Lord Elis-Thomas:** Would you like to send us a note on it? That might be helpful.

[226] **Antoinette Sandbach:** Yes.

[227] **Mr Hyams:** We could do, yes.

[228] **Lord Elis-Thomas:** Thank you for that. I have Julie Morgan and then, finally, Russell George.

[229] **Julie Morgan:** Just very swiftly, because I was going to ask about enforcement, you recommend the removal of the time limits for local planning authorities to take enforcement action. That is not in the Welsh Government proposals, I think. Could you expand on why you are doing it?

[230] **Mr Hyams:** Quite simply, that was a controversial issue. I would not say that we

reached practitioner consensus about that, but I think our view, on balance, was that it would create a more efficient, effective and consistent system. It would not be able to apply retrospectively, so this is not about saying, ‘You did not build it right in 1970-something’. A date would be set beyond which there would be no time limits. I think that the power there, from a practitioner perspective, is the power to under-enforce. So, you are not saying, ‘Okay, this is not a problem now, but it could become a problem in the future, therefore we have to act now, because it would not be a change of use’. Take the example of a mechanic. A local mechanic operating from a small-scale workshop does not have planning permission, but it is not really expedient to enforce it at this time, but if that premises changed hands and became a spray shop, you could have a completely different set of issues. No planning change of use has taken place, but you would reserve the right in the future to enforce if you wanted to.

[231] There is also something fundamentally straightforward about asking, ‘Has it got planning permission, and is it right or wrong?’ and not being worried about whether you have to look at aerial photography from the last six months, or have planning officers hiding in bushes to try to record comings and goings and things. It is just, ‘It has not got planning permission, but it is there’. Why waste the resource associated with the gathering of evidence, only to go to, say, the magistrates’ court to have an affidavit from the offender saying that the opposite is the case, and who is to decide? So, I think that what it brings with it is a sort of simplicity.

12:00

[232] **Russell George:** Following the theme of William Powell and Julie James with regard to section 106 obligations, developers have raised with me over many years that schemes are unviable because of the obligations on them. One of the issues—I see examples of this myself—is when you see a development where homes have sold, but the homes that have local-need restrictions on them have not sold, because people have not been able to get mortgages to buy those homes. So, I seek your views on that. The Welsh Government does not have proposals coming forward to change that, as far as I understand. What other models exist to encourage and support local-need accommodation, without the situation that we have at the moment, where homes are unaffordable?

[233] **Ms Blom-Cooper:** What we are seeing in England is an increasing council-housing building programme and housing through housing associations and providers as the main mechanism for achieving that. We are not really seeing local-need section 106 agreements being used to the same extent anymore, for the reasons that you have cited.

[234] **Russell George:** Then, of course, we are talking not about people buying their own homes, but renting their own homes. So, how do we develop that? How do we develop the ability of local people to afford to buy their own homes?

[235] **Ms Blom-Cooper:** That comes back to the section 106 affordable housing agreements, and to whether you have shared ownership schemes or other mechanisms for staircasing that up. That has been a more effective mechanism. So, you start off with buying a proportion and, over a period a time, are able to buy more of the property.

[236] **Russell George:** That is your suggested proposal.

[237] **Ms Blom-Cooper:** It is and it is not. We have not made any recommendations.

[238] **Mr Hyams:** That is just the benefit of our knowledge, rather than anything we have specifically recommended.

[239] **Russell George:** Is there a different approach in Scotland? I am not sure, but I think

there could possibly be a different approach in Scotland.

[240] **Mr Hyams:** There is a different legal basis, but Scotland still has the fundamental principle of a registered-social-landlord approach and of building public sector housing. It is just a question, I guess, as to where you are putting your subsidy within the pipeline. Are you trying to recreate a private sector rented market? Are you trying to give it in terms of equity to the housing, as a stock, so that there is that transition through shared ownership to eventually being able to own it? The private sector has not come up with an answer, so it is about where you are putting your subsidy in and at what point in the process.

[241] **Russell George:** Then, of course, there is the issue of homes that have had 106 restrictions on them in the past, and now people are trying to sell them and are not able to do so because of the restriction on them. Some local authorities are now lifting those restrictions. That seems to be something that has been happening only in the past few years. Can you comment on that, because I am not quite sure what has brought that about?

[242] **Ms Blom-Cooper:** When we looked at our committee research, I went to Powys and that was a big issue for it, with very old restrictions. I do not think that it is not using that mechanism anymore, because of the difficulties it creates. By and large, it was lifting them.

[243] **Russell George:** What about other local authorities, were they not lifting them?

[244] **Ms Blom-Cooper:** I am not aware of it anywhere else.

[245] **Russell George:** Okay. I thought that there were some problems in Ceredigion, and I understood that they were being lifted there before Powys started lifting them. You are not aware of that.

[246] **Mr Hyams:** No.

[247] **Lord Elis-Thomas:** Thank you very much for your contribution this morning, and for the opportunity that we have had to follow your research and for the little bit more that you will provide us with. That will be very helpful.

12:04

Bil Cynllunio (Cymru) Drafft: Land Use Consultants Draft Planning (Wales) Bill: Land Use Consultants

[248] **Lord Elis-Thomas:** Thank you very much for joining us this morning. Since you undertook your work on planning in designated statutory landscapes in Wales, the Williams commission has looked at this as part of its delivery of public services and has made a proposal or a suggestion—I am not sure which—that the Government should consider combining the national park authorities as planning authorities or, indeed, as national park authorities. What is your response to that?

[249] **Ms Cole:** Yes, I have seen that. It has to be seen against the recommendations that are made in relation to the planning Bill because there is a question as to whether the planning functions of national park authorities should be passed back to their constituent authorities. We seem to have two potentially slightly different recommendations. Of the two, certainly that of the Williams commission seems to make a lot more sense from the evidence that we collected. I say that based on all of the research that we did—as you may be aware, the research that we did for the Welsh Government compared the delivery of planning within areas of outstanding natural beauty, as nationally protected landscaped, with the delivery of

planning within national parks. By looking at AONBs, it has allowed us to see what the effect would be of devolving planning functions back to the constituent authorities. What was absolutely clear was that for these national assets to Wales, it is valuable to plan to the designation boundary. I would hold to that. There is much more that I could say on that, but that is of critical importance—to plan to the designation boundary.

[250] **Lord Elis-Thomas:** Is the designation boundary not historically constructed rather than being of particular importance in terms of landscape or cultural significance? Is it not something that was decided upon in the late 1940s or early 1950s?

[251] **Ms Cole:** It was, yes—the boundaries were decided in that way. One could argue about the detail of the boundaries, but nonetheless they fairly neatly fit very distinctive areas of high landscape quality, so, in terms of their purposes, they are sensible boundaries.

[252] **Llyr Gruffydd:** I just want to pick up on that and the importance of prospecting a designated boundary in terms of planning regimes. There is a proposal in the White Paper around creating strategic development plans, to which the local development plans will be beholden, in a sense. How would you see that affecting that dynamic? You would probably have one or two representatives from a national park authority sitting on the panel that creates the strategic development plan and the park would have to implement that and reflect that in its own LDP.

[253] **Ms Cole:** To be clear, you are not suggesting, for example, that there would be a strategic development plan for the national parks following on from the previous question, are you? That is not your suggestion, is it?

[254] **Llyr Gruffydd:** No. For example, in relation to Snowdonia, there is mention of the A55 corridor as being one potential area for a strategic development plan. Then, obviously, Snowdonia national park would need to reflect that in its LDP. How does that affect the whole principle of the park being responsible for its own planning up to the designated area?

[255] **Ms Cole:** In one sense, it takes us back to the Sandford principle and how you treat the national park purposes. In that case, one assumes that at the time that the strategic development plan is drawn up, there is some consideration of the designation. Therefore, depending on what is decided at that stage, yes, one assumes that the national park authority would have to adopt it, but because national parks are national designations, as indeed are AONBs, one would hope and assume that the importance of that landscape would at least be taken into account in the strategic development plan.

[256] **Llyr Gruffydd:** Would you have any concerns around the democracy and the local voice in that process? We are taking something further up the chain to make major decisions and it is being implemented on the ground. One of the key advantages that I have seen is the local answerability, and the recognition of local factors and that important link between the community and the planning process within the context of a particular designation. Is there a risk that that would be diluted, or lost in some way?

[257] **Ms Cole:** Yes. That could be a key concern. Again, it depends to what extent the community consultation is drawn into the process of that strategic development plan, but it is a concern.

[258] **William Powell:** Staying with the topic of the democratic dimension here, what are your thoughts on how the governance of a single national park authority with planning powers could actually work in practice to respect the wishes of communities? After all, these are living, working communities; they are not devoid of the need for a degree of development and for facilities to be there serving people of all ages in the communities affected.

[259] **Ms Cole:** Absolutely. We made it very clear in our report that, among the national park authorities, there needed to be a can-do attitude towards communities and appropriate economic development. We appreciated that there was considerable concern among communities about this. There are a number of ways that this can be dealt with, all of which were recommendations in our report. I heard in the previous questioning that community strategies and the like were being discussed. Certainly, that was a recommendation that we had that, communities, ideally, within the national parks—. Sennybridge is an example that has already been developed, so that is one aspect.

[260] In terms of the actual governance structure, we make recommendations on community councils being much better informed about what is happening in national parks. For example, Snowdonia now holds training sessions with its community councils and perhaps there is an opportunity for developing that.

[261] **William Powell:** Yes.

[262] **Ms Cole:** Sorry; did you want to say something?

[263] **William Powell:** No, I was agreeing with you. I am also aware that the Pembrokeshire coast national park and the Brecon Beacons national park engage strongly with their communities, but in English national parks that is further strengthened, I believe, by having reserved spaces within the membership of authorities for town and community councils, and, indeed, a proportion of direct election.

[264] **Ms Cole:** Absolutely, and that was the final linked point that I was going to come on to. Like nearly all of the other proposals that are in front of you at the moment, we recommended that representation on the national park authority must be drawn from the communities of the national park and not maintain the political balance of the constituent authorities. So, we say that and we also looked at the English proposals for direct election.

[265] **William Powell:** What was your conclusion in respect of the latter?

[266] **Ms Cole:** The problem that we had was that the example that we have of that currently is in Scotland. It was still a proposal at the time that we were writing the report for England, so—

[267] **William Powell:** For the Cairngorms, yes.

[268] **Ms Cole:** Yes, sorry, absolutely. So, it will be appropriate to see what happens through that process and the pilots in England. However, my understanding is that that is under review this year, anyway, as a proposal, and we would support that.

[269] **William Powell:** I have a final brief question, Chair, if I may. It relates to the difficulties that sometimes arise in terms of the urgency with which business is dealt with when you have a planning authority and the principal local authority retains powers and responsibilities over the provision of housing, the provision of education facilities and so on. Is there something that you would advocate that could actually help to streamline that and—

12:15

[270] **Ms Cole:** Do you mean the division if planning is retained within national park authorities and the housing and socioeconomic aspects are still retained by the constituent authorities?

[271] **William Powell:** Absolutely, because there is a strong sense that, on occasions, you have housing development being favoured in adjacent areas, outside park boundaries, purely because of the additional bureaucracy that is perceived to be associated with the park, and also a sudden lack of urgency in dealing with these matters on occasions because, ultimately, the answer could be, ‘Well, that’s not a matter for us; that’s for the local authority’.

[272] **Ms Cole:** Absolutely. Again, when we spoke to stakeholders throughout this study, we found that this was a key concern. Again, our report recommends—and we would strongly stand by this—that there needs to be improved ways of working between the national park authorities and their constituent authorities. There are very good examples of joint working already, as in Pembrokeshire coast national park. It is, of course, easier for it because it is one on one.

[273] **William Powell:** Yes. Absolutely.

[274] **Ms Cole:** It is understandable. It is less easy in the Brecon Beacons because it is one on nine at the moment. It would be one on six, potentially, depending on the options in the Williams commission findings.

[275] **William Powell:** That is very helpful. Thank you.

[276] **Lord Elis-Thomas:** I now call on Julie James.

[277] **Julie James:** Just really briefly, I was very interested in some of the things that you say in your report about member training and the focus on process for the planning process. Would you like to elaborate on any of that?

[278] **Ms Cole:** There are two things that I would particularly like to say. I think that it is fair to say that the national parks have been very good at member training. I think that, in many ways, they have led the way for other local authorities to follow. As you say—it is not criticism, because I am moving in this direction in any case; it is just an observation—it tends to be more of the process of how they had to engage with planning, rather than actually the outcomes that they were looking to achieve. A slight aside, but it goes back to a question that was raised just a moment ago, is that one of the recommendations that we made, and is now being followed through, is that the national park authorities should develop economic development strategies, so that it is clear what types of developments they are positively trying to stand behind with communities. So, these are not outcomes just in terms of environmental protection—far from it; they are outcomes that are trying to deliver sustainable development. So, it is good on training, but, in a sense, it could expand the remit of that training. The other thing that I would say, certainly on what we said, is that we felt that that training could be extended to the heads of community councils, so that they were better informed. Actually, we suggest that it should also be extended to members of joint advisory committees, or at least the heads of JACs of AONBs, for precisely the same reason.

[279] **Julie James:** I was very interested in what you said about the position of the AONBs, which is not quite as happy as the national park position, I think.

[280] **Ms Cole:** It depends on which side of the argument that you sit. One of the key things that I would like to say in response to that is that it is always said—and it has just been said a moment ago—that, clearly, with national parks there is a problem with the split between planning and the socioeconomic functions within the constituent authorities. Therefore, a reaction is always to say, ‘Well, therefore, let’s amalgamate planning back into the local authorities’. When we interviewed and looked in detail at what was happening within the AONBs, that liaison between planning and socioeconomic development was actually no better formed although it was in the same authority than it was between the national park

authorities and their constituent authorities.

[281] **Julie James:** Sometimes, it is actually more difficult because they are also in an employment relationship.

[282] **Ms Cole:** Absolutely. Certainly the AONB officer can find it very difficult to be critical of advice that has been given by planning officers in their own authority because they are being employed by that local authority.

[283] **Julie James:** My last question is just on the planning committee role. I do not know whether you have seen any of the recommendations in the Arup report about—

[284] **Ms Cole:** I must admit that I have not.

[285] **Julie James:** They are recommending that planning committees should have a minimum of 11 and a maximum of 21 members, although I am not entirely clear how that would apply to single statutory function authorities like national parks—I do not quite see how that would work. However, that is all process as well. It does not say anything at all about policy training or training on the content of the policies you are applying. I take it that you would like to see that—

[286] **Ms Cole:** The training?

[287] **Julie James:** —widened out. Yes. It talks a lot about member training on the planning process and planning functions, which is quite right. However, it does not, as far as I can see anyway, talk about training on the purpose and outcome of the policies for which you are applying the process.

[288] **Ms Cole:** Absolutely. I absolutely agree with that.

[289] **Lord Elis-Thomas:** Russell George is next, and then Antoinette Sandbach.

[290] **Russell George:** Thank you, Chair. I just have a quick question. There is a view that alternatives to national parks authorities could be confusing for members of the public and more difficult to implement. I am sorry, my voice going, so I am difficult to understand. I am seeking your views on that, really. What are your views on alternatives being difficult for the public to understand, if you like?

[291] **Ms Cole:** Sorry, just to be clear, do you mean alternatives to national park authorities being planning authorities?

[292] **Russell George:** That is right, yes. What is your view on alternative options being less easy to implement and more confusing for the public to understand?

[293] **Ms Cole:** I think there are a number of things here. Again, it comes partially back to the experience of looking at areas of outstanding natural beauty. Within national parks, you have a policy—I have said this before; you have a plan that relates to the whole of the designated area, so there is at least consistency in policy. If the planning function was devolved back, if you like, into the constituent authorities, geographically, where you would dictate the policies that applied. So, one of the key messages—and I would certainly agree with it—that comes out of the planning Bill and the consultation document is the need for consistency, so that there is an understanding of why the advice that is being given is being given. Take, for example, the Brecon Beacons, where there are nine local authorities, each now with their own plan covering their bit of the national park. Where is the consistency? There will not be any. It could be very confusing. Going back to this point about

outcomes, whose outcomes will they be? They will not be the national park outcomes any more. They will be the outcomes of the individual local authorities.

[294] It becomes particularly difficult with planning outside built-up areas. When I say that it is the most complex, it is just that no two applications are the same. You hear estate agents ask when selling houses, ‘How do you value your houses in the countryside, because no two houses are the same?’ It is very easy in urban areas. So it applies to planning. No two applications are the same. You also have what have been, for good or bad, quite contentious areas of planning, such as agricultural workers dwellings, although I appreciate that the name has changed now. You have a range of permitted development rights and the like, all of which are difficult and require rural experience. You have that within the national park authorities in terms of consistency. Quite often, you do not have it in the other local authority areas, because they have large urban areas they are trying to deal with, and their expertise is in urban development, not rural development. I am not implying that national park authorities are always trying to refuse stuff in rural areas. All I am trying to say is that they have experience of trying to be consistent in a very inconsistent world.

[295] **Russell George:** Okay, thank you.

[296] **Lord Elis-Thomas:** Antoinette Sandbach is next.

[297] **Antoinette Sandbach:** Perhaps to pick up on your idea of consistency and what you said in answer to a question from Julie James, you suggested that there should be more of a focus on the part of national park authorities or the single authority, if that happens, on socio-economic development—

[298] **Ms Cole:** Definitely.

[299] **Antoinette Sandbach:**—and that seems to be a complaint that, in effect, it is seen as a natural area and that, therefore, there cannot be economic development within the park—

[300] **Ms Cole:** Absolutely.

[301] **Antoinette Sandbach:** I wonder whether you can expand on that.

[302] **Ms Cole:** Well, there are two key elements. It is a big subject, but there are two key elements to that. One, in the past, might have been a sort of knee-jerk reaction, and this was perhaps particularly from the building conservation officers within the national parks, that you had to use traditional materials and the like for any development. That escalated costs badly, but with the need for sustainable design now, for example, timber is a very good and sympathetic material for a national park context. So, there needs to be much more flexible thinking about how you can fit new developments into national parks in ways that are sympathetic, but not expensive. That is one area.

[303] The second thing is that there are now many forms of economic development, high tech and the like, that can happen in national parks, which perhaps were not so open to economic development in the past. There is quite a wide range of things that can happen that are in harmony with the conservation objectives, and there are others—nature tourism and the like—where there is potential to have real synergy between economic development and the special qualities of the national park.

[304] **Antoinette Sandbach:** Do you see that being reflected in this Bill or this consultation, because I am not sure that I do?

[305] **Ms Cole:** I have not. Whether it is something that is actually covered by legislation, I

do not know, because there is only one line in the Bill currently that says, ‘ We will do all of this, but we will conserve the special qualities of the national parks’. Funnily enough, there is no mention of AONBs in that statement. That one line is going to have to work very hard. *[Laughter.]*

[306] **Lord Elis-Thomas:** As someone who represents both an AONB and a national park, I am very grateful to you for your contribution. Thank you very much indeed.

*Gohiriwyd y cyfarfod rhwng 12:27 a 13:18.
The meeting adjourned between 12:27 and 13:18.*

Bil Cynllunio (Cymru) Drafft: Parciau Cenedlaethol Cymru Draft Planning (Wales) Bill: National Parks Wales

[307] **Yr Arglwydd Elis-Thomas:** Croeso, fel arfer, i gynrychiolwyr o'r parciau cenedlaethol ar gyfer y sesiwn hon lle byddwn yn edrych ar baratoi yn benodol ar gyfer y broses o ddelio â'r Bil cynllunio. Aneurin, a wyt ti eisiau dweud gair ar y dechrau? Mae'r cwestiwn cyntaf sydd gennyf yn ceisio ffocysu ar yr hyn sydd wedi digwydd ers inni gychwyn ar y broses hon, yn arbennig adroddiad Williams a sut y mae hwnnw wedi effeithio ar ganfyddiad cynrychiolwyr o'r parciau.

Lord Elis-Thomas: Welcome, as usual, to representatives of the national parks of Wales for this session where we are looking at preparing specifically for the process of dealing with the planning Bill. Aneurin, did you want to say a few words at the beginning? The first question that I had was to try to concentrate on what has happened since we started on this process, in particular the Williams report and how that has affected the perception of representatives from the parks.

[308] **Mr Phillips:** Gyda'ch caniatâd chi, darllenaf ddatganiad byr, os caf i. Bydd yn cymryd rhyw dri munud a dim mwy na hynny, gobeithio, os yw hynny'n iawn.

Mr Phillips: With your permission, I will read out a brief statement, if I may. It will only take around three minutes, and no more than that, hopefully, if that is acceptable.

[309] **Yr Arglwydd Elis-Thomas:** Bydd yr annwyl glerc yma yn dy amseru. *[Chwerthin.]*

Lord Elis-Thomas: The clerk here will be timing you. *[Laughter.]*

[310] **Mr Phillips:** Beth sy'n digwydd os wyf yn mynd dros yr amser?

Mr Phillips: What happens if I go over time?

[311] Prynawn da. A gaf ddiolch i chi am y cyfle i'ch annerch heddiw? Well i mi gyflwyno, i ddechrau, Jane Gibson, ar yr ochr dde i mi a Martin Buckle. Mae Jane yn gyfarwyddwr cynllunio yn Awdurdod Parc Cenedlaethol Arfordir Penfro ac wedi gweithio i amryw o gynghorau yn y sector cyhoeddus. Mae Martin, sydd yn gynllunydd, yn is-gadeirydd awdurdod y Bannau ac wedi gweithio i amryw o gynghorau, gan gynnwys cynghorau yn ardal parc y Bannau. Cyn i mi ymgymryd â'm swydd bresennol yn 2003, roeddwn yn bennaeth gwasanaeth gynllunio Cyngor Sir Ddinbych. Byddaf yn rhoi'r gorau i'r swydd hon ddiwedd mis nesaf.

Good afternoon. May I thank you first of all for the opportunity to address you as a committee today? I should introduce my colleagues first of all: Jane Gibson, on my right, and Martin Buckle. Jane is director of planning for the Pembrokeshire Coast National Park Authority and has worked for a number of councils in the public sector. Martin, who is a planner, is vice-chair of the Brecon Beacons authority and has worked for a number of councils, including councils in the Brecon Beacons national park area. Before I undertook my current duties in 2003, I was head of planning service for Denbighshire County Council. I will be

standing down from this post at the end of next month.

[312] Mae'r Bil cynllunio yn ddarn o ddeddfwriaeth sy'n garreg filltir, ac rydym yn credu y bydd yn gwella'r system gynllunio yng Nghymru. Gan ein bod yn cefnogi'r rhan fwyaf o'r awgrymiadau, credaf ei fod yn amserol imi gymryd y cyfle i ddelio efo'r materion sy'n codi yng nghwestiynau 23 a 24 o'r ddogfen ymgynghorol ar gynlluniau cadarnhaol sy'n ymwneud â pharciau cenedlaethol.

The planning Bill is a milestone piece of legislation, and we believe that it will improve the planning system in Wales. As we support the majority of the recommendations, I believe that it is timely for me to take this opportunity to deal with the issues that arise in questions 23 and 24 of the consultation document on positive planning, which relate to the national parks.

[313] Yn gyntaf, trof at rai o'r ffeithiau. Yn 1991, fel y gwyddoch chi i gyd, daeth yr Athro Edwards—Cymro a rhywun sy'n adnabyddus yn rhyngwladol—i'r casgliad, ar ran y Llywodraeth, bod y trefniant lle'r oedd awdurdodau lleol yn gyfrifol am gynllunio wedi methu. Dyna pam y sefydlwyd awdurdodau parciau cenedlaethol yn 1996 fel awdurdodau annibynnol gyda phwerau cynllunio llawn. Ers datganoli, mae datganiad polisi 2007 Llywodraeth Cymru ar gyfer y parciau ac awdurdodau'r parciau yn dweud hyn yn gwbl glir:

First, I will look at some of the facts. In 1991, as you know, Professor Edwards—a Welshman and someone of international renown—came to the conclusion, on behalf of the Government, that the arrangements whereby local authorities were responsible for planning had failed. That is why the national park authorities were established in 1996 as independent authorities with full planning powers. Since devolution, the policy statement of 2007 issued by the Welsh Government for the parks and the park authorities makes it entirely clear that

[314] 'Mae rôl yr Awdurdodau Parciau Cenedlaethol fel yr awdurdodau cynllunio lleol ar gyfer eu hardaloedd yn un hanfodol bwysig, ac yn un sy'n ategu eu dibenion statudol allweddol yn llawn ac yn cyfrannu at y gwaith o ddatblygu cynaliadwy.'

'The NPAs' role as the local planning authorities for their areas is a vitally important one, and one that fully underpins their key statutory purposes and one that contributes to the delivery of sustainable development.'

[315] Am y tro cyntaf ers datganoli, felly, mae gennym bwerau i newid y system gynllunio. Felly, gadewch inni edrych ar y dystiolaeth. Yn 2012, daeth Land Use Consultants i'r casgliad bod y system gynllunio yn gweithio'n dda mewn parciau cenedlaethol, a bod cynllunio hyd at ffiniau'r dynodiad yn fanteisiol. Yn 2012, daeth y grŵp ymgynghorol annibynnol, conglaen y ddeddfwriaeth, o dan gadeiryddiaeth John Davies, i'r casgliad nad oedd ganddo dystiolaeth i argymhell na ddylai'r parciau cenedlaethol gadw eu pwerau cynllunio. Yna, yn fwy diweddar, ym mis Ionawr eleni, daeth comisiwn Williams i'r casgliad na ddylai swyddogaethau'r awdurdod parciau cenedlaethol gael eu trosglwyddo i'r awdurdodau lleol oherwydd y byddai'n torri'n deilchion ddarpariaeth gwasanaethau ac yn risg i'r ffocws ar gyflawni'r pwrpas

For the first time since devolution, therefore, we have powers to change the planning system. So, let us look at the evidence. In 2012, the Land Use Consultants came to the conclusion that the planning system was working well in the national parks, and that planning to the designated boundaries was beneficial. In 2012, the independent advisory group, the cornerstone of the legislation, chaired by John Davies, came to the conclusion that they had no evidence to recommend that the national parks should not retain their planning powers. Then, more recently, in January this year, the Williams commission came to the conclusion that the functions of the national park authorities should not be transferred to local authorities because it would lead to fragmentation in the provision of services and would be a risk to the focus on achieving the statutory purposes

statudol ac i frand y parciau cenedlaethol. Mae'r rhain oll yn adolygiadau annibynnol, ac mae casgliadau dros gyfnod o amser wedi bod yn gyson ac yn gwbl glir.

[316] Os edrychwn ar berfformiad, gwelwn fod y parciau'n perfformio'n dda ac, yn erbyn amryw o ddangosyddion perfformiad y Llywodraeth, maent yn perfformio cystal â rhai cynghorau gwledig. Mae lefel bodlonrwydd y cwsmer yn uchel. Mae angen cofio bod y parciau cenedlaethol wedi cael eu dynodi oherwydd ansawdd a naws arbennig y tirlun, bywyd gwyllt a'u treftadaeth ddiwylliannol. Mae'r Sefydliad Cynllunio Trefol Brenhinol yn cynrychioli cynllunwyr Cymru, a dywed bod y swyddogaeth gynllunio yn gyfarpar allweddol ar gyfer rheoli, cynnal a gwella'r rhinweddau arbennig hyn. Mae'r RTPI yn dweud y byddai symud y swyddogaeth hon oddi wrth awdurdodau'r parciau cenedlaethol yn amharu o ddifrif ar eu heffeithlonrwydd, gan roi rhinweddau arbennig y parciau cenedlaethol o dan fygythiad.

[317] Mae Cymdeithas Llywodraeth Leol Cymru, sy'n cynrychioli llywodraeth leol, hefyd yn dweud nad oes tystiolaeth gyson i drosglwyddo swyddogaeth gynllunio i'r awdurdodau lleol ac y byddai'r awdurdodau lleol yn ei chael yn anodd iawn i ddatblygu a gweithredu polisiau mewn modd cyson. Mae lle i wella; rydym yn derbyn hynny. Mae comisiwn Williams wedi pwysleisio pwysigrwydd cydweithio. Rydym yn cytuno'n llwyr â hyn, ac yn bwrw ymlaen gyda'r argymhellion hyn, ynghyd ag argymhellion adroddiad diweddar Land Use Consultants ar gyfleon i gydweithio yn y maes cynllunio. Rydym hefyd yn croesawu bwriad y Gweinidog i adolygu'r trefniadau ar lywodraethu'r parciau a gyhoeddwyd fis Mai y llynedd.

[318] Felly, mae'r parciau cenedlaethol yn lleoedd arbennig. Maent yn drysorau sydd angen cael eu rheoli mewn ffordd sensitif ac integredig er lles cenedlaethau'r dyfodol. Rydym ni, fel parciau, yn cydweithio eisoes ag awdurdodau lleol, gyda Chyfoeth Naturiol Cymru a chyrrff eraill i hyrwyddo rhinweddau arbennig yn ogystal â lles economaidd a chymdeithasol ein cymunedau. Diolch yn fawr iawn i chi, ac mae'n ddrwg gennyf os

and to the brand of the national parks. All of these are independent reviews, and their conclusions over a period of time have been consistent and entirely clear.

If we look at performance, we see that the parks have performed well and, against a range of the Government's performance indicators, they perform as well as some rural authorities. The customer satisfaction level is high. It is important to bear in mind that the national parks were designated because of the particular quality of the landscape, wildlife and cultural heritage. The Royal Town Planning Institute, which represents planners in Wales, has said that the planning function is a crucial tool for managing, maintaining and enhancing these special characteristics. The RTPI says that shifting this responsibility from the national park authorities would have a serious impact on their efficiency, putting the special characteristics of the national parks at risk.

The Welsh Local Government Association, which represents local government, has also said that there is no consistent evidence for the transfer of the planning functions to the local authorities and that local authorities would find difficulty in developing and implementing policies in a consistent manner. There is room for improvement; we accept that. The Williams commission has emphasised the importance of collaboration, and we fully agree and are progressing with these recommendations, along with the recommendations of the recent Land Use Consultants report regarding opportunities for collaboration in planning. We also welcome the Minister's intention to review arrangements for the governance of the parks, which he announced last May.

Therefore, the national parks are special places. They are treasures that need to be managed in a sensitive and integrated manner for the benefit of future generations. We, as national parks, are already collaborating with local authorities, with Natural Resources Wales and other bodies to promote these special characteristics, as well as the economic and social welfare of our communities. Thank you very much, and I

wyf wedi siarad am fwy na thair munud.

apologise if I have spoken for more than three minutes.

[319] **Yr Arglwydd Elis-Thomas:** Diolch yn fawr. Rydym yn amyneddgar iawn yn y pwyllgor hwn.

Lord Elis-Thomas: Thank you very much. We are very patient on this committee.

[320] William Powell, as a colleague from another national park, would you like to begin?

[321] **William Powell:** Diolch, Gadeirydd. It was my privilege, as some of you know, to serve on one of the Welsh national parks, the Brecon Beacons National Park Authority, for seven years as a member appointed by my local authority. I served much of that time alongside Martin; so, I will declare that now.

[322] Aneurin, you mentioned in your opening statement that the most recent of the reports that has come through is the Williams commission report with its proposal not to repatriate planning powers to local authorities—to use that phrase—but rather to have this single authority. What are your thoughts about the governance arrangements that could appropriately apply if such a single national park authority were to be created, retaining planning functions so as to appropriately represent the interests and concerns of the three national park designated areas within Wales?

[323] **Mr Phillips:** The Williams commission accepted the arguments and the evidence that we should retain our functions, although emphasising the importance of collaboration and having a very clear vision and leadership for national parks in Wales. We fully accept that. It also went on to recommend that the Government should consider establishing a single authority for the national parks. That is something that I would very much hope that, perhaps, the governance review by the Minister will tackle. Clearly, there are pluses and negatives. The advantage of having one authority would be that you would have a combined administrative function from the corporate point of view. You would probably have one chief executive, which some would say would possibly be a plus, but there are also downsides—one is the initial set-up cost, probably, with IT functions, and another, I think, is that potential for losing that local connection and local accountability, which I think is very important. One of our strengths is our ability to deliver locally. I think that that would be in danger if we went in that direction. Personally, I have an open mind on it and I know that the three national parks do not have a firm view on that particular matter at this stage.

[324] **William Powell:** You mentioned that the Land Use Consultants recently reported favourably on national parks and their exercise of the planning function. Clearly, you are also aware of a number of reports recently that have been commissioned by bodies that have canvassed for alternative views and have come up with them, and those reports by organisations such as the Country Land and Business Association, the Federation of Small Businesses and so on. Clearly, we can take various views as to whether or not they represent a fair portrayal or otherwise of national park functions. Nevertheless, you acknowledge that, as ever, there is room for improvement. I think that the one area that most frequently is raised with me—and just yesterday I had a developer from the St Ishmaels area, from the Pembrokeshire Coast National Park, coming to see me regarding this particular issue, which occurs in all three parks—is the danger of there being a cleft between the socioeconomic development role on the one hand and the conservation duty that the parks have on the other. How do you feel that the parks, whether it will be a single park authority in the future, or whether the three remain in their current status as discrete authorities—. How can you or your successors raise your game in that area? That seems to be the particular area of focus, where you have development moving beyond the boundaries, whether that is in terms of housing development, economic development, or job creation. There is a tendency for that development to be moving outside park boundaries. I think that that is reasonably well-

documented.

[325] **Mr Phillips:** I do not agree with the view that the environment is in any way an obstacle to economic prosperity. I think that it is an asset. What you have in national parks is a national asset. Secondly, I think that Lyndis Cole, in giving evidence to you before lunch, said that she could not find any difference between the relationship between planning and economic development, either in the park or in the county councils. I have worked for a county council. I do not see much difference. Some of the problems that we experience in the national parks are equally true outside of the national parks. I think that we need a common ownership of national parks in Wales. I think that there is an opportunity here, Chairman, to possibly look at the statutory purposes. Scotland has taken that view. We have a duty to promote economic and social wellbeing in our communities. It is not a statutory purpose; it is a duty. Until we in Wales have the ownership of national parks and what they stand for and accept that they are an economic asset, we will have this debate about the national parks' role in economic development. We are not an economic development organisation. We are not set up to do that. However, through our park management plans and policies and programmes, we promote jobs and economic wellbeing.

13:30

[326] **William Powell:** Indeed. As was stated earlier in previous evidence sessions, the parks were originally creatures of the 1950s, and we know well the history that led to their creation and the great enthusiasm around that. However, could there not be now, appropriately, a revisiting of park purposes to incorporate that economic development function, so that there is a lesser chance of these important areas and, indeed, issues around the development of affordable housing, falling down the back of the sofa between the multiple authorities, certainly in the case of the southern park?

[327] **Mr Phillips:** We are very proud of our record, as three parks, of what we do to bring forward schemes to deliver housing on the ground, but I think that it is an opportune time to revisit the statutory purposes. They have stood the test of time well, but for Wales, looking to the future, this is an opportune time to look at that. That is my view. There is a debate to be had. Certainly, Scotland has taken a different course. I think that we in Wales can do a similar thing.

[328] **William Powell:** Chair, I have a final brief question, if I may, which relates to the potential opportunities that may flow from a combined Welsh national park authority. To what extent would that potentially create a greater capacity in some of the important functions that all parks have to exercise, such as the building conservation function as well as providing specialist knowledge in emerging technologies, because I think that all parks, at different times, have encountered certain difficulties with emerging energy technologies relating to dealing with applications that have proven to be complex and controversial? Is there an opportunity on one hand to have an economy of scale in bringing together a team of experts where there would be greater resilience in dealing with applications? Perhaps other colleagues would also have a view.

[329] **Mr Phillips:** I will give an initial view. Martin has indicated that he wants to come in as well. We commissioned land use consultants last year to look at opportunities for joint working in planning between the three parks. The report was published and released in August last year. It made three clear recommendations. One was that the three parks should be collaborating on dealing with major applications. These are significant applications. The second was that they should be sharing specialist skills and knowledge across the three parks. The third, which is possibly more important, was about developing that policy team. I have already raised the issue with civil servants that there is an opportunity here for us to have a form of high-level statement or park management plan for the three parks. I think that there is

an opportunity here to develop a joint policy team for the three parks here in Wales. My colleagues in Brecon and Pembrokeshire Coast parks are committed to that, and we have commenced the work on progress for that. So, we are offering an alternative model here, which, in our view, is workable.

[330] **Mr Buckle:** I would just like to come in on the issue of specialist skills. As I know you will be aware, it is an issue that affects planning authorities right across Wales, not just the national parks. It is an area where I think that we have made quite a bit of progress in terms of collaboration, in some instances with our colleagues in the other national park authorities, but also, and very importantly, with our colleagues in our constituent authorities. Taking the case that you gave as an example of conservation and heritage, we have been sharing resources with Merthyr Tydfil and Monmouthshire. We have certainly had some significant benefits from that, and I believe that those authorities have benefited, too. On minerals, we share resources with Carmarthenshire County Council, as I believe the Pembrokeshire coast national park does. I know that, up in the north, all of the planning authorities work together in terms of specialist minerals functions. So, whatever governance arrangements may eventually be redefined, it is important that however more closely we work as national park authorities, we do not lose the potential opportunities to work more closely with our constituent authorities as well. That is something that we are very keen to pursue.

[331] **Joyce Watson:** My question is particularly to Pembrokeshire coast national park. There are two of us in this room who have all three national parks in their area. However, I want to ask Jane if she could outline some of the experience that could be learnt from the process of the joint unitary development plan that happened in Pembrokeshire between the national park and the local authority. I also want to declare that I was part of that process.

[332] **Ms Gibson:** Thank you very much for the question. You may know a little more about it or from a different aspect than I do; I was not actually involved in the JUDP. I came back to Pembrokeshire in 2006, having lived there as a child, to work for Pembrokeshire County Council. When I saw the document for the first time, I thought, 'Great, isn't this wonderful? A document that does it all—a joint venture that works'. Looking at it from a policy point of view and a reading of it, it did not come across as providing a strategy that was national park-based or even Pembrokeshire County Council-based. I came to the conclusion pretty early on, working as a planning officer for Pembrokeshire County Council at the time, that perhaps it balanced as, 'It will get through if we all agree this'. You might have a different understanding of it.

[333] After moving to work for Pembrokeshire Coast National Park Authority and asking officers who dealt with it, it was a very difficult time in terms of getting agreement on what could be agreed as a policy and what would be a strategy for the whole of Pembrokeshire. So, for the people dealing with it, I do not think that it worked particularly well. There was a delay in getting it approved because all that was happening behind the scenes affecting the timing to get it through. On the LDP that we have now as Pembrokeshire coast national park, we got that through pretty quickly and it was the first one to be adopted in Wales.

[334] **Joyce Watson:** So, that was the explanation. What do you think are the lessons that could be drawn from that? I know that you came in later.

[335] **Ms Gibson:** For me, collaboration is effective collaboration. If it works and it is going to be effective, then do it. I think that there is a problem with collaboration—it is a buzzword that we all use and we think that because we are collaborating, it is going to give us a result at the end of the day that is going to be good. That is not necessarily the case. So, if you are looking at collaboration, going back to what Martin said about working with people, for example, we buy in the service of a planning ecologist from Pembrokeshire County Council. That means that it works exceptionally well for the people on the street and for the

ecologists putting in planning applications. They understand exactly what they need, it is the same throughout Pembrokeshire and it works well. It ticks the box, it works and all of us do it. I do not have a problem with that.

[336] There are other examples of where that works well, and we have worked with others. The national parks are trying to deliver a pre-application service that is easy to use and that everybody can understand. People who do not have professional planning agents can come in and understand what they need to put in a planning application. I work in planning all the time, and I confess that it is getting more and more complicated every day when you listen to what you need to put in a planning application. We need to make that system as easy as possible, and that is not just from a national park's point of view, but also for planning for the whole of Wales.

[337] **Joyce Watson:** Okay, thank you.

[338] **Yr Arglwydd Elis-Thomas: Lord Elis-Thomas:** Antoinette Sandbach
Antoinette Sandbach ac yna Llyr. and then Llyr.

[339] **Antoinette Sandbach:** You were listening to the evidence before we broke for lunch, and I think that you would have heard from Land Use Consultants that often the socioeconomic aspects of the park, while they have been had regard to, have effectively been had regard to in order to disregard them. There have often been barriers put in the way of development. She indicated, for example, the specification of having to use traditional materials rather than looking at sympathetic materials, for example, timber. Bearing in mind her evidence about socioeconomic development, and the fact that that has effectively been a brake on that in the national parks, could you comment on what she said, and how you are seeking to overcome that?

[340] **Ms Gibson:** If you go back to materials, it is very traditional—uPVC windows were suggested for one of them and it was, 'Oh no, we can't do that; it's got to be timber'. Things have moved on so much in terms of modern technology, manufacturing and everything that we can get good-quality things in different media and different materials now. Also, from my point of view, you are looking at how people want to use their houses differently. We do not all want to live in tiny little boxes. We all need sunlight, mental health, things like that. We should be looking at those things as planners. So we do need to morph what we thought was traditional and actually make sure that it works for the people who are living there. Also, do not forget that we are also a huge brand as far as our tourism offer goes. We do need to make sure that people still want to come to these areas and spend their money in these areas.

[341] **Antoinette Sandbach:** I am not suggesting otherwise. That may be the view. I know that it is a particular problem in Snowdonia, actually. That is one of the frequent complaints that I have in relation to north Wales. Obviously, I am a North Wales Assembly Member, so I have less contact with the other national parks. Maybe you would like to comment, Mr Phillips.

[342] **Mr Phillips:** We have in Wales a plan-led system, and the plan that we have adopted in Eryri, the first one to be adopted in north Wales, gives you certainty about what will and will not be approved. It is a process that is laborious, but it is very detailed, it is very inclusive, and people have their say in the policies that are in that plan. So, decisions are therefore made in accordance with the plan, unless there are other material planning considerations that indicate otherwise. If you look at the performance in terms of approval, you will see that the approval rate in national parks is no different to the approval rate outside national parks. What we do, though, is spend a lot of time approving applications that come in. We offer pre-application advice, which we think is very important, and we place great emphasis on negotiation and approval.

[343] **Antoinette Sandbach:** May I perhaps direct you to the substance of my question? Effectively, by specifying much more expensive materials, which effectively double the cost to people living in the national park, that is acting as a barrier or brake on what could otherwise be sympathetic development, if, for example, timber was used, or another material, but not necessarily the specified slate or local stone or whatever the current specification is. It was more that the cost implications act as a brake on the natural socioeconomic development that happens for people resident in the park.

[344] **Mr Phillips:** Clearly, I cannot comment on specific applications, but I would not say—. I think what is important is that you look at the life cycle of a building, and sustainability. You might have additional cost in the short run, but in the long term it might be more efficient. We accept different types of development in the park. In certain areas, for listed buildings and conservation areas, we pay high regard to the use of traditional design and materials. There is no doubt about that. However, I do not accept the arguments that we are putting a brake on economic development in the park.

[345] **Llyr Gruffydd:** O gofio'r agweddau unigryw yr ydym yn sôn amdanynt pan mae'n dod i'r ethos arbennig sy'n perthyn i barciau cenedlaethol, byddwn i'n gofyn ichi ddweud pa mor gyfforddus yr ydych yn meddwl y byddai'r awdurdodau parciau cenedlaethol yn eistedd oddi fewn i'r hierarchaeth gynllunio newydd arfaethedig hon. Rydych yn sôn, er enghraifft, am gynlluniau datblygu strategol ar lefel rhanbarthol gyda chynrychiolwyr yn dod at ei gilydd o wahanol awdurdodau cynllunio. Byddai Eryri efallai wedyn, o safbwynt coridor yr A55, yn eistedd lawr gyda phedwar neu bump o awdurdodau eraill. A oes perygl ein bod yn colli neu'n glastwreiddio rhai agweddau o'r ethos arbennig hwnnw? Byddai disgwyl i gynllun datblygu lleol y parciau adlewyrchu'r hyn sydd yn y cynlluniau rhanbarthol.

Llyr Gruffydd: Remembering the unique characteristics that we are talking about when it comes to the special ethos that belongs to national parks, I would just ask you to tell us how comfortable you think that the national park authorities would be in sitting within this proposed new planning hierarchy. We are talking, for example, about strategic development plans at a regional level with representatives coming together from different planning authorities. Perhaps Snowdonia would then, in terms of the A55 corridor, sit down with four or five other authorities. Is there a danger that we will lose or dilute some aspects of that special ethos? There would be an expectation that the local development plans of the parks would reflect what was in the regional plans.

13:45

[346] **Mr Phillips:** Rwy'n mynd i ofyn i'm cyfeillion i ateb y cwestiwn hwn.

Mr Phillips: I will ask my colleagues to answer this question.

[347] **Mr Buckle:** Perhaps I could come in the first instance. I must say, looking at the Bill across the board, and having spent the vast majority of my career working as a planner in Wales, I am a great enthusiast for the Bill. I must say that I am particularly enthusiastic about the proposal for strategic development plans. I started off as a structure planner, for those who remember the system before the last reorganisation, and, although county structure plans were viewed as rather inflexible documents, they did provide a strategic perspective, which has been sadly lacking since the system was reorganised and we have gone to a system of individual authorities' plans with no overall framework. Going back a decade or so ago, we had the Wales spatial plan, which provided, at least at a Wales level, a good vision for the nation and an understanding of how our individual areas and authorities fitted into that vision. Regrettably, the Wales spatial plan has not been taken forward in recent years, and that kind of vision has been lost, to some extent. I think that the proposal for a national development

framework is particularly welcome, and I think that that will enable the national parks' place in Wales to be well understood in the wider picture.

[348] However, to come to the strategic development plans themselves, if you look at the areas where development is concentrated—the area around Cardiff, around Swansea and along the north Wales corridor—it is difficult to argue that there is no compelling case for strategic development plans. I think that there is an opportunity here for the national park authorities to play a key role in the preparation of those and to make our expertise in terms of land management, biodiversity et cetera more widely available to our colleagues in the unitary authorities. Personally, I am really enthusiastic about it and very keen that we get involved in it quickly.

[349] I think that one of the risks that we have, and obviously I welcome these discussions, is that we need that work to be cracking on quickly. I would like to think that we can find arrangements for moving this work forward, perhaps ahead of the Bill getting enacted.

[350] **Llyr Gruffydd:** Diolch yn fawr am hynny. A oes gennych chi unrhyw sylwadau ynglŷn â'r argymhellion am ddemocratiaeth y paneli hyn fydd yn cael eu creu i greu'r strategaethau rhanbarthol? Yn amlwg, llais bychan iawn a fyddai gan bob awdurdod unigol, ond gyda'i gilydd, wrth gwrs, byddent yn ddwy ran o dair, ond mae argymhelliad y byddai traean yn dod o'r tu allan yn anetholedig.

Llyr Gruffydd: Thank you very much for that. Do you have any comments to make in relation to the recommendations about the democracy of these panels that are going to be created to create these regional strategies? Obviously, each individual authority would have a small voice, but together, of course, they would be two thirds, but there is a recommendation that an unelected third would come from outside.

[351] **Mr Buckle:** Yes, perhaps I can come back on that as well. There clearly is a need for an effective form of governance for these panels. I must say that my own view is that that should be very firmly rooted in the local planning authorities for the areas that are covered. The boundaries are still to be defined, but, ultimately, the people who take the decisions on those plans, indeed, on any plans, need to be clearly accountable to the population as a whole. While I would certainly welcome the potential for key areas of expertise to be brought in to advise those panels, my own view is that the decision making needs to sit firmly with the representatives of the planning authorities for those areas.

[352] **Julie James:** I just wanted to ask you, briefly, on the criteria for planning applications of national significance, of regional status and so on, and whether you thought that they had those thresholds right. Do you think that the outline in the consultation for how those will work and how the consultation processes will affect the national park areas is right, since large numbers of the development of national significance are in the park areas in the first place?

[353] **Mr Phillips:** I am going to phone a friend. [*Laughter.*]

[354] **Mr Buckle:** Perhaps I can pick it up in the first instance. Broadly, the criteria are fairly sound. One thing that we need to ensure, in looking at developments of national significance, is that they are truly national. I do not detect any intention, particularly, to be moving decision making to the Welsh Government that should properly sit with the local planning authority. Ultimately, it really is about subsidiarity and getting decisions taken at the most appropriate level. There are some details where, perhaps, the definitions have been a bit too all-embracing and could pick up some very minor developments as developments of national significance. However, broadly, I do not feel too uncomfortable with the way in which they have been defined. However, one of the issues that, perhaps, will need some careful thought is how decisions on developments of national significance in Wales sit

alongside nationally significant developments that are non-devolved and retained for decision making by the London authorities. That needs a lot of further thought. Clearly, there are some suggestions for changing the boundaries within which those are defined.

[355] **Lord Elis-Thomas:** William Powell has one final supplementary question.

[356] **William Powell:** I just wanted to sweep up a couple of other points that did not come up earlier. The Bill and, indeed, the consultation, are relatively silent on the important issue of heritage. What thoughts do you have on that matter? A number of issues have been brought to my attention, within national park areas and also outside them, particularly in the context of the work that Russell George and I take forward in the Petitions Committee of the National Assembly on the balance between concern for heritage features and the appropriate development of sites. There is a particular site within the Brecon Beacons authority with which I know Martin Buckle is very familiar, namely the former mid Wales hospital site, but, similarly, in the authority in which you previously worked, in Denbigh, the old asylum buildings there have such character. At present, there appears to be, within the consultation and the draft Bill, very limited reference to heritage. Is that of concern to you, do you have any thoughts on that, and would you like to see the safeguarding of this important aspect?

[357] **Mr Buckle:** As you referred to the Brecon Beacons in the first instance, perhaps I can pick up that question and perhaps other colleagues can also contribute. There is, of course, a separate heritage Bill under consideration. However, I welcome your question, because my own view is that the way in which the planning system engages with our heritage—and our built heritage in particular—is a very important facet of the system as a whole. In our national parks, it is particularly important. I have to say that, looking back over a number of years, I am not convinced that we gave our built heritage the degree of priority that, perhaps, it merits. The two examples that you have cited, both in the Brecon Beacons area and in north Wales, have problems that go back a long time and are, perhaps, evidence of action not being taken quickly enough by authorities. In these instances, to be honest, it is not only the local planning authorities, but other authorities, who have responsibility for the sites in question.

[358] **Ms Gibson:** There is a definite reason to have more of a marrying together of the legislation. From the point of view of somebody putting in applications and from a customer point of view, it is confusing. There are two lines, namely listed building consent and your planning applications. We should be able to marry those together so that they are considered as one. We tend to end up with two officers—a historic buildings officer and a planning officer—doing it. We are trying to marry them together behind the scenes, but for somebody putting those applications in, it is a nightmare.

[359] **William Powell:** I believe that there is also a concern in some particular, concrete examples in Wales of the potential abuse of section 78 powers around the structural integrity of buildings. Sometimes, clearly, that is with justification, but at other times, it can be used almost as a sleight of hand to advance other activities and exclude Cadw and other heritage bodies. I do not know whether you have any experience of such cases, where the structural integrity and safety of buildings is used as a way to facilitate demolition that might not be necessary. Is there an issue there, where we need to be cautious in our approach?

[360] **Mr Buckle:** I will respond to that as a general principle, but I am aware that we do have an issue of this nature that we are dealing with at the moment, and it certainly would not be appropriate to comment on that. However, yes, there are certainly a number of risks in terms of how effective we are able to be in delivering our heritage responsibilities when issues to do with the structural integrity of buildings are concerned. There are also other issues. Contamination is often quite a significant issue when we are dealing with buildings with a significant heritage. Ultimately, it is about finding solutions that are viable in protecting the best of our built heritage, but accepting that, unless developers can make

developments work, and fund them, I am afraid that some of our assets will deteriorate and we will lose them. So, it is about finding the right balance.

[361] **William Powell:** Chair, just to clarify, I had in mind a building about 500m from here, in the form of the Coal Exchange, which was the subject of a petition that we received last week, rather than a site—which, obviously, does occur to me—within national park boundaries.

[362] **Lord Elis-Thomas:** Thank you for that explanation, William. [*Laughter.*]

[363] Diolch i chi'ch tri am eich amser, ac yn arbennig am eich brwdfrydedd dros y Bil cynllunio a'i oblygiadau, yn arbennig yr ymrwymiad tuag at wneud bywyd yn haws i'r cwsmer; roedd hynny'n arbennig o bwysig. I thank the three of you for your time, and especially for your enthusiasm for the planning Bill and its implications, especially the commitment to making life easier for the customer; that is extremely important.

13:58

**Bil Cynllunio (Cymru) Drafft: Cymdeithas y Gyfraith a Chymdeithas y Bar ar
Gynllunio a'r Amgylchedd
Draft Planning (Wales) Bill: The Law Society and the Planning and
Environment Bar Association**

[364] **Yr Arglwydd Elis-Thomas:** Mae'n ddrwg gennyf eich cadw chi'n aros. Mae'r parciau cenedlaethol yn siaradus iawn. [*Chwerthin.*] Croeso mawr i gynrychiolaeth o gyfraith gyhoeddus Cymru, o Gymdeithas y Bar a Chymdeithas y Cyfreithwyr, ac wrth gwrs, o gwmi Geldards—Huw, diolch yn fawr. A hoffet ti gyflwyno gweddill y tîm, neu ddweud rhyw air agoriadol? **Lord Elis-Thomas:** Apologies for keeping you waiting. The national parks are very talkative. [*Laughter.*] A warm welcome to representatives from public law in Wales, from the Bar Association and the Law Society, and of course, from Geldards—Huw, thank you. Would you like to introduce the rest of the team, or make some opening remarks?

[365] **Mr Williams:** Na; diolch yn fawr am y gwahoddiad y prynhawn yma. **Mr Williams:** No; thank you for the invitation to be here this afternoon.

[366] Thank you for the welcome this afternoon. I am Huw Williams. I am a partner in the law firm, Geldards. I am also a member of the planning and environmental law committee of the Law Society. I was also a member of the independent advisory group. On my right is Kay Powell, policy adviser at the Law Society's Wales office, and on my left is Morag Ellis QC, who, I think will introduce herself.

14:00

[367] **Ms Ellis:** Thank you very much and thank you, likewise, for the invitation to be here. I am chairman of the planning and environment bar association and I am also on the Welsh Government list of QCs.

[368] **Lord Elis-Thomas:** We have a high-level representation.

[369] Gofynnaf y cwestiwn cyntaf felly, Huw. Beth yw dy ymateb di fel un a oedd yn aelod o'r pwyllgor annibynnol i beth sydd I will therefore ask the first question, Huw. What is your response as a member of the independent committee to what has appeared

wedi ymddangos yn barod yn y Papur Gwyn, ac yn arbennig yn y Bil drafft? Pa mor fodlon ydych chi fel aelodau o'r grŵp annibynnol bod y Llywodraeth yn ymateb yn bositif hyd yn hyn?

already in the White Paper, and especially the draft Bill? How satisfied are you as members of the independent group that the Government is responding positively so far?

[370] **Mr Williams:** We have not, as a group, reconvened to pick our way through it, so what I am about to say is a personal view. In terms of the way in which these reports get converted into policy, I think that the IAG has reason to be fairly satisfied about the uptake of the ideas that we put forward. It is fair to say that there are a number of areas where we would have liked to have seen more of a response, and a few areas where there has been no response at all in the sense that ideas have not been taken up. As we have not had any dialogue with the Welsh Government and because there has not been a formal response to the IAG report, we are not aware whether these are simply thought to have been bad ideas or whether there are other policy considerations in the background; I can think of at least one policy consideration, possibly, where the recommendations of the Silk commission might have had an influence, and it clearly played a part in the way that the White Paper is currently written.

[371] However, many of the key recommendations that we put forward, in terms of statutory planning on national infrastructure, have been taken up. I am pleased to see that those that one might call 'housekeeping recommendations', in relation to the operation of planning legislation, have been taken up, with one notable exception, which we may come to if we discuss section 106 agreements.

[372] **Yr Arglwydd Elis-Thomas:** Gofynnaf un cwestiwn arall. Rydym wedi trafod o'r blaen, Huw, sawl gwaith, y berthynas rhwng deddfwriaeth gynradd ac is-ddeddfwriaeth a chanllawiau fel y maent yn cael eu cyhoeddi, a pherthynas hyn i gyd â Pholisi Cynllunio Cymru. I ba raddau mae strwythur cyfreithiol y Bil yn synhwyrol?

Lord Elis-Thomas: I will ask one more question. We have discussed several times, Huw, the relationship between primary legislation and subordinate legislation and guidance, as published, and the relationship of all of this with Planning Policy Wales. To what extent is the Bill's legal structure sensible?

[373] **Mr Williams:** Probably of necessity, the Bill is proceeding by way of amendment to the existing town and country planning legislation. I think that it is fair to say that, when the independent advisory group first convened, we had some interesting discussions with some of the groups that came in front of us, because people are so used to being consulted on secondary legislation and policy in planning that it was a bit of change to be saying 'What do you think about the fundamental structure of the legislation?' People used to say 'We sorted that out in 1947, didn't we?' [*Laughter.*] However, it is in the nature of the way that we currently legislate that it has to do this very technical amendment of the existing legislation. I think that the consolidation and separation into an English planning Act, which is what is left, and taking the Welsh legislation into a separate planning (Wales) Act is going to be important in terms of the intelligibility of the system. Once this legislation is enacted, you will need one of these online databases to tell you what applies in Wales and what applies in England. I sincerely hope that the Welsh Government's proposal of a law commission to take consolidation on board as one of the projects in its next programme of work is followed up.

[374] That is not to say that one is advocating complete separation of the English and Welsh systems, because the IAG found that a lot of the fundamentals are still sound. However, I think that the systems will reflect their national needs and policies now in a different way. We then have the usual consideration about how much of this you put in primary legislation and how much you put in secondary legislation. Of course, on the policy front, Wales blazed a trail, as it were, by having a single, consolidated planning document. England, many years later, has followed suit, but, of course, it has done so in a very concise

fashion, and maybe now Wales's suite of policies is looking a bit cumbersome by comparison. So, maybe that is a task that, in due course, will have to be addressed.

[375] **Lord Elis-Thomas:** Would you like to add anything on that?

[376] **Ms Ellis:** I very much endorse what Huw has said about that. I have actually got the perspective, both with my membership and myself, of working in both jurisdictions. I think it is probably fair to say that the idea of having distinctively Welsh legislation that is related to the core planning principles of 1947 carried forward is a good one. I think that is probably a good principle in terms of inward investment as well, and comprehensibility of the systems.

[377] **Lord Elis-Thomas:** Well, this committee, as you know, will be examining the Bill at its various stages that we do here, and I am sure that that is something that we can bear in mind when outlandish amendments appear, if such a thing might happen. However, I will stop surmising there. Antoinette Sandbach is next.

[378] **Antoinette Sandbach:** One of the recommendations of the independent advisory group was around mediation and the potential for mediation to effectively narrow down fields of conflict, and hopefully avoid it altogether, in terms of appeals. Obviously, that does not appear in the consultation paper or White Paper as currently outlined. I wondered, with your respective membership organisation hats on, whether you could comment on mediation, and whether you think that that really is a realistic service to offer in order to speed up, as it were, and perhaps take out of the appeals process, some of the more straightforward conflicts that there are in the planning system.

[379] **Mr Williams:** I will take that first, because I know that PEBA has a particular take on this as well. The IAG report considers the appropriateness of mediation quite carefully, and what we were recommending was that the Bill be taken as an opportunity to allow, as it were, the system to experiment with mediation, because, while there has been a lot of comment and even support for the idea of mediation in planning from at least one member of the senior judiciary with a planning background, it is relatively untried. It is also important to bear in mind that 'mediation' covers a whole range of dispute resolution techniques, some of which may not be appropriate in the planning context. At the end of the day, there are actually three parties around the table in a planning dispute: the planning authority, the applicant, and then there is the general public as well. However, there are certain mediation techniques such as neutral evaluation, where perhaps an inspector could be asked to give a preliminary view on the merits of an appeal, which might crystallise people's thoughts and lead to greater agreement on the issues. We feel that the Bill should be taken as an opportunity, as the IAG report says, to create the space for mediation and to give some further consideration as to what might work in the planning context. I think that it also has to be seen in the context of other references in the IAG report, where we are suggesting that the Planning Inspectorate should take a much more hands-on procedural role, and that planning inspectors should be more confident in, as it were, case-managing planning cases with, obviously, the benefit of the views of the parties, and determining the best procedural way of dealing with the issue as it stands rather than saying, 'Well, this is an inquiry route, this is a hearing route'. That does, of course, raise interesting issues about the selection and training of planning inspectors.

[380] **Ms Ellis:** I do not disagree with any of that. I think that PEBA does have particular concerns around that tripartite notion that Huw has been referring to. I do not think that you can just shift over mediation techniques from normal civil litigation and bolt that on to planning, assuming that it is going to work. It is more complex than that.

[381] **Antoinette Sandbach:** If, for example, there was a planning application to which there had been no objections from any members of the public, would you then say that that was different? So, in the initial application, there has not been a single objection, but there is

still a conflict between the planning authority and the applicant. Is that the kind of situation that you would then—

[382] **Ms Ellis:** I think that I would be very reluctant about seeing that as different, because, at the moment, there is a long-enshrined principle of the notion of a public inquiry or a public hearing, and members of the public can come in even if they are coming in a little bit late in the story—there may be all sorts of quite good reasons as to why they have not come in earlier in the story. To move from that model would be quite a profound change, I think. So, the answer to your question is that I do not think that I would quite agree that the character of it is set at that initial stage in that way.

[383] However, where I would see perhaps greater potential is on the particular issue of section 106 wrangles, and I think that, because that tends to be quite technical—obviously there is the public interest element as well, but it tends to be quite a technical thing often, with arguments about viability and so on—with proper safeguards, there might be good models that could be used for that, and possibly making a more formal use of the valuation office as well. It is sometimes used on an ad hoc basis at the moment, but, like the Planning Inspectorate, it is universally seen as a neutral party and it seems to me that there may be a resource there already in the public sector to use—

[384] **Antoinette Sandbach:** Not the planning Bar, then. [*Laughter.*]

[385] **Ms Ellis:** Well, quite a lot of my members are trained as mediators already and they do carry out that role. However, the point about the valuation office is that it is trained in issues of viability. It has experts in some of those financial issues, who could perhaps sit as assessors to assist the Planning Inspectorate in making rulings on those matters.

[386] **Lord Elis-Thomas:** Julie Morgan is next, then Julie James, then Mick.

[387] **Julie Morgan:** The Welsh Government proposes to introduce place plans, with a role for community and town councils. Could you tell us about the experience in England with the neighbourhood plans?

[388] **Ms Ellis:** Shall I lead on that one? As I say, I operate about 50:50 in both jurisdictions, and the experiences of localism and neighbourhood planning have, I think it is fair to say, been confusing for people in England and quite controversial. There is a gap that has been exposed. I was at an event hosted by the Planning Inspectorate yesterday, and a couple of people made exactly the same observation. There is a feeling among local people that localism means that they can have what they like, which normally means less development. There is therefore an expectation that councils, the Planning Inspectorate and Ministers are all going to say ‘no’ to development. There is that on the one side. On the other side, there are statements coming from the Westminster Parliament about being pro-growth and so on and so forth.

[389] When you actually look at the nuts and bolts of the neighbourhood planning legislation, it is not quite what the non-expert local person will think that it is. The technical advisers to this committee might find it fruitful to look at the recent court of appeal judgment on the Daws Hill Neighbourhood Forum against Wycombe District Council. Judgment was handed down last week. Essentially, what that case was all about was the interface in power between a local planning authority and a neighbourhood forum, and the argument being put by the neighbourhood forum was that there was a gap in expectation, and really the legislation could not mean what the authority had said that it meant.

14:15

[390] To cut a long story short, the court of appeal agreed with the local authority, but, as I said, I think that your advisers might find it fruitful to look at that. So, there are those issues, and there have been other slightly difficult issues that have arisen about the robustness of testing of neighbourhood plans and so on. I would strongly endorse the approach taken in the White Paper at the moment, that it is very good to be attempting to involve town councils, community councils and local people, but keep it on supplementary planning guidance level rather than trying to weave it into a development plan system, which the White Paper is already, actually, looking to make more complicated in certain ways by putting in some new things in the upper tiers, which, on that point, I think is, broadly speaking, a good idea. I think that, if you then try to weave neighbourhood planning into the statutory plan system as well, it gets very difficult.

[391] **Julie Morgan:** So, you think that the proposals, as they are now, may avoid some of this confusion.

[392] **Ms Ellis:** Yes, definitely.

[393] **Julie Morgan:** So, you would support the proposals as they currently stand.

[394] **Ms Ellis:** Definitely. I think that the other thing is that there is a lot of anxiety about the potential for neighbourhood planning to frustrate growth among commercial interests in England. Obviously, I am planning Bar; we represent all comers. I do not speak for the commercial organisations, but I know that there is anxiety about that. It is not simply as to whether or not a neighbourhood plan can say 'less development' at the end of the day. It is pretty clear in law that it cannot, but it is the potential to delay, which, of course, can also be difficult in terms of economic growth.

[395] **Mr Williams:** I will just add that the White Paper recommendations, or the IAG recommendations in the White Paper recommendations, do seem to have elicited a very rapid response. I know, for example, that Penarth Town Council has seized the initiative immediately and is promoting a town plan on the sort of place plan concept. The IAG certainly encouraged the idea that those community councils that are fit and able to take on this sort of role should be given some encouragement and that there should be some studies done on a pilot basis as to how effective these were. I think that, probably, dare I say it, on a characteristically Welsh slightly informal basis, I suspect that they may achieve more in the long term than the system in the Localism Act, where, I am bound to say, when the IAG looked at it, we were just deterred by the sheer complexity of what had been created in order to advance what was, in the original manifesto commitments, presented as a relatively simple concept. I think that the litigation that is already taking place demonstrates that.

[396] **Lord Elis-Thomas:** Julie James is next, then Mick.

[397] **Julie James:** You mentioned some of the section 106 issues. I just wondered whether you wanted to elaborate on them, rather than me taking you through a series of questions.

[398] **Mr Williams:** Yes. The background to this is that the Law Society's planning and environment law committee, for a number of years, has identified some weaknesses in the existing provisions of section 106 that create uncertainty, and, to an extent, affect its flexibility. The IAG took these on board and recommended that the opportunity of the Bill was taken to address some of them. Essentially, the weaknesses relate to the purposes for which section 106 can be used in terms of the fact that, for example, it cannot be used as a basis for agreeing a transfer of land. There are difficulties in relation to the way that affordable housing provisions are drafted. There are certain obscurities in terms of the execution of section 106 agreements; they do not have the benefit of certain provisions that are available, such as executing company documents, for example. Also, there was a general

feeling that the previous formulation of section 106, which is still retained in Scotland, gave a greater degree of flexibility to address some of these provisions. There are also certain other provisions that are already in section 106, such as the ability to place legal charges on land, which have never been implemented but which members of the committee will be aware would have been useful in certain circumstances. The other problem that frequently crops up, and this is a particular issue in Wales, is that a lot of development land is actually in local authority or Welsh Government ownership—I mean in local planning authority ownership; I beg your pardon—or they are sites that have been assembled by local planning authorities, and there is no ability for the local planning authority, when it disposes of land to a developer after giving planning permission, to become a party to its own section 106 agreement. That requires a statutory provision for the LPA to be able to contract with itself in different capacities, which is something that the Welsh Ministers can, in fact, do. So, it is all fairly technical stuff, but I am not entirely certain as to why it has not been picked up in the White Paper.

[399] My suspicion is that the operation of section 106 is now intimately connected with the community infrastructure levy regime and the fact that the tests for whether a section 106 agreement is appropriate are now placed on a statutory basis by the CIL regulations. So, whether the Welsh Government Minister—and this is purely speculation on my part—might be waiting to see what the Silk commission might say about CIL, I do not know. However, it is curious that the UK Government’s response to the Silk commission referred to whether the issue of the Welsh Government possibly taking over responsibility for CIL should be reviewed at the end of 2014. However, from my reading of the Silk report, it is entirely silent on the issue and did not take up the invitation to look at it. However, if that was the case, I would still hope that, on these relatively technical but nonetheless desirable changes, the opportunity of the legislation is taken to make these changes. That would, certainly from a legal perspective, remove some uncertainties and possibly make these agreements that bit easier to settle and negotiate.

[400] **Julie James:** That is certainly my own view, I must say. May I turn to something that is also technical and a similar sort of thing? There is quite a bit about pre-application engagement and advice and guidance from the LPAs to developers and so on, which is very desirable, I am sure, for the major developments. However, it does not go into very much detail at the moment. I wonder whether you have had any discussions about that. One thing that I am very concerned about is that it seems to me that we might be setting up a position where we just have endless estoppel actions arising from pre-application advice that has been given and paid for and then modified in some way, post application. I cannot see anything in this document—

[401] **Mr Williams:** Sorry, are we talking about the IAG report or the White Paper?

[402] **Julie James:** The consultation document.

[403] **Mr Williams:** Yes.

[404] **Julie James:** I cannot see anything in the consultation document that says anything about it other than asking, ‘Do you think this is a good idea?’ I am obliged to say that the devil is in the detail. Do you have any views on that?

[405] **Ms Ellis:** Yes. Broadly speaking, it is a good idea. I know that my clients in local government have concerns about the resourcing implications of it. However, provided that it can be charged for, that should sort them out. However, applicants may then start squealing that it is putting up the cost of development and the planning system will then be perceived to be more expensive. So, it is quite a delicate issue, as you say. It sounds like motherhood and apple pie, but, as you say, the detailed working of it is important. One must be careful not to

become disproportionate and, as you say, be requiring pre-application consultations on really quite small schemes when, perhaps, the benefits to be gleaned from them do not justify that. I would not have thought that it would lead to estoppel problems, because the case law on that is really very clear and I think that all local authorities now have the hang of writing the right things on their letters about the decision being in no way binding. However, I have known of those sorts of processes once or twice generating complaints to the ombudsman. I have come across one slightly bizarre case, with another hat that I wear, acting as a lay member of the RTPI appeals panel. I know of one pre-application consultation that went wrong and ended up being looked at by us in that forum as well.

[406] **Julie James:** I will just say at that point that the reason that I raise it is because we had some evidence earlier on in our session today from Arup, I think, where it was trying to extend the pre-application engagement to the beginnings of the negotiation of a section 106 agreement, for example.

[407] **Ms Ellis:** I do not think that you can do that, no.

[408] **Julie James:** It seems to me that the more that you are involved in detail at this pre-application stage, the more likely you are to end up with difficulties, post application.

[409] **Ms Ellis:** Exactly. That is the point: it is compromising, and you then get into predetermination.

[410] **Julie James:** Arup was definitely recommending that, and, I think, consultation with the chair of the planning committee, indeed, as part of this, which seems to me to be—

[411] **Ms Ellis:** I think that planning performance agreements can work well, especially for larger projects and projects where land has been allocated through the development plan, so there has been a lot of public debate about it already. I think that PPAs can work very well in helping to bridge some of these resourcing difficulties for local authorities, and to give the private sector confidence about timescales, so that it can be going off to funders and so on.

[412] **Mr Williams:** You have to remember that, obviously, in addition to pre-application consultations with the LPA and applicants, there is a lot of pressure in the system as well. The IAG supported greater engagement with the public on a pre-application basis. To some extent, if you are expecting developers to talk to the public, I do not think that the planning authority can then stand back and not enter into a dialogue, to a degree, subject to some important caveats. One recommendation that has been taken up in the White Paper is the creation of a standing advisory group, and the development of protocols for the conduct of pre-application discussions and public engagement—the two go hand in hand and have an important role to play in giving everybody confidence that these will be properly conducted. It is the nature of human affairs; you will not avoid the occasional pre-application consultation being taken the wrong way. However, in terms of defusing a lot of potential difficulties further down the track to planning permission or refusal, as the case may be, I think that the pre-application discussions and public consultation together have a lot to be said for them, and are worthy of support.

[413] **Lord Elis-Thomas:** Mick, did you want to come in?

[414] **Mick Antoniw:** The point that I wanted to raise has been answered now.

[415] **Lord Elis-Thomas:** Are you sure? I see that you are. I call William Powell.

[416] **William Powell:** I wanted to look briefly at the question of compulsory purchase powers. The independent advisory group engaged with that issue, and proposes the bringing

together of the powers that were once vested in the WDA with the powers of local authorities. I wonder what your views are on that. My understanding is that, in recent years, the exercise of these powers has been very limited, and, to some extent, that can be to the detriment of particular communities where you have property that is falling into disrepair and decay, and absentee owners, or whatever, knowing that they are relatively secure, and that those powers are being less frequently used. Do you have any thoughts on that particular point?

[417] **Mr Williams:** The powers of compulsory purchase, contrary to the commonly held view, are, for very proper reasons, not easily available. As Morag will tell you, a case for compulsory purchase has to be very carefully prepared. What the IAG was suggesting in relation to compulsory purchase was, really, three things. First, there were some technical issues to do with the way that some CPO powers, especially in the local government context, had got out of kilter with England. This related to the right to override restrictive covenants and things, once you have a compulsory purchase order, which sounds tediously technical, but I can assure you that, if you have a commercial property partner sitting in your room trying to get you to explain how we can get rid of this covenant, it becomes quite an important issue.

14:30

[418] That does illustrate a wider issue. We felt that it was important to make the point that compulsory purchase, in a way, is an offshoot of the system of property law, which is a non-devolved issue. Therefore, in terms of CPO procedure and compensation, there is a strong case for ensuring that Wales and England remain marching in step. In terms of the powers that are available, the suggestion was—I think that this is probably a piece of research leading to legislation at a later stage—that in the post-devolution context, and with the WDA having been absorbed into the Welsh Government, and with numerous CPO powers scattered around legislation in all sorts of unlikely places, like education legislation, water legislation and so forth, maybe there was an argument for having a compulsory purchase powers Act where the list of who can exercise CPO powers and for what purpose is collected together. It would be nice to have, but I appreciate that it is possibly something that would be for another day.

[419] The principle of ensuring that Wales and England march in step on the compensation system and on basic CPO procedure is quite important. It is one of those things where, if you have property developers—most of the land that is assembled under CPO for regeneration purposes is sold on—you are talking about development companies that operate in England, Scotland and Wales, and they want to operate in a broadly familiar system.

[420] **Yr Arglwydd Elis-Thomas:** Diolch **Lord Elis-Thomas:** Thank you very much yn fawr iawn ichi am eich tystiolaeth. for your evidence.

[421] I am very grateful to you for your evidence and for the enthusiasm that you have clearly displayed.

[422] **Ms Powell:** May I just add that the Law Society welcomes the committee's interest and that, especially at this draft stage, it is devoting so much time? This will really make a contribution to the refinement of the Bill when it comes to the formal procedure, and comes before the Assembly.

[423] **Lord Elis-Thomas:** Thank you. What we are trying to do is to prepare the committee for the work of legislating, which we recognise will be tough. There are three Bills for this committee to deal with in the next year, and I wish the committee well in trying to achieve this.

[424] **Mr Williams:** Perhaps I might be permitted to make one parting observation.

Clearly, the availability of resources to you to manage a major reform of planning legislation is rather less than would be available to your colleagues in Westminster. [*Laughter.*]

[425] **Yr Arglwydd Elis-Thomas:** Diolch yn fawr am hynny, Huw. [*Chwerthin.*] Diolch yn fawr i'r tystion. **Lord Elis-Thomas:** Thank you very much for that, Huw. [*Laughter.*] I thank the witnesses.

14:33

Papurau i'w Nodi Papers to Note

[426] **Yr Arglwydd Elis-Thomas:** Mae gennym bapurau i'w nodi, sef gwybodaeth ychwanegol gan RSPB Cymru ar reoli tir cynaliadwy, a gohebiaeth rhwng y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol a'r Gweinidog Cyfoeth Naturiol a Bwyd ar Bapur Gwyn Bil yr amgylchedd. **Lord Elis-Thomas:** We have some papers to note: further information from RSPB Cymru on sustainable land management and correspondence between the Constitutional and Legislative Affairs Committee and the Minister for Natural Resources and Food on the environment Bill White Paper.

[427] Mae'n dda gennyf ddweud bod Gwilym Jones, aelod o gabinet comisiynydd amaethyddiaeth yr Undeb Ewropeaidd, wedi llwyddo i gyrraedd, er gwaetha'r niwl. Byddwn yn ei groesawu mewn ychydig funudau. I am pleased to say that Gwilym Jones, member of the European Union agriculture commissioner's cabinet, has arrived, despite the fog. We will welcome him in a few minutes' time.

*Gohiriwyd y cyfarfod rhwng 14:34 a 14:45.
The meeting adjourned between 14:34 and 14:45.*

Y Wybodaeth Ddiweddaraf gan Gwilym Jones, Aelod o Gabinet, Comisiynydd Amaethyddiaeth yr UE Update from Gwilym Jones, Member of Cabinet, EU Agriculture Commissioner

[428] **Yr Arglwydd Elis-Thomas:** Croeso, Gwilym. Diolch am dy holl drafferth. **Lord Elis-Thomas:** Welcome, Gwilym. Thank you for all your trouble.

[429] **Mr Jones:** Diolch am bopeth. **Mr Jones:** Thank you for everything.

[430] Apologies for not making it earlier; it has been a complicated trip.

[431] **Lord Elis-Thomas:** It is not your fault. You have been befogged, have you?

[432] **Mr Jones:** I have been fogged in Bristol, and sent off to Birmingham. In fact, it is the second time this week, because it happened to me in Strasbourg on Tuesday. So, it has been a foggy European week. Anyway, here I am.

[433] **Lord Elis-Thomas:** Well, we are very grateful to you for coming. I will just ask a lead-in question. With regard to the whole process of the common agricultural policy, which was our first experience of co-decision, how well did we do as an organisation, and how well did you do—I do not mean you, personally, but the Commission and the commissioner?

[434] **Mr Jones:** I think that it has been quite an exceptional process, because this is the first time that we have done a CAP reform with the Lisbon treaty. So, it has been a unique

occasion in terms of interaction with Parliament and with the European Parliament. We have gone through—and many did not think that we would make it through—co-decision for CAP reform for the first time. So, there was engagement with you, with national parliaments, with the European Parliament and with the 28 member states. We have done that, and I think that we have managed to come away with something that, while not perfect—I would say that, because it does not resemble our initial reform proposal—is a good democratic compromise that builds in a lot of the concerns and a lot of the ambitions that are there.

[435] It builds in the three planks that we wanted to see, namely competitiveness, sustainability and greater legitimacy for the policy. I would be delighted, if you want me to do so at some point, to run through those in greater detail. However, in each of those pillars, I think that there are real elements that show how the policy has been shifted. If we look at where we have come from over a 20-year reform period, we have come from quite a different CAP 20 years ago, and now we have a CAP that is market-oriented and, indeed, the last elements of that market-orientation have been put in place with this reform, for instance, phasing out production quotas for dairy and for sugar. However, at the same time, it makes sure that farmers are producing both private goods and public goods. After all, it is an area with important public subsidies, so it is quite right that they should do so. However, at the same time, we need to make sure, precisely because it is an area that depends on those public subsidies, that issues raised by the broader public, by taxpayers—legitimate issues of concern—are addressed; for instance, making sure that we do something to make sure that the money goes to active farmers.

[436] So, we have these three planks; you will always have people who will say, and I understand it, that there is not enough of this or that, but that is what democratic compromise is about, with all of the member states, the Parliament and the national parliaments. I have to say that I think that we have something that will stand the test of time. It is the first step and, of course, people will want to build upon that in the future. For instance, on the greening of the CAP, it is clearly a first element that is there and people will want to build upon it.

[437] **Llyr Gruffydd:** We have been through a lot of the pain in terms of the big issues, but we are still awaiting the implementation regulations, the delegated Acts, et cetera. Could you give us an update as to where we are in that respect and when we can expect the finer detail, and how those are being developed and negotiated?

[438] **Mr Jones:** Well, in fact, the delegated Acts on two of the most important of the pieces of legislation were adopted by the Commission this week on Tuesday in Strasbourg. That is the delegated Act setting out in greater detail all the elements on the first pillar, so it sets out exactly how direct payments would be proposed to work. That is very important, because we have sought to do the greening of the CAP, which, basically, means that every single farmer in Europe is going to have to do things that he or she was not doing before in terms of making sure that they deliver not only private goods, but also public goods—for instance, having an ecological focus area on their farm. However, the delegated Act is very important, because, when you get into that, there is a lot of nitty-gritty to make sure that people understand exactly what they have to do and exactly what the rules are, so that they can be clear about what they do and not get penalised for thereafter.

[439] So, that has been adopted this week, as have the rules on the horizontal regulation, which is all about penalties. So, everyone looks at that very closely. We have delegated Acts to come still on rural development, for instance, and on other areas. However, those are probably the two most sensitive ones that have been there this week, particularly the one on the first pillar. Of course, Parliament and member states will now want to look at it, but this is not just something that comes out of the Commission's pocket; a delegated Act is only a finer definition of things that have been co-legislated where finer detail is needed. Parliament and member states still have a right to look at it, of course, but we have talked intensively with

them throughout the process of preparing them. If we have put this delegated Act on the table, it is also because we know that it is a delegated Act that has a very fine chance of having that support and of not creating any objections.

[440] **Llyr Gruffydd:** You mentioned co-decision and the trilogue negotiations. What lessons will the Commission take from this process just gone in terms of perhaps facing similar prospects in future when there are major reforms in other areas, or when it comes round to CAP next time?

[441] **Mr Jones:** You always see your proposal shift; that always happens. So, there is a delicate process of working out where you think that a starting point should be, and where the tug-of-war is going to take place with both Parliament and the member states. So, you need to give a vision and you have to pitch it right. The problem with that is that you know that some people will pull you in one direction, and that opens you up to criticism that your initial proposal was unrealistic or not practical. Sometimes, you know that in advance, but you may have had to pitch it that way precisely because you know what that democratic tug-of-war will involve.

[442] I do not think that there is any great solution to that, except to show—I hope that we have shown it—that it is useful for us to listen, because we learn what those concerns are in the democratic process, and we do adjust and have adjusted. I think that a lot of the things that came out in the wash in these three years of talks have been addressed. They were legitimate concerns, they have been addressed, and we have to show that we are a listening institution and that we need to do that. I hope that we have done that. If we have not done it enough, we have to do it more.

[443] **William Powell:** I would appreciate it if you could tell us in a nutshell what you feel the contribution was of the Irish presidency at the critical final phase in delivering this CAP. Also, while I have the microphone, even his detractors would acknowledge the energy and commitment that our Minister for Natural Resources and Food has shown in engaging with the process, in turning up at the meetings and in playing his part. What is your analysis of the level of Welsh influence in shaping the proposals that we now have?

[444] **Mr Jones:** The Irish presidency obviously played a particularly important role. It held the presidency at exactly the time the key compromises needed to be crafted. You have to work out how to take the thing through, which, essentially, involves making sure that the key MEPs—the ones most involved—and the member states have a sense of their priorities. No-one is going to get everything that they want with such a large negotiation. I think that it managed it very well in order to craft compromises, which were the key ones, country by country and MEP by MEP, and to get us through that hurdle, which was not easy. The Welsh Government was extremely present, and obviously working closely within the UK delegation and with natural linkages—I would say, from the outside—with something like the Irish presidency, for very natural reasons, if only because the landscape and agriculture of Wales have a lot in common in many ways with those of our Irish friends. It is no secret that, in Ireland, one of the key concerns was about what is called, in our jargon, internal convergence. That is, we did not feel that it was legitimate any more to base CAP payments on historical references that were sometimes 15 or 20 years old. We felt that that was not something that we could defend any longer and that we needed to move to a flat rate. The fact of the matter is that in somewhere like Ireland, but also to some extent in Wales, that is not an easy thing. It may be justified, but it implies quite a big change. That was obviously something that the Irish presidency negotiated over a long period and that natural linkage from a Welsh perspective comes out well, I think. I imagine that means that the Government here will want to see how—I think that that is what it is doing—it can use that flexibility in order to assist in that transition period. Like all transitions, it can be done, but it probably has to be done gradually so that people have time to adapt. So, there we are.

[445] **William Powell:** I appreciate that. It is also worth putting on record our thanks for the hospitality that we, as a committee, under the chairmanship of Lord Dafydd Elis-Thomas, enjoyed in 2012, when we had the opportunity to have some direct input and to meet some of the key rapporteurs and the team Wales MEPs to make our contribution. I hope that, in some small way, we also made a contribution. Thank you very much.

[446] **Lord Elis-Thomas:** We also appreciate the willingness of Commission officials, on CAP and other issues, to appear by video link, as well as Members of the European Parliament, and to contribute. Julie Morgan is next.

[447] **Julie Morgan:** To what extent do you think that the CAP reform will be able to deal with any future changes in the landscape, with new things happening, such as flooding risks, and all these issues, such as climate change and food security? Do you think that that is built in?

[448] **Mr Jones:** I think that we have put in place a policy that is much more able to do that. Hopefully, that will encourage the farming structures that are more able to do that from several perspectives: first, from the sustainability perspective, it is clear that the biggest challenge for our farmers is climate change. There will always be discussions, but certainly we face extraordinary extreme weather events with increasing frequency, so we need both to adapt to that and to mitigate it. After all, farming in Europe still produces something like 9% of emissions, so there is also a contribution to be made by farming. That is why it is so important that we have this plank of measures that will be there to make sure that we do make that contribution. We will have what we call cross-compliance, which are the basic legal rules that farmers have to follow, which have been simplified to make them easier to understand, but also reinforced where they need to be reinforced. The number of measures has come down, but, actually, we think that they are more targeted and make more sense.

15:00

[449] On top of that, you have the green proposals; you have 30% of the first pillar of which the payment linked to greening. Within those greening measures, you have clear measures that are about climate change. For instance, in a place like Wales, the fact that you have to preserve permanent pasture, which is an extraordinary carbon sink, is very important indeed. Then, on top of that, you have rural development, where 30% of the funds need to stay in agri-environment schemes, many of which, again, focus on climate change. Then you have a fourth plank on top of that, which is research, and there is a much, much bigger focus on research, and the research is the key, of course, to ensuring that we are able to do this in future, so that we have the right tools. We are more than doubling the funds for research, but money is one thing; the other thing is actually getting research into the field. So, we are trying to combine the money with a new way of getting the research out there, because, of course, farming, as you all know, is, by its nature, a somewhat atomised form of activity. People are out there, and it is much harder to get the applied research out to them. It is not easy either to get the research out to them or to make sure that their needs and the needs that they face on a day-to-day basis are properly understood.

[450] So, as part of the new CAP, we have set up something called the European innovation partnership for sustainable agriculture, which is there precisely in order to create networks of researchers, farmers, people with business knowledge and people with best practice to feed through the best practice and also to share it Europe-wide, because I am sure that there are all kinds of things happening in one region somewhere in one extreme of Europe that can be relevant elsewhere. This best practice is not necessarily being shared. So, there is a different plank of measures there. It is certainly our ambition that this puts the policy in a better place to make the policy futureproof.

[451] On making the policy futureproof, there is only so much that bureaucrats can do about that, and our scope should be clearly limited because, of course, the other element of making the policy futureproof, and another element of sustainability, if you will, is to make sure that it is economically sustainable. We think that we achieve this better by making sure that the policy is more and more market-oriented so that farmers are in contact with the market; it is not bureaucrats in Brussels inventing quotas or I do not know what. It is about farmers seeing what their opportunities are and saying to themselves, 'Look, this particular area isn't doing well. I've got the possibility of switching and trying something different because no-one is telling me to do X, Y or Z. I have a decoupled basic payment, which gives me the possibility to adapt what I do to the future, and I've also got a whole wealth of tools that help me in terms of my training, my business training' et cetera.

[452] So, we hope that, from both these perspectives, that makes the policy more futureproof. I would add that, in a policy area, which, as you rightly said, also deals with food security, it is all the more important because there will be needs that we cannot predict. However, what we do know is that the planet is growing and the demand is growing. So, this probably implies to some extent that there will be areas of the world with greater capacity and areas with more need, with greater scarcity. They may vary over time, and having a more market-oriented policy also allows us to have a more open trade policy in our agricultural area, which also fits in with that. It is an opportunity for our farmers in terms of accessing new markets and making sure that, when there are imports, they are able to compete with that, and it fits into this broader food security idea because trade policy also plays a part in that and allows us to be much more positive on our trade policy, which we now are. I think that you will have seen that it was certainly not European farming, for instance, that blocked the World Trade Organization Doha round. It certainly was not; we played a very positive, engaged role. It is successive CAP reforms that have allowed us to do that.

[453] **Julie James:** We had a committee meeting up at Aberystwyth University a week or so ago, and we heard some really good things about some of the research programmes that are being funded through the mechanism that you mentioned. They talked about some very interesting new grasses that reduced emissions and all the rest of it as well as the demonstration farms; I was very impressed by the whole thing. Do you have a mechanism for sharing that across the European Union as opposed to just within a small bit of Wales? The sharing that we were talking about was just within a small bit of Wales.

[454] **Mr Jones:** Yes, the way the EIP will work is that there will be, as I understand it, local hubs set up in different regions according to needs. However, there will also be a kind of European structure that will try to gather this and play an intelligent role to disseminate best practice. So, hopefully that will be useful for everyone. It is always a difficult thing to know because, as soon as you do this kind of thing, you set up more structures, and you hesitate to do that because it implies cost. On the other hand, sharing best practice may be a fantastic way to save on costs, and to put best practice out there. So, it is something that we are trying to do, and we very much hope that it works. Of course, it is a new thing, and we have to be vigilant to make sure that it does work. However, the idea is that the best practice does not stay within one region.

[455] **Julie James:** Thank you. That is good to know.

[456] **Joyce Watson:** You touched briefly on the trade agenda, and it was very brief, but the fact that you mentioned it suggests that it was obviously recognised by the Commission. What exactly is the role of the European Commission in international trade negotiations within agriculture, for example in promoting food, and what does that really mean for us in Wales?

[457] **Mr Jones:** The role in trade is an important one because, in order to speak strongly with one voice in international trade negotiations, the European Commission asks for a mandate, and is frequently given one, by the European member states to negotiate on their behalf. That gives us extraordinary leverage because we speak with one voice. That is very important indeed. On that basis, on our side, perhaps as recognition of the very important role and the very specific role that the agriculture policy has played, my commissioner, Commissioner Ciolos, negotiates alongside and in co-ordination with Commissioner De Gucht, who is the trade commissioner. So, you have one commissioner, the commissioner for international trade, who negotiates and co-ordinates the overall negotiation, and within the specific agricultural area it is the commissioner for agriculture who then negotiates it, in close interaction, of course. That is important because, obviously, it has been such an important policy area. It is important that we do things that are coherent.

[458] The policy changes that we made over the last 20 years have put us in a much better place in terms of being able to go out there to negotiate an open trade agenda with third countries around the world. Precisely because we have had this reform agenda, that means that this has helped our farmers to move to a better place in terms of their competitiveness, and that means that when they now see trade—. There is always a mixture when you see trade: it is an opportunity and it is a threat because it is both an export opportunity and, of course, there can be imports that can be a problem, which can displace production nationally. If you get, through a reform policy, your farmers into a better place in terms of their competitiveness by the way that you structure the subsidy system, by the kind of research that you put out there, and by the kind of best practice that you get out there, that means that it is the opportunities that prime.

[459] For quite a number of years following 2000, the real focus of the European Union's trade policy was multilateral. It was the WTO, which remains absolutely critical. That means that we all had to recognise—and we have—that, after many years of investment in the Doha round, we just were not getting over that finishing line. We got very close indeed with Commissioner Mandelson, as trade commissioner, in 2008. It was extremely close. It looked like we were there and then the thing fell apart. The negotiating basis was still there, but nevertheless it fell apart. That meant that, following 2008, there has been a shift in order not to say 'no' to Doha, because if there is an appetite by others, we will certainly engage, but in parallel now we have other very important and large trade negotiations out there with the Americas, Asia and in Africa. Many of those trade negotiations offer, we think, very big opportunities for European farmers and European agriculture. In Asia, in particular, these are booming markets in terms of agriculture. They are markets with growing demand for the kind of high-quality food that we can deliver. It is true that we do not have the kind of farm structures that you find somewhere like the United States. Our farm structures are something like one tenth of the size. As a result, you could think that we are purely at a disadvantage, but it is more complex than that, because the reality is that, as a result, we farm in a slightly different way, and we come out with slightly different types of product. First, they are much more diversified, and we have many more specialised, high-value products. These are the kind of products that are vastly sought after in Asia in particular. That is why my commissioner has led these negotiations with Japan, Vietnam and others, as well as Singapore, with which we practically have closed, and which frankly does not produce any agricultural products, but which is certainly interested in consuming them. These are major Asian economies.

[460] We have also run promotional missions with European farm organisations in those countries, in parallel with those negotiations, to build in both the trade side and some of the marketing side to help them get into that market. I think that they see that there are real opportunities there, and we see it in Wales as well, where, for instance, Hybu Cig Cymru, I know, is extremely interested in the opportunities that these free trade areas are offering, in Asia in particular, but also in a place like Canada, with which we have just about concluded a

free trade agreement. Does that mean that the picture is wholly rosy in terms of agriculture? No, because, frankly, there are some parts of the world where it is much more challenging for us, if only for agronomic landscape reasons; places like South America have an extraordinary competitive advantage in terms of their capacity to produce. That will always be challenging, and that is why you will have someone like my commissioner in the room who will obviously push for a very offensive, ambitious agenda in some of those FTAs, in Asia in particular. Of course, in places like South America, obviously we have to have a much more cautious approach. That does not mean that we can say 'no', because, of course, there may be difficulties for us, but, equally, there are opportunities for our industries and our services. So, it is about an overall package, but within that package we will want to be very cautious on some of our more sensitive sectors; for instance—and this is very relevant for Wales—in some of the meat sectors.

[461] So, it is a complicated panorama. It is one where there are areas where we try to proceed with a lot of caution, but, equally, let us not forget that there are real, major opportunities out there, and that the policy over the past 10, 15, 20 years has put us in a better place in order to be able to enjoy those opportunities. We are seeing that happening, in particular for our high-value products, and Wales in fact has been part of some of those trade promotion missions to Asia—South Korea, Japan and China—over the past two or three years, with which I personally was involved. I know that there have been other activities as well. So, overall, this is a very positive agenda.

Yr Arglwydd Elis-Thomas: Diolch yn fawr iawn, Gwilym, am eich amser.
Lord Elis-Thomas: Thank you very much, Gwilym, for your time.

*Daeth y cyfarfod i ben am 15:13.
 The meeting ended at 15:13.*