



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

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

**Dydd Mercher, 3 Rhagfyr 2014
Wednesday, 3 December 2014**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi 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**

Jeff Cuthbert

Llafur
Labour

Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Llyr Gruffydd	Plaid Cymru The Party of Wales
Alun Ffred Jones	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Julie Morgan	Llafur Labour
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Jenny Rathbone	Llafur Labour
Antoinette Sandbach	Ceidwadwyr Cymreig Welsh Conservatives
Joyce Watson	Llafur Labour

**Eraill yn bresennol
Others in attendance**

Dr Haydn Davies	Cyd-gynullydd, Gweithgor Cymru, Cymdeithas Cyfraith Amgylcheddol y DU Joint Convenor, UKELA Wales Working Party
Morag Ellis QC	Cadeirydd, Cymdeithas y Bar ar Gynllunio a'r Amgylchedd Chair, Planning and Environment Bar Association
Rhian Jardine	Pennaeth Cymunedau Cynaliadwy, Cyfoeth Naturiol Cymru Head of Sustainable Communities, Natural Resources Wales
Dr Victoria Jenkins	Prifysgol Abertawe, Cynrychilydd Cymdeithas Cyfraith Amgylcheddol y DU Swansea University, representing UK Environmental Law Association (UKELA)
Tim Morgan	Pwyllgor Cynllunio a Chyfraith Amgylcheddol, Cymdeithas y Cyfreithwyr Planning and Environmental Law Committee, The Law Society
Lyn Powell	Fforwm Ymgynghorwyr Cynllunio Cymru Wales Planning Consultants Forum
Dr Emyr Roberts	Prif Weithredwr, Cyfoeth Naturiol Cymru Chief Executive, Natural Resources Wales
Mark Roberts	Fforwm Ymgynghorwyr Cynllunio Cymru Wales Planning Consultants Forum
Huw Williams	Geldards LLP, Cynrychiolydd Cymdeithas y Cyfreithwyr Geldards LLP, The Law Society Representative
Roisin Willmott	Cyfarwyddwr, RTPI Cymru Director, RTPI Cymru
Dr Sarah Wood	Arweinydd Tîm Seilwaith, Ynni a Chynllunio Gofodol y Tir Terrestrial Spatial Planning, Energy Infrastructure Team Leader

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

Alun Davidson	Clerc Clerk
Peter Hill	Dirprwy Glerc Deputy Clerk

Graham Winter
Lisa Salkeld

Y Gwasanaeth Ymchwil
Research Service
Cyngorydd Cyfreithiol
Legal Adviser

*Dechreuodd y cyfarfod am 09:18.
The meeting began at 09:18.*

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Alun Ffred Jones:** Croeso i'r cyfarfod. Rwyf am fynd trwy'r rheolau yn gyntaf. Os bydd larwm tân, dilynwch yr ystlyswyr allan trwy'r drws. Nid ydym yn disgwyl ymarfer y bore yma. Dylai pawb ddiffodd eu ffonau symudol, os gwelwch yn dda. Rydych yn ymwybodol ein bod yn gweithredu'n ddwyieithog, felly mae gennych hawl i ofyn cwestiynau yn Gymraeg neu'n Saesneg. Peidiwch â chyffwrdd â'r botymau ar y meicroffonau.

Alun Ffred Jones: Welcome to the committee. I will go through the usual housekeeping arrangements first of all. If there is a fire alarm, follow the instructions of the ushers. We are not expecting a fire drill this morning. Everyone should switch off their mobile phones, please. You will be aware that we operate bilingually, so you have the right to ask your questions in Welsh or in English. Do not touch the buttons on the microphones.

[2] A oes unrhyw ddatganiadau o fuddiant o dan Reol Sefydlog 2.6? Nag oes. A oes ymddiheuriadau? Na.

Are there any declarations of interest under Standing Order 2.6? No. Are there any apologies? There are none.

09:19

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o Eitem 3 Motion under Standing Order 17.42 to Resolve to Exclude the Public from Item 3

[3] **Alun Ffred Jones:** Cynigiau fod y pwyllgor yn penderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer eitem 3 yn unol â Rheol Sefydlog 17.42(vi).

Alun Ffred Jones: I move that the committee resolves to exclude the public from the meeting for item 3 in accordance with Standing Order 17.42(vi).

[4] Gwelaf fod y pwyllgor yn gyfûn. I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 09:19.
The public part of the meeting ended at 09:19.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 09:21
The committee reconvened in public at 09:21*

Papurau i'w Nodi Papers to Note

[5] **Alun Ffred Jones:** On the papers to note, are you happy to note them? Are there any

comments?

[6] **Joyce Watson:** I did not notice any.

[7] **Alun Ffred Jones:** Dyna ni, felly, mae eitem 7, papurau i'w nodi, wedi ei nodi. Ni fydd rhaid inni ddelio â hynny ar ddiwedd y cyfarfod. Felly, awn ni yn ôl rŵan at eitem 4.

Alun Ffred Jones: There we are, then, item 7, the papers to note, has been noted, so we will not have to deal with that item at the end of the meeting. So, we will return now to item 4.

09:22

Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 6 Planning (Wales) Bill: Stage 1—Evidence Session 6

[8] **Alun Ffred Jones:** Mae'r sesiwn hon gyda Chyfoeth Naturiol Cymru, ac mi fydd Emyr Roberts, prif weithredwr Cyfoeth Naturiol Cymru, yn gwneud datganiad byr ar y dechrau, cyn inni fynd ati i ofyn cwestiynau. Felly, cawn ni'r tystion i mewn.

Alun Ffred Jones: This session is with Natural Resources Wales, and Emyr Roberts, the chief executive of NRW, will make a short statement at the beginning, before we start to ask questions. Could we therefore have the witnesses in the room?

[9] Bore da a chroeso atom ni'r bore yma ar gyfer y sesiwn casglu gwybodaeth hon ar Fil Cynllunio (Cymru). A fydddech crystal â rhoi eich enwau i ni er mwyn y *record* a nodi eich safle neu swydd, os gwelwch ei fod yn dda?

Good morning and welcome to the committee meeting this morning for this evidence-gathering session on the Planning (Wales) Bill. Could you please introduce yourselves for the record and note your position or post?

[10] **Dr Roberts:** Diolch yn fawr, Gadeirydd. Emyr Roberts, prif weithredwr Cyfoeth Naturiol Cymru ydw i.

Dr Roberts: Thank very much, Chair. I am Emyr Roberts, the chief executive of NRW.

[11] **Ms Jardine:** Rhian Jardine ydw i, pennaeth cymunedau cynaliadwy.

Ms Jardine: I am Rhian Jardine, the head of sustainable communities.

[12] **Dr Wood:** It is Sarah Wood, planning and energy team leader at Natural Resources Wales.

[13] **Alun Ffred Jones:** Diolch yn fawr a chroeso i chi yma. Rwy'n deall, Mr Roberts, eich bod chi'n dymuno gwneud datganiad byr ar y dechrau. Felly, croeso.

Alun Ffred Jones: Thank you very much and welcome to all of you. I understand, Mr Roberts, that you wish to make a short statement at the beginning. So, welcome.

[14] **Dr Roberts:** Diolch yn fawr, Gadeirydd. Mi wnaf hynny yn Saesneg.

Dr Roberts: Thank you, Chair. I will make my statement in English.

[15] Natural Resources Wales welcomes the overall provisions of the Planning (Wales) Bill, which, together with the Well-being of Future Generations (Wales) Bill, the heritage Bill and the environment Bill, provides a framework to address current and future challenges for natural resources and the environment in Wales. We welcome the emphasis on culture change in the planning system, and this is in line with the improvements that NRW is making to our planning service to ensure that we are an enabling and solutions-based organisation.

[16] As well as providing an opportunity to speed up the planning system, we also

consider that many of the proposals in the Bill provide opportunities to deliver more sustainable forms of development in Wales. For example, as the national development framework, the NDF, is to be evidence led, it provides an opportunity to direct nationally strategic development and infrastructure to the most appropriate locations based on clear evidence. We consider that the environment Bill, the wellbeing of future generations Bill, the Wales national marine plan, the review of designated landscapes, and the Planning (Wales) Bill are complementary and mutually supportive. However, it is important that there are necessary provisions in the planning and environmental Bills to ensure clarity on how the respective Bills interact together. In particular, it will be essential to ensure that the provisions of the environment Bill are facilitated by the reforms in the planning system proposed by the planning Bill.

[17] We believe that the principle of strategic development plans is sound, as many environmental issues, such as flood risk, climate change mitigation and adaptation, and water and energy developments, manifest themselves and need to be addressed at a regional scale. However, greater clarity is required with respect to, first, the interrelationship between strategic development plans and the area natural resources plans envisaged in the environment Bill, and, secondly, the relationship between the SDPs and other regional and national plans, including the wellbeing plans proposed by the wellbeing of future generations Bill.

[18] Finally, Chairman, we welcome the provisions to statutorily front load the planning system for developments of national significance and major planning applications, with the aim of speeding up the processes and ensuring that environmental impacts are minimised. We consider that there are key linkages here with connected permitting and licensing processes and that encouragement should be given to applicants to twin-track permit and planning applications to ensure that all necessary information is available to both inform and speed up the various decision-making processes. However, our experience with the current nationally significant infrastructure projects has demonstrated how resource intensive this stage can be for statutory consultees, and that there are clear resource implications for organisations like NRW. We would welcome clarity on whether fees can be raised by statutory consultees for pre-application consultation advice when it is introduced as a statutory duty upon them.

[19] **Alun Ffred Jones:** Diolch yn fawr iawn am y sylwadau hynny. Awn yn syth at y cwestiynau. Gofynnaf i Russell George i agor y sesiwn gwestiynau.

[20] **Alun Ffred Jones:** Thank you very much for those comments. We will move straight to questions. I ask Russell George to open the session.

[21] **Russell George:** Thank you, Chair; good morning, all. In your opening remarks, Mr Roberts, you mentioned speeding up the planning process a couple of times, but some of the evidence that we have received is concerned that there will be a democratic deficit. So, while some of the changes may speed up the process, there will be concern from some people and stakeholders that can provide us with evidence that there is a democratic deficit and that communities' views will be taken further away from them. Do you have any views on that at all?

[22] **Dr Roberts:** The key to this issue is that the evidence that is provided as part of the process is made as transparent as possible and that local communities have an opportunity to input to that evidence, to check whether it is in line with their own views, and provide their own evidence. So, I believe that it is really important. Natural Resources Wales has a role to play in that. Making that evidence transparent would, I hope, allay community fears, in line with the changes that the planning Bill proposes.

[23] **Russell George:** Thank you for that. I may come back later on to that. The other point that you mentioned in your opening remarks was that there is some concern around resource implications. Do you think that the regulatory impact assessment reflects the costs

that are proposed for Natural Resources Wales?

[24] **Dr Roberts:** As I said in my opening remarks, we do have some concerns in particular about the pre-application stage. If you wish, Sarah is an expert on this area and can illustrate those. The issue for us is whether we can reclaim that. In principle, pre-application is a very good idea; it helps to get the issues out and leads to a much smoother process, but there are resource implications.

[25] The second aspect of resources that we might wish to comment on is the preparation of reports on planning performance. Once again, in principle, it is a very good idea. We need to be held to account for our performance, as do the other statutory consultees, but there will be costs in there. Perhaps I could pass on to Sarah to illustrate these points.

09:30

[26] **Dr Wood:** Certainly, we have found in the pre-application stage, in our experience of the nationally significant infrastructure projects, that that process can take two to five years and require a lot of resource. From a marine perspective, we have seen projects that have been in pre-application for two to five years, and we have put about 3.5 full-time equivalents into each individual project in that pre-application phase. The valuable lesson that we have learned is that pre-application is very important to us and that we can see lots of benefit in it, but that we have to be realistic about the expectations around what we can offer in those stages and what developers can expect from us. Otherwise, it becomes a bit of an open-ended process.

[27] **Russell George:** So, given the concerns that you have raised on the resource implications, what amendments need to be made to the Bill, or what clarification do you specifically need?

[28] **Dr Wood:** While the recognition is that the process is cost-neutral in terms of the regulatory impact assessment, we recognise that doing things differently will, in the longer term, perhaps have that cost-neutral implication. I think that we will see an element of change, which will have a resource implication for us as things are changing.

[29] In terms of what we would like to see around the pre-application stage, some formalisation of what actually is expected in that stage would really help us in understanding the implications for us as statutory consultees. What we are seeing is that a resource implication is identified for local planning authorities, but perhaps the implication for statutory consultees is a bit uncertain at the moment. I appreciate that some of that will be the subject of secondary discussions. That recognition of the impact on local planning authorities has, perhaps, not been seen for the 14 statutory consultees.

[30] **Russell George:** Do you believe that the Bill should be amended to reflect what you have just said?

[31] **Dr Wood:** Yes.

[32] **Dr Roberts:** To clarify that point, there are 14 statutory consultees and I suppose that they are all asking the same question. Currently, we sometimes have a voluntary agreement with developers on information provided during the pre-application stage, but it is a voluntary arrangement. As chief executive, I would be looking for the ability for us to recoup our costs on that phase.

[33] **Alun Ffred Jones:** Jeff Cuthbert, you wanted to come in on this.

[34] **Jeff Cuthbert:** It is linked to the opening remarks that were made.

- [35] **Alun Ffred Jones:** I will come back to you. Are you on this point, Antoinette?
- [36] **Antoinette Sandbach:** Yes.
- [37] **Alun Ffred Jones:** Okay, can I have your question? I will ask William to ask a few questions as well, to see whether they are complementary or not.
- [38] **Antoinette Sandbach:** I just wanted to pick up on your last point about recouping fees. For example, there has been a suggestion recently on hydro projects that fees will increase to £1,500 for each project, regardless of size. Obviously, that front-loads costs for developers. If you are talking about recouping the cost of 3.5 full-time equivalent employees on a development where developers are coming to you for pre-application advice, that is a very substantial cost and may be a bar to the development. Clearly, there will be other costs too—not just your costs. When you say ‘recouping fees’, what are you—
- [39] **Alun Ffred Jones:** Are your questions on this issue of fees, William?
- [40] **William Powell:** They are related to pre-application advice.
- [41] **Alun Ffred Jones:** I will come back to you afterwards.
- [42] **Dr Roberts:** First of all, we want to work with developers; we have a role to play there. We are very sympathetic to small developments, and we would not want to burden developments with costs. The kinds of figures that we are talking about, which Sarah exemplified, are for very big projects; it is for projects such as the Rhiannon windfarm and the Swansea bay tidal lagoon. These are extremely big projects, which involve a lot of careful consideration by us and our staff. For those kinds of projects there will, inevitably, be a significant cost to us in terms of dealing with them. We would be looking to recoup our costs. When we come to the detail of that, we may be able to organise the costs in a way that does not penalise small schemes that do not involve a great deal of work for us.
- [43] **Antoinette Sandbach:** An amendment being tabled is not going to be able to pick up on the subtleties of that. The concern is that you make things so difficult to do in Wales that people say ‘I’m not going to develop in Wales—I’m going to go elsewhere’. That seems to me contrary to the idea of the planning Bill coming forward in the first place.
- [44] **Dr Roberts:** Absolutely. We would obviously wish for developments to come forward in the right place and with the right safeguards. I think that all we want to flag up for this part of the Bill is that there will be a cost implication for us, and it may be that, in secondary legislation, this is taken further. However, as I understand the Bill as currently drafted, it does make explicit provision for local planning authorities to recover their costs, but there is nothing said about the other statutory consultees.
- [45] **Dr Wood:** If I could just come back on that. The large marine projects are an example of perhaps where pre-application without boundaries could be an example of where we have put a lot of resource in. What we are trying to say is that that process could be quite open-ended and what we are looking for are some boundaries around what the pre-application stage is, what is expected of us and, therefore, what we can offer. Otherwise, it can become a massive process, which is not of benefit to anybody in that context.
- [46] **William Powell:** Good morning, all. In your opening remarks, you referred to the importance of transparency for communities and other stakeholders and you have made a strong case for the ability to recover costs for some of that consultation advice, particularly from developers of scale. Do you see any tension that might develop in that area if you have

an ongoing relationship of consultation with a developer who is paying for that advice? Also, how would you approach that from the point of view of the provisions of access to information, the Freedom of Information Act 2000 and so on, to reassure the communities and all involved?

[47] **Dr Roberts:** We are developing a lot of experience now of working with developers, which does not prejudice our position as statutory consultee, but nevertheless works with developers to get information on the table—information that we may hold and they may wish to commission and so on. So, we are very clear, when we are in discussion with developers, about the role that we are playing on that. I do not know whether Sarah wants to add anything, but we are becoming very experienced about handling that side. I do not believe that there is a risk of compromising our position on that. I am sorry, your second point was about—

[48] **William Powell:** Freedom of information and how that would operate in practice.

[49] **Dr Roberts:** Yes, indeed. It goes back to my earlier comments that we would wish all the evidence provided—in fact, this an advantage of the strategic development approach—to be published, so that it is reasonably transparent and that people can actually look at it. So, I think that that is another advantage of the strategic development approach.

[50] **William Powell:** I am grateful; thank you.

[51] **Jeff Cuthbert:** Also in your opening remarks, you referred to the relationship with other Bills, such as the heritage Bill, the environment Bill and, certainly, the overarching Well-being of Future Generations (Wales) Bill, which will place the duty for sustainable development on all public bodies. Are you comfortable that there is no apparent contradiction between this Bill and those other Bills and, indeed, that they are compatible?

[52] **Dr Roberts:** I think that we are very confident that they are mutually supportive and all moving in the right direction forward. I think that the issue is that there needs to be a bit more clarity on how they will relate to each other. So, for instance, part of the environment Bill is to develop an area-based natural resource management approach, and we will, as Natural Resources Wales, need to develop plans on that. It is certainly not clear to me how that is going to be reflected in the planning system, for instance, in terms of what account will be taken in planning developments of those area-based statements that we will be required to take forward. I am advised that that will form part of secondary legislation, but I think that I would favour clarity on that point and that we are quite clear that account will be taken. Likewise, I suppose that the other example we could give is that of the plans coming forward from the public services board under the future generations Bill, and what role that will play in to the planning system as well. So, I think that some greater clarity—. I accept that much of this would probably need to go into secondary legislation, but some greater clarity about how that will work in practice.

[53] **Alun Ffred Jones:** A gaf fynd ar ôl mater? Rwy'n siŵr bod cwestiynau i ddod ar y cynlluniau datblygu strategol, ond mae gofyn i chi gymryd rhan. Rydych chi newydd fanylu ar y problemau potensial fel ymgynghorydd yn y cyfnod cyn gwneud cais; byddwch yn ymgynghorydd ar y cynlluniau datblygu strategol, byddwch yn rhan o'r cynlluniau lleol hyn a ddaw dan Fil cenedlaethau'r dyfodol a byddwch hefyd, wrth gwrs, yn rhan o'r cynlluniau mawr hyn

Alun Ffred Jones: Could I follow up on a matter? I am sure that questions will arise on the strategic development plans, but there is a requirement on you to take part. You have already detailed potential problems as a consultant in the pre-application stage; you will be a consultant in the strategic development plan, you will be in on the local plans that will come under the future generations Bill and you will, of course, be part of the large schemes that will be brought

a gaiff eu tynnu i'r canol. Mae'n ymddangos i mi y gallech fod yn brysur iawn, iawn, ar gyfnod pan y byddwch yn colli staff yn y blynyddoedd nesaf. A ydych, mewn gwirionedd, fel corff, yn abl i ddelio â'r holl alwadau hyn ar eich amser?

[54] **Dr Roberts:** Ar un llaw, rydym yn croesawu'r ffaith y byddwn yn rhan o'r cynlluniau strategol hyn. Yn wir, rydym eisiau datblygu perthynas mwy strategol gydag awdurdodau lleol, er enghraifft. Rydym yn teimlo, os byddwn yn gwneud rhagor o waith ar hynny a bod y cynlluniau strategol yn glir, y byddai hynny'n ein galluogi i beidio â bod mor fanwl yn yr ymateb rydym yn gorfod ei roi ar gyfer cynlluniau unigol. Os yw'r ceisiadau yn iawn, byddai hynny'n ein galluogi i sefyll yn ôl tipyn bach o'r ceisiadau unigol hynny. Felly, mae manteision i hynny, rwy'n meddwl, ond fel rydych yn crybwyll, Gadeirydd, bydd lot o waith yn y lle cyntaf i wneud yn siŵr bod y cynlluniau hyn yn iawn.

[55] Rydym wedi bod yn cryfhau'r gwasanaeth cynllunio rydym yn ei roi fel corff. Rydym wedi dod â rhagor o staff i mewn ac rydym wedi gweithio'n galed iawn ar brosesau. Felly, mae'r gwasanaeth rydym yn ei gynnig yn gwella. Fodd bynnag, rydym yn rhagweld y bydd tipyn go lew o waith i'w wneud ar y cychwyn i wneud yn siŵr bod popeth yn plethu efo'i gilydd.

[56] **Llyr Gruffydd:** Yr un peth arall sy'n digwydd hefyd, wrth gwrs, yn gefnlen i hyn i gyd yw aildrefnu llywodraeth leol. Mae'r sôn diweddaraf yn cyfeirio at gyn lleied â chwech o awdurdodau lleol yng Nghymru. O ystyried hynny, i ba raddau, pan fo'r Llywodraeth yn sôn am yr angen am gynlluniau datblygu strategol, er enghraifft, y bydd chwe ardal neu awdurdod cynllunio yn cyflawni hynny, i bob pwrpas?

[57] **Dr Roberts:** Mae hwnnw'n gwestiwn da. Rwyf am ei gyfeirio at Rhian i'w ateb.

[58] **Ms Jardine:** Rwy'n credu ei fod yn gwestiwn da. Yn wir, nid ydym yn hollol sicr beth fydd effaith yr aildrefnu. Fodd bynnag, ar y foment, dim ond tri chynllun sy'n cael eu crybwyll. Felly, gallech ddweud, efallai, y

in to the centre. It seems to me that you could be very, very busy, at a time when you will be losing staff in the next few years. Are you really, as a body, able to deal with all of these calls on your time?

Dr Roberts: On the one hand, we welcome the fact that we will be part of these strategic plans. Indeed, we want to develop a more strategic relationship with local authorities, for example. We feel that, if we are able to do more work on that and that the strategic plans were clear, it would enable us to not have to get involved with the minutiae of individual applications. If the applications are submitted correctly, that would allow us to take a step back from those individual applications. So, there are benefits to that, I think, but as you mentioned, Chair, there will be a great deal of work to be done initially in order to ensure that these plans are correct from the outset.

We have been strengthening the planning service that we provide as an organisation. We have brought in more staff and we have been working very hard on processes. So, the service that we provide is improving. However, we anticipate that there will be a great deal of work to be done initially in order to ensure that all of this dovetails neatly together.

Llyr Gruffydd: The other thing that is happening, of course, as a background to all of this, is the reorganisation of local government. The latest rumours mention as few as six local authorities in Wales. Given that, to what extent, when the Government talks about the need for strategic development plans, for example, would six regions or planning authorities achieve that, to all purposes?

Dr Roberts: That is a good question. I will refer it to Rhian to answer.

Ms Jardine: I think that it is a good question. We are genuinely not certain what the impact of the reorganisation will be. However, at the moment, only three SDPs are being mentioned. Therefore, you could say,

bydd cael chwe chynllun yn ddigonol i Gymru gyfan.

[59] **Llyr Gruffydd:** Mae gennyf gwestiwn sy'n dilyn ymlaen o hynny, mewn gwirionedd. Pan rydym yn sôn am dair ardal â chynlluniau datblygu strategol, wrth gwrs, mae ardaloedd wedyn a fydd heb gynlluniau datblygu strategol; a ydych yn meddwl bod hynny'n wendid o safbwynt yr ardaloedd hynny, ynteu a ydych yn meddwl bod y fframwaith datblygu cenedlaethol yn mynd i gynnig digon o arweiniad strategol i ardaloedd sydd y tu allan i'r rhai sydd â chynlluniau datblygu strategol?

[60] **Ms Jardine:** Byddwn yn gobeithio'n fawr iawn y byddai'r wybodaeth honno ar gael i'r awdurdodau lleol heb gynlluniau datblygu strategol. Fodd bynnag, mae'n ddibynnol iawn ar y dystiolaeth sy'n cael ei defnyddio. Byddwn yn dweud bod lle i ni fod yn rhoi'r wybodaeth i mewn, o ran y sonar, a'r holl wybodaeth ar gynlluniau ardaloedd, i wneud yn siŵr bod yr awdurdodau lleol sydd y tu allan i'r cynlluniau strategol hyn yn cael y wybodaeth sydd ei hangen arnynt i allu gwneud eu cynlluniau.

[61] **Dr Roberts:** Rwy'n meddwl ei bod yn bwysig bod y gyfraith yn gallu newid i adlewyrchu unrhyw newidiadau o ran fframwaith awdurdodau lleol, a dweud y gwir. Felly, bydd yn ddiddorol gweld sut mae hynny'n mynd yn ei flaen.

[62] **Llyr Gruffydd:** Ie. Rydym wedi cyffwrdd cwpwl o weithiau ar ddeddfwriaeth eilradd yn yr ystyr—. Rwy'n credu bod cyfrif wedi'i wneud o ryw 65 o enghreifftiau yn y Bil lle mae cyfeiriad at reoliadau neu is-ddeddfwriaeth, neu ddod â rhyw gynlluniau neu fanylion ymlaen yn nes ymlaen. A ydych yn meddwl fod y cydbwysedd hwnnw'n addas neu a ydych yn meddwl ei fod yn gadael gormod o *unknowns*?

09:45

[63] **Ms Jardine:** Rwy'n credu ei fod yn anodd iawn oherwydd mae'r ddeddfwriaeth hon i fod yn hirdymor. Rwyf wedi ei glywed yn cael ei gyfeirio ato fel 'y corff', ac wedi clywed mai'r ddeddfwriaeth hon yw'r esgyrn a'r ddeddfwriaeth eilaidd yw'r prif organau,

perhaps, that having six plans would be adequate for the whole of Wales.

Llyr Gruffydd: I have a question that follows on from that. When we talk about three areas with strategic development plans, of course, there will then be others that have no strategic development plans; do you think that that is a weakness in terms of those areas, or do you think that the national development framework will offer that strategic lead for those areas outwith those that will have strategic development plans?

Ms Jardine: I would hope very much that that information would be available to the local authorities that do not have strategic development plans. However, it is dependent on the evidence that is being used. I would say that there is room for us to input that information, on sonar, and all of the information on the plans, to ensure that local authorities that are outside the SDPs have the information that they need to enable them to form their plans.

Dr Roberts: I think that it is important that the law can be flexible in terms of reflecting any changes in the framework of local authorities, to be honest. So, it will be interesting to see how that proceeds.

Llyr Gruffydd: Yes. We have touched a couple of times on secondary legislation in the context of—. I think that there are about 65 examples in the Bill of references to regulations or secondary legislation, or bringing any plans or schemes forward in the future. Do you think that that balance is suitable or do you think that it leaves too many unknowns?

Ms Jardine: I think that it is very difficult because this legislation is developed for the long term. I have heard it being referred to as 'the corpus', and that this legislation simply provides the skeleton and the secondary legislation comprises the main organs, but—

ond—

[64] **Alun Ffred Jones:** Mae honno'n ddelwedd ddiddorol iawn, ond nid wyf yn siŵr ei fod yn ein helpu ni. [*Chwerthin.*] Yn ôl i'r Bil.

Alun Ffred Jones: That is an interesting image, but I am not sure that it helps us. [*Laughter.*] Back to the Bill.

[65] **Llyr Gruffydd:** A gaf fi ofyn—

Llyr Gruffydd: May I ask—

[66] **Dr Roberts:** Rwy'n meddwl ei fod yn hanfodol bod yr egwyddorion yn y Bil hwn. Rwy'n meddwl bod y maes cynllunio yn newid ac yn medru bod yn gymhleth, felly rwy'n meddwl ei fod yn anorfod bod tipyn go lew o'r gwaith yn y ddeddfwriaeth eilradd, ond mae'n bwysig iawn fod yr egwyddorion yn glir, rwy'n meddwl, yn y Bil ei hunan.

Dr Roberts: I think that it is crucial that the principles are set out in this Bill—I think that the area of planning is changing and can be complex, so I think that it is inevitable that a fair bit of the work will emerge in secondary legislation, but it is very important that the principles are clearly set out in the Bill itself.

[67] **Llyr Gruffydd:** Rydych wedi cyffwrdd cwpwl o weithiau—. Wel, rydych newydd ddweud fod lot yn digwydd. Rydym yn sôn am gynlluniau llesiant, am gynllunio adnoddau naturiol ar sail ardal, rydym yn sôn am gynlluniau datblygu strategol, mae'r *city regions*, wrth gwrs, yn *entity* sydd yn dod yn ei flaen, ac yn y blaen. Rydych wedi dweud, i bob pwrpas, nad ydych yn glir ynglŷn â sut y mae'r cyfan yn dod at ei gilydd. Mae hynny'n awgrymu i mi efallai fod darn o waith y mae angen i'r Llywodraeth ei wneud—rydych wedi awgrymu hynny—ond sut y byddech yn dymuno i'r Llywodraeth amlinellu hynny?

Llyr Gruffydd: You have touched a couple of times—. Well, you have just said that a lot is happening. We are talking about wellbeing plans, about area-based natural resources planning, we are talking about SDPs, the city regions, of course, are entities that are coming forward, and so forth. You have said, to all intents and purposes, that you are not clear how everything is coming together. That suggests to me that perhaps there is a piece of work that the Government might need to do, but how would you like the Government to outline that therefore?

[68] **Dr Roberts:** Fel y dywedais eisoes, rydym yn croesawu'r cyfeiriad. Rwy'n meddwl fod y mesurau hyn i gyd yn bethau da ac, o safbwynt amgylchedd, byddant yn help mawr. Fodd bynnag, mae'n bwysig iawn, pan ydym yn rhoi'r mesurau hyn yn eu lle, ein bod yn deall yn hollol sut y mae pethau yn gweithio. Felly, mae angen tipyn bach mwy o eglurder, rwy'n meddwl, ynglŷn ag hynny. O'n safbwynt ni, yn arbennig, y perthynas gyda Bil yr amgylchedd yw'r peth pwysig inni a'n bod yn hollol siŵr fod y gwaith a'r egwyddorion yn y Bil hwnnw'n cael eu cario trwyddo i'r Bil cynllunio.

Dr Roberts: As I have already said, we welcome the direction of travel. We think that these proposals are very positive and, in terms of the environment, they will be of great assistance. However, it is very important that, when we do put these measures in place, we understand exactly how everything is going to work. So, I think that we need a lot more clarity on that. From our point of view, the interaction with the environment Bill is the crucial thing for us and that we can be quite sure that the principles set out in that Bill are carried through into the planning Bill.

[69] **Jenny Rathbone:** I am just trying to tease out this inter-relationship between the strategic development plans, the local development plans and the areas of natural resources plans. I represent a Cardiff constituency and we currently have a shortage of land for growing food. We also have a shortage of housing. How are the competing needs for land, and how will that inter-relationship—? How will it be determined how land should be used? Obviously, a lot of landowners are holding back from allowing their land to be used for

growing because they think that they will get more money out of housing in due course.

[70] **Dr Roberts:** Indeed. I think that that is a really good question. On the inter-relationship with the environment Bill, we will be preparing these area-based plans. It is to be determined how detailed those statements might be, but we will obviously be needing to make some comments about the land use and what we believe is the optimal land use from the point of view of the environment, economy and communities. So, we will be putting that layer of evidence there. I think that the issue is what account will be taken of the evidence that we put forward in the area-based plans within the planning system. Will they determine, if you like, the planning system or will the planning system be independent of that? Obviously, we would wish to influence and see our views on the optimal use of land reflected in the planning system.

[71] **Jenny Rathbone:** One would assume that the future generations Bill would be the overarching guide and that that ought to provide some pathway through the relative use of land where there are competing demands. Is that sufficient? Do you think that there needs to be something specific in the Bill or is it sufficient for it to be in the explanatory memorandum?

[72] **Dr Roberts:** I think that the way that I would see it working is that, you are quite right, I think that the future generations Bill is the overarching framework; it is about sustainable development. The area-based statements that we develop will take that forward and we will be proposing what we think would be the optimal use of the land. It then goes down to individual planning applications within that. That is why I think that we are saying that it is really important that, in particular, the evidence that we put forward as part of the area-based planning is fully taken into account in those individual planning decisions. So, as long as there is recognition that the area-based plans will have that influence, I think that we would be content. However, it is important that that link is there, otherwise the area-based plans will be slightly peripheral to the planning system. In other words, the planning system could override them.

[73] **Jenny Rathbone:** Okay. It is very complex.

[74] **Dr Roberts:** Sorry, was that unclear?

[75] **Jenny Rathbone:** I think that it is really complicated to understand how you simply prevent landowners from holding back for the higher price that they think that they will get from housing.

[76] **Dr Roberts:** I do not think that the area-based plans could actually deal with that aspect of it. I think that the issue is then how you actually enforce the local development plans and the strategic development plans in the actual planning decision. That is another tier, if you like, of decision making, which needs to be built in.

[77] **Jenny Rathbone:** Okay, but it is not entirely clear, is it?

[78] **Alun Ffred Jones:** Antoinette, is it on this?

[79] **Antoinette Sandbach:** I wanted to pick up on this, because it almost sounded as if you wanted your area-based plan, or natural resource plan, as it were, to be the trump card. It seems to me that, if you have a planning system that has to take into account all of the competing priorities, and that you have that degree of local accountability and that ability for local people to feed into how they want their environment to develop and progress, I would be quite concerned if an unelected body that is, effectively, appointed by Welsh Ministers, and is responsible to Welsh Ministers, effectively has the ability to direct and say, 'There should be

planning here, and there should not be planning there'. I am sure that you did not mean to say that.

[80] **Dr Roberts:** No. We have fully recognised, in developing the area plans, full engagement with local stakeholders. In fact, as you may be aware, we are running three trials at the moment. Very much that local consultation and local involvement is built into the way in which we are actually going to approach this. So, we would hope very much that those area-based plans do reflect the views of the communities. Clearly, in some cases, we may have to take our own view, based on our own evidence. However, I can give you and the committee full assurance that building in the views of local stakeholders is very important to us in that process.

[81] **Antoinette Sandbach:** I think that I was asking a different question, though. I understand that you want to prepare your own plans with consultation. I do not know where those three trials are, but I would be very interested to find out.

[82] **Dr Roberts:** We can easily provide a note on that, Chair.

[83] **Antoinette Sandbach:** What I am saying is that, once your plan is done, things may change. You may have an area or a natural resources plan that changes for disease reasons, or for other reasons, and there needs to be some flexibility in the planning system that allows local people—rather than someone coming along and saying, 'You'll have 13,000 houses here'—to say, 'No. We don't want them there; we would like them here'.

[84] **Dr Wood:** Is it not the issue here that the area of natural resources statements are part of the evidence base? One of the benefits of having all of these different pieces of legislation moving forward at the same point is that what you are generating there is a common evidence base, which can then be used, in terms of things like the planning Bill, in implementing those policies. It is about that common evidence base to be used across Wales rather than an evidence base being built for one legislative process or for another or another. So, it is that common evidence base. That is the benefit here in the linkages then through to the other elements.

[85] **Alun Ffred Jones:** Ar hyn o bryd, nid ydym wedi gweld y cyswllt hwnnw rhwng y gwahanol ddarnau hyn o ddeddfwriaeth. Rydych yn dweud ei bod yn gyfleus bod y rhain yn dod at ei gilydd ar yr un pryd, ond nid oes dim byd ein bod ni wedi gweld, rwy'n credu, unrhyw beth sydd yn dangos eu bod yn dod at ei gilydd ar yr un pryd o fwiad. Hynny yw, maent i gyd wedi digwydd ar yr un pryd, ond, nid wyf yn siŵr beth yw'r cyswllt rhyngddynt, achos nid oes unrhyw beth yn yr esboniadau, hyd y gwelwn. A ydych chi'n meddwl bod hynny'n wendid y dylai'r Llywodraeth, rywsut neu'i gilydd, ei egluro?

Alun Ffred Jones: At the moment, we have not seen that link between these different pieces of legislation. You say that it is convenient that these are coming together at the same time, but there is nothing that we have seen, I think, to show that they are coming together at the same time intentionally. That is, they have all happened at the same time, but, I am not sure what the link is between them, because there is nothing in the explanations, from what we can see. Do you think that is a weakness that the Government should, somehow or other, explain?

[86] **Dr Roberts:** Rydym wedi datblygu siart ein hunain i geisio esbonio sut mae'r mesurau hyn yn gweithio gyda'i gilydd, ond o ran—

Dr Roberts: We have developed our own graph to try to explain how these different Bills will dovetail, but in terms of—

[87] **Alun Ffred Jones:** A fydddech chi'n

Alun Ffred Jones: Could you leave a copy

leicio gadael copi o hwnnw ar ôl inni, os gwelwch yn dda? with us for our information, please?

[88] **Dr Roberts:** Wrth gwrs. Gallwn yrru hwn ymlaen atoch. Rwy'n cytuno efo chi; rwy'n meddwl bod angen bod tipyn bach yn fwy eglur ynglŷn â hynny, a gwneud yn siŵr, o ran y Bil cynllunio, fod e'n ystyried y gwaith y byddwn yn ei wneud o dan Bil yr amgylchedd. Dyna'r cyswllt pwysig i ni.

Dr Roberts: Of course. We can forward that to you. I do agree with you in the sense that I do think that we need some greater clarity on that issue, and we do need to ensure, in terms of the planning Bill, that takes into account the work that we will be doing under the environment Bill. That is the important link for us.

[89] **Julie Morgan:** I was going to go onto another subject. Is that okay, Chair?

[90] **Alun Ffred Jones:** Yes.

[91] **Julie Morgan:** I want to ask about two things in the Bill. The first one is on the proposals on town and village greens. This is something that, as politicians, we get quite involved in and the Bill does propose reducing the ability of local communities to designate town and village greens. So, I wondered what your views were on this.

[92] **Ms Jardine:** I think our views are that having these sites identified upfront at an early stage through the development plan process would probably be the best option and that communities should be involved in those discussions.

[93] **Julie Morgan:** If that does not happen, because you cannot be sure that you get every bit of land, what do you think are the repercussions of going from two years to one year as proposed in the Bill in terms of the opportunity for communities to make a case?

[94] **Dr Roberts:** I think there must be opportunities for communities to come forward. Obviously, if communities have been using village greens and so on for many years, there must be that opportunity to come forward. However, equally, we also recognise the importance of speeding up the planning process around this. There needs to be a balance, I think, between communities having the right to say what they believe and also actually making sure that that does not weigh down the planning process.

[95] **Julie Morgan:** The Minister is quite flexible on this issue, and has said that he is considering an amendment to the Bill that would mean that an application for a village green without any additional paperwork, so to speak—so the community would not have to do all the work beforehand—could be put in up to the point of the decision making in the planning process. He did raise that at the last committee meeting. What would your views be on that?

[96] **Dr Roberts:** That sounds like a sensible way forward on this. We are happy to look at that. There is a balance there, but I feel there is a compromise position that could be developed around this.

[97] **Julie Morgan:** Do you accept that it is a huge amount of work for a community and individuals to put forward a case, often without legal representation, to establish a village green?

[98] **Dr Wood:** Yes, I think we do recognise that, and we also recognise the importance and value of those areas and those pieces of land to local communities. Our primary aim is that they are considered at a strategic stage wherever possible, and, if that requires more engagement with local communities at that strategic stage, rather than at the individual application stage, then that is what we would like to try to encourage.

[99] **Julie Morgan:** I think that would be the ideal situation, but these proposals have implications if that does not happen.

[100] I was just going to ask you as well whether you had any views on the withdrawal of the design and access statements. I do not know whether that is anything that really involves you at all, but I just want to know whether you had any view.

[101] **Dr Wood:** Sorry, I cannot comment.

[102] **Julie Morgan:** That is fine. I did not expect you to, really.

[103] **Alun Ffred Jones:** Do you have a question on this issue, Jeff?

[104] **Jeff Cuthbert:** Yes, on the issue of village greens. I understand, and I can see the logic, of saying that applications for village green status should not be made after the application has entered the planning process. I can see that. However, one of the issues that has been raised with me—and, in my constituency, I have the same issues as Julie does—is the adequacy of notifying local people that a planning application has been lodged. Do you feel that there are ways of improving that, or that the current arrangements are indeed adequate?

10:00

[105] **Dr Wood:** I do not know that I can comment on the specifics of the question that you are asking there. I think that I would come back to the fact that what we have seen is that the very nature of the fact that we are seeing applications coming in that could be perceived as frustrating the developments strongly suggests to us that more needs to be done on that strategic level, so that it is more tangible to communities to understand the implications of those local development plans and what they might mean for individual applications. So, we are considering it at that earlier stage.

[106] **Jeff Cuthbert:** Okay. All right.

[107] **Julie Morgan:** May I just follow on with one last question? Have you actually got evidence that the registration is being used to frustrate development?

[108] **Dr Wood:** I am not sure that we have evidence ourselves as Natural Resources Wales, but my understanding is that that was the evidence in the background behind the Bills in the work that was done by Welsh Government as part of that analysis.

[109] **Julie Morgan:** Yes, but you do not have any evidence.

[110] **Alun Ffred Jones:** Joyce, do you—

[111] **Joyce Watson:** It is not on the same issue; I am moving on.

[112] **Alun Ffred Jones:** Fine.

[113] **Joyce Watson:** I wonder if you have any views on the scrutiny arrangements, including the 60-day period for Assembly consideration and the need for a fixed timescale for the national development framework.

[114] **Dr Wood:** Sorry, can you ask—

[115] **Joyce Watson:** We have a fixed, 60-day period for Assembly consideration, to scrutinise the national development framework. Do you have any views on that? If you do not have any views, that is—

[116] **Dr Roberts:** Do you mean—

[117] **Joyce Watson:** Do you think that it is the right amount of time, 60 days? Do you think it is too long or too short, or do you not have an opinion?

[118] **Dr Roberts:** I think that we will respond to whichever timetable is put to us. Sixty days we could respond to, I think, as an organisation.

[119] **Joyce Watson:** Do you think that that is a reasonable time, or do you not have a view?

[120] **Dr Wood:** Yes. [*Laughter.*]

[121] **Alun Ffred Jones:** Is that okay, Joyce?

[122] **Joyce Watson:** Yes.

[123] **Alun Ffred Jones:** Llyr—oh, sorry; it is Russell on this point.

[124] **Russell George:** Joyce did ask a second part to the question with regard to whether there should be a fixed timetable for the national development framework. It is a good question that could be answered if you have views on that.

[125] **Dr Wood:** I think that the issue is about the clarity of the steps in the process, is it not? I am not sure that we have a view on the time, but on having a process set out that enables people to understand the point at which decisions will be made and the point at which any comments might be received, or consideration given, I think that there would be benefit in that, yes.

[126] **Russell George:** And perhaps whether there should be, also, fixed timetables for—. I mean, there is the—I get confused by all the different abbreviations. There are the local development plans and the SDPs and everything. Should there be fixed timetables for them all and, especially given the fact that local authorities are having difficulties with the local development plans, is that possible?

[127] **Dr Wood:** I can see that it might not be possible. Certainly, in our experience, and I am perhaps going back to my more limited experience of things like the nationally significant infrastructure projects, where we have seen a fixed timetable laid out, it is very clear to everybody what is happening at what stage, and that clarity enables better engagement, because people understand what needs to be done and by when. So, as a general principle, that clarity in timetable and the stages goes across the board, but I recognise that a one-size-fits-all approach might not work.

[128] **Russell George:** The danger is, of course, that if you are developing plans, one has to be developed first and in sequence, and if they are all out of sequence, it actually causes more confusion and it does not make the planning process simpler; it makes it quite difficult.

[129] **Llyr Gruffydd:** Y pwynt, rwy'n **Llyr Gruffydd:** The point, I think, with the meddwl, gyda'r 60 diwrnod oedd mai 60 o 60 days is that 60 days are recommended for ddiwrnodau sy'n cael eu hargymell i Assembly Members to scrutinise the national Aelodau'r Cynulliad graffu ar y fframwaith development framework. In Scotland, it is

datblygu cenedlaethol. Yn yr Alban, mae'n 100 o ddiwrnodau. A ydych yn teimlo bod hynny'n ddigon o amser i graffu? Mae gofid yn cael ei fynegi ynglŷn â democratiaeth yn y drefn gynllunio arfaethedig, ac mae rhai pobl yn awgrymu ein bod yn symud at broses fwy top i lawr, lle mae'r fframwaith datblygu cenedlaethol yn gosod yr amodau ar gyfer y cynlluniau datblygu strategol sydd, yn eu tro, yn gosod yr amodau ar gyfer y cynlluniau datblygu lleol, yn hytrach, efallai, na'i fod yn dod o'r gwaelod i fyny.

[130] **Dr Roberts:** Diolch am yr esboniad ar hynny. Yn sicr, rwy'n meddwl bod rhaid cael digon o amser i graffu'n iawn. Os yw'r strwythur fel rydych yn awgrymu, mae'n hanfodol reit o'r cychwyn fod digon o graffu a digon o amser yn cael ei roi ar gyfer hynny.

[131] **Llyr Gruffydd:** A fyddai gennych farn ynglŷn â'r awgrym hwn fod y broses yn symud i fod yn fwy o broses top i lawr yn hytrach na bod y llais lleol yn cael ei ymbweru fwyfwy o fewn y drefn gynllunio?

[132] **Dr Roberts:** Yn sicr, o ran datblygiadau mawr, rydym o blaid y system bresennol lle mae sicrwydd, fel roedd Sarah yn ei ddweud, o ran yr amseriad. Rydym yn gwybod yn hollol yr amserlen mae'n rhaid inni weithio iddi. Mae manteision o'r safbwynt hwnnw. Pa mor bell i lawr y *scale* rydych yn mynd, nid wyf yn siŵr, ond o safbwynt y projectau hyn, fel roeddwn yn ei grybwyll yn gynharach, er bod llawer iawn mwy o waith ar y cychwyn, mae cael y sicrwydd hwnnw o fudd i'r datblygwr ac i bawb arall sy'n rhan o'r broses.

[133] **Llyr Gruffydd:** O ran aelodaeth y paneli cynllunio strategol—'SPPs', rwy'n credu, yw'r acronym Saesneg—mae argymhelliad y bydd traean o'r rheini yn anetholedig. Ni wnaf ofyn i chi ynglŷn â hynny yn benodol, achos mae sylwadau wedi cael eu gwneud ynglŷn ag atebolrwydd yr unigolion hynny, ond a fydddech chi fel Cyfoeth Naturiol Cymru yn awyddus i gael aelodaeth lawn o bob un o'r paneli strategol hynny?

[134] **Ms Jardine:** Byddem yn awyddus iawn i fod yn *consultee* ac i fod yn gallu rhoi'r dystiolaeth sydd ei hangen, ond rwy'n

100 days. Do you think that that is enough time to scrutinise? There are concerns about democracy in the proposed planning system, and some people have suggested that are we moving towards a system that is more top-down, in which the national development framework sets the conditions for the SDPs, which in turn set the conditions for the LDPs, rather than, perhaps, it coming from the bottom up.

Dr Roberts: Thank you for that explanation. Certainly, there needs to be adequate time for scrutiny. If the structure is as you suggest, it is crucial from the very outset that there is adequate time to scrutinise and to deal with that.

Llyr Gruffydd: Would you have a view on the suggestion that the process is moving to be more of a top-down process, rather than the local voice being increasingly empowered within the planning system?

Dr Roberts: Certainly, in terms of major developments, we are in favour of the current system where there are, as Sarah said, assurances on the timings. We know exactly the timetable that we have to work to. There are benefits from that point of view. The further down the scale you go, I am not sure what the situation would be, but in terms of these projects, as I mentioned earlier, although there is a great deal more work to be done initially, having that assurance is of benefit to the developer and everyone else involved in the process.

Llyr Gruffydd: In terms of the membership of the strategic planning panels—I believe that the acronym is 'SPPs'—there is a proposal that a third of those would be unelected. I will not ask you about that specifically because comments have been made regarding the accountability of those individuals, but would you as NRW be keen to have full membership of each one of those strategic panels?

Ms Jardine: We would be very eager to be a consultee and to be able to provide any necessary evidence, but I think that our role

credu mai helpu y byddem yn gweld ein rôl ni yn hytrach na bod yn rhan wrth y ford.

would be in assisting rather than being part of the panel.

[135] **Alun Ffred Jones:** Gwnaf ofyn jest un cwestiwn. Mae awgrym wedi cael ei wneud y dylai'r broses caniatáu cynllunio a thrwyddedau cynllunio, neu drwyddedau amgylcheddol sydd yn mynd efo caniatadau, fod yn digwydd ar yr un pryd. Nid yw wedi ei gynnwys yn y Bil. A oes gan Gyfoeth Naturiol Cymru unrhyw farn ynglŷn â hynny?

Alun Ffred Jones: I have just one question. A suggestion has been made that the planning consent and licensing process, or the environmental licenses that go with consents, should happen at the same time. It is not in the Bill. Does NRW have any views on that?

[136] **Dr Roberts:** Oes. Fel y gwnes i sôn ar y cychwyn, rwy'n meddwl bod cyfle yma i wneud yn siŵr bod y cais cynllunio yn mynd ymlaen ar yr un pryd â'r cais trwyddedu, a buaswn yn croesawu hynny. Felly, os fedrwn ni wneud unrhyw beth i hybu hynny, buaswn yn croesawu hynny. Er nad yw'n cael ei grybwyll yn y Bil, byddai gennym farn ynglŷn â phwy sy'n gwneud y trwyddedu ar faterion amgylcheddol—yn sicr ni sy'n ei wneud yn barod. Rydym yn teimlo bod yr arbenigedd gennym ni. Nid oes awgrym y bydd hynny'n cael ei newid, ond os oes unrhyw awgrym y bydd hynny'n newid, byddem eisiau bod yn rhan o'r drafodaeth ar hynny.

Dr Roberts: Yes. As I mentioned at the outset, I think that there is an opportunity here to ensure that the planning application can proceed simultaneously with the licensing procedure, and we would welcome that. Therefore, if anything can be done to promote that, we would also welcome that. Although it is not mentioned in the Bill, we would have a view as to who should be doing the licensing on environmental issues—we are currently responsible for that. We feel that we have the expertise. There is no suggestion that that is to be changed, but if there is any suggestion of change, we would want to be part of any discussion on that.

[137] **Alun Ffred Jones:** I'r dim. Diolch yn fawr iawn. A oes unrhyw gwestiwn arall?

Alun Ffred Jones: Perfect. Thank you very much. Are there any further questions?

[138] Are there any further questions? Antoinette has a question.

[139] **Antoinette Sandbach:** I wanted to ask you about whether you think there might be unintended consequences of a similar application being submitted through the nationally significant infrastructure process and the developments of national significance process? Is that likely to happen and what would the cost implications be for you if you were having to deal with those two processes, in effect, in tandem?

[140] **Dr Wood:** Are you suggesting that one application would go through both routes?

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

[142] **Dr Wood:** My understanding is that the way in which the thresholds are set would suggest that that could not happen. In other words, an applicant would have to decide as they develop their project which route it would go through. That would be based on the thresholds of those projects. Certainly, there is a risk for us that a number of applications will come in at the same time, be that developments of national significance or nationally significant infrastructure projects. When we find pinch points, they do cause us challenges; there is a limited resource of people with that expertise working on those projects internally. We do quite a lot of project forecasting, particularly where we have engagement in pre-application, and we understand the stages that the applications are at and the likely submission dates. Therefore, we can predict our resource humps and lumps. However, that relies on us having a

good relationship with those applicants and developers, and them telling us when things change.

[143] **Dr Roberts:** I think it would be a very odd situation if an application went for both NSIP and the process in Wales; I think that would be extremely difficult.

[144] **Antoinette Sandbach:** Okay. In terms of your views on the likely definition of the substantive response and the 21-day time limit in which you have been asked to produce those substantive responses, both at the pre-application and the post-application stages, are you happy with those? Do you think that you could do that?

[145] **Dr Roberts:** We have been working very, very hard on improving the service since Natural Resources Wales came in. Obviously, we have inherited three different systems here and three sets of people. Sarah, for instance, has been at the heart of the process improvements that we have been doing, so we are absolutely confident that we can deliver a very good service in future, notwithstanding the resource issues.

[146] **Antoinette Sandbach:** I do not think that I got an actual answer from you about what charges you are proposing to introduce and whether you are proposing to introduce those only on the very big—. It would be a statutory requirement for you to respond. So, are you proposing to introduce those charges only on developments of national significance? What about the smaller developments? I mean, how is that going to work? I mean, we are in the dark here. We do not know whether this is actually going to improve the system or just mean that an applicant faces another whole raft of different charges before they even put in an application effectively.

[147] **Dr Wood:** The NRW board has asked us to consider the options and the benefits and the implications of considering charging for the non-statutory planning services that we offer. We have a consultation—

[148] **Antoinette Sandbach:** Sorry, I am asking about both statutory and non-statutory—

[149] **Dr Wood:** Yes, okay. So, the inference there is that our grant-in-aid funding funds us for statutory advice and that there is not a requirement on our non-statutory advice. So, we have been considering options to charge for our non-statutory advice. We have a consultation out at the moment, asking for views on the introduction of that service, based on something similar to what we are seeing in perhaps England or Scotland from Natural England, the Environment Agency, local planning authorities and others. So, we are at a crossroads in gathering that information. We cannot give any commitments about what we would be charging on because we are really only at an early stage of considering it and we need to consider it in terms of the implications of what is being proposed in the Bill as well. However, what we have seen is that the Bill is proposing options for charging for a statutory element for local planning authorities, but not for statutory consultees. So, there is a lot of uncertainty around that, and that is perhaps why we have not been able to give you a clear answer on that.

[150] **Alun Ffred Jones:** Is your question on this, William?

[151] **William Powell:** No.

[152] **Alun Ffred Jones:** Is your question on this, Russell?

[153] **Russell George:** Yes. I just want to pick up on your point that an applicant can put an application in through both processes. I understand that. However, is your understanding that the applicant makes that decision on which process they use or are there thresholds that decide which route they take?

[154] **Dr Wood:** My understanding is that there are thresholds and they are a factor that an applicant needs to consider in developing and designing their project. So, for example, a windfarm of more than 50 MW at the moment would go through the nationally significant infrastructure planning process. If an applicant is quite close to that threshold in their costings and their design, then, obviously, that is an implication because it is a different consenting route, which gives them different risks. So, they are considering which consenting route they will go down as part of their design of the project. We see that in Wales for things like big windfarms and big offshore projects, which could go through the Transport and Works Act 1992 or through the NSIPs process.

[155] **Russell George:** So, to an extent, the applicant can decide which route they go down depending on—

[156] **Dr Wood:** Yes, based on the project design.

[157] **Russell George:** So, you could have two similar applications that took different routes.

[158] **Dr Wood:** Yes.

[159] **William Powell:** Moving on to the issue of the provision that the Bill will make for an applicant to bring an application directly to Welsh Ministers in the event that a particular authority is failing, I wonder whether you have any comments on that. Also, do you have comments on the way in which that would change your role in terms of offering your advice and giving your feedback directly to the Welsh Minister, the Welsh Minister who is actually the person who issues your remit letter?

[160] **Dr Wood:** My take on that is that we have an important role to play as a statutory consultee. Our role is to provide that advice—clear advice in a timely fashion—to the decision makers. In a way, who that decision maker is is perhaps not the main consideration here. It is about the evidence and the advice that we give. We already give advice to local planning authorities, to Ministers and to UK Ministers. We are providing advice in our statutory consultee role to a number of different decision makers.

10:15

[161] **William Powell:** Would you see yourself providing a chargeable service to the Welsh Government in that connection? It would be a form of recycling, in a way.

[162] **Dr Wood:** It is an element that we should consider as we develop our charges. *[Laughter.]*

[163] **Alun Ffred Jones:** On that uncertain and happy note, we will bring this session to a close.

[164] A gaf i ddiolch yn fawr iawn i chi'ch tri am ddod i mewn atom ni ac am gyflwyno eich tystiolaeth? Bydd *transcript* o'r dystiolaeth ar gael i chi sicrhau ei fod yn gywir, ond diolch yn fawr iawn i chi unwaith eto am ddod atom ni. May I thank you very much for coming to the committee this morning and giving evidence? There will be a transcript of the evidence available for you to check and ensure that it is correct, but thank you very much again for coming to the committee this morning.

[165] Symudwn ymlaen felly at yr eitem nesaf, sef eitem 5, ac rydym ni'n mynd i gael We will therefore move on to the next item, which is item 5, and we will have evidence

tystiolaeth gan arbenigwyr cynllunio. from planning experts.

[166] **Dr Roberts:** Dyma'r cynllun yr oeddwn yn sôn amdano—gwnawn yrru copi atoch maes o law. **Dr Roberts:** Here is the plan I mentioned—we will send a copy on to you.

[167] **Alun Ffred Jones:** Diolch yn fawr iawn i ti. Gwych iawn. **Alun Ffred Jones:** Thank you very much. Great.

[168] I have just been handed the idiot's guide, which you will all receive.

10:16

Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 7 Planning (Wales) Bill: Stage 1—Evidence Session 7

[169] **Alun Ffred Jones:** Bore da—good morning.

[170] A gaf i eich croesawu chi yma atom i'r sesiwn hon? Rydym ni'n ddiolchgar iawn i chi am ddod atom ni i'n helpu ni gyda'n paratodau i graffu ar y Bil cynllunio. A gaf i ofyn i chi'n gyntaf gyflwyno eich hunain a dweud pwy ydych chi'n ei gynrychioli? May I welcome you here to us for this session? We are very grateful to you for coming here to assist us in our preparations for scrutinising the planning Bill. May I ask you, first of all, to introduce yourselves and tell us who you are representing?

[171] **Ms Willmott:** Sori, nid yw'r cyfieithiad yn gweithio. **Ms Willmott:** Sorry, the interpretation is not working on my machine.

[172] **Alun Ffred Jones:** Nid yw'r cyfieithu yn gweithio—mae i fod i weithio. **Alun Ffred Jones:** The interpretation is not working—it is supposed to be working.

[173] Felly, a gaf i ofyn i chi gyflwyno eich hunain a dweud pwy ydych chi'n ei gynrychioli, os gwelwch yn dda? Therefore, may I ask you to introduce yourselves and tell us who you represent, please?

[174] **Ms Willmott:** I am Roisin Willmott. I am the director for the Royal Town Planning Institute here in Wales.

[175] **Alun Ffred Jones:** Diolch yn fawr. Do not touch the buttons; they explode. *[Laughter.]*

[176] **Mr Roberts:** Good morning, I am Mark Roberts, director of Barton Willmore's Cardiff office, representing the Wales Planning Consultants Forum.

[177] **Mr Powell:** Good morning, I am Lyn Powell. I am a planner, I am a senior director with the RPS Group and, like Mark, I am representing the Wales Planning Consultants Forum.

[178] **Alun Ffred Jones:** Galwaf ar Llyr Huws Gruffydd i ddechrau. **Alun Ffred Jones:** I call on Llyr Huws Gruffydd to start.

[179] **Llyr Gruffydd:** There is a lot happening legislatively. We have heard references this morning already to the environment Bill, the planning Bill, of course, and the Well-being of Future Generations (Wales) Bill, and with them come a lot of proposals around, for example, the area of natural resource planning. There are proposals for local wellbeing plans and we

have here proposals for strategic development plans, as well as amendments to local development planning. We have the emergence of city regions happening and, on top of all of that, we have local government reorganisation in the offing as well. Do you have a sense of how all these elements come together in what the Welsh Government, around its legislative programme, would probably call its master plan?

[180] **Mr Powell:** I think that the problem that we have, for all of us with a day job, is keeping up with all that. There is a hell of a lot going on. A lot of it is relevant to what we do, because we are all practising professional planners and, essentially, what we try to do is to ensure that, where there is an impact on planning as we see it, we are up to speed with that. In essence, I think that we like what is happening, to be honest. It is the first time, mind. We have not liked it for many years, but we do now feel that progress is being made, that the key issues are being recognised and that things are being done about it. We have some concerns in terms of how it is going to be implemented; in particular, I think that we have concerns that, from a planning point of view, quite a few of the proposals that we have involve greater involvement by the Welsh Government in matters, especially if authorities are not performing, or, as I understand it, we may have the option, if the Bill goes through, to submit a proposal directly to the Welsh Government for determination. That sounds great, but we have no evidence, historically, that that has speeded up the process at all, and that is the concern that we have. We have had lots of experience before of applications being called in and of applications going to appeal, and what that does is to slow the system down; it does not speed it up. So, while we support the general initiatives and the whole gambit that you are talking about in terms of the overall perspective and the improvements coming through, we remain to be convinced that this will actually work in practice.

[181] **Mr Roberts:** I would just add to that, in terms of the comments that Lyn was making, that there will inevitably be a time lag in terms of implementing the reforms and efficiencies that are set out in the Bill. You mentioned strategic planning. That will take some time to set up. It will take time to filter down into local development plans to actually make development happen on the ground. Lyn and I are practitioners in the planning system. We act for developers and landowners in terms of securing consents to actually make development happen. If that is what we are focusing on, namely delivery in respect of sustainable development in the right place, at the right location, addressing shortfalls in housing need, it is about making things happen on the ground, not necessarily in terms of rubber-stamping the planning Act next summer. So, the definition of delivery in our sense of the term is making things happen on the ground.

[182] **Llyr Gruffydd:** Just to—oh, sorry, Roisin.

[183] **Ms Willmott:** I was just going to reflect on the other Bills that you mentioned.

[184] **Llyr Gruffydd:** Please do.

[185] **Ms Willmott:** Obviously, there is a fine balance needed here, namely that we do not overcomplicate each of the Bills, so that they are workable when they come into action. If you think about the aim, perhaps, for the planning Bill of providing an efficient and effective planning system, we need to be careful that other Bills do not complicate the planning system through the back door, if you like, with unintended consequences. We have not seen what the environment Bill is proposing, and there may be factors there; I can see that one being a potential one. However, on the other hand, there are opportunities that are perhaps being missed at the moment where we could have read-across between them, such as the future generations Bill and the wellbeing plans, as you mentioned. The wellbeing plans and the local development plans have to have regard for each other, but perhaps that needs to be stronger. Northern Ireland, for example, is introducing a statutory link between the two, so that you do not have two plans at risk of saying different things within the same area, and they both

should be trying to achieve the same thing. So, I think that there are opportunities perhaps where we could look at more read-over, but being careful that we do not overcomplicate each one in what they are trying to meet.

[186] **Llyr Gruffydd:** Thank you for those responses; they are very useful. Just to dig down a bit deeper around the strategic development plan tier, which is obviously a new tier of planning in Wales, there is a suggestion that there will be three potential areas up for strategic development plans, but of course we are looking at local government reorganisation as well. There is a likelihood that the number of local planning authorities in Wales will be greatly reduced—potentially six, according to the latest betting. Would that, in essence, mean that we do not really need strategic development plans because larger local planning authorities would, by default, be more strategic in their outlook?

[187] **Ms Willmott:** I think that it would depend on what reorganisation looks like. There is no harm in having it in the Bill at the moment, because it can just sit in the Bill and not be taken forward and enacted. So, it would be useful, while it is there, to do it, because we do not know how long reorganisation will take. If you take the Williams commission proposals for example—which I know is for 11, not the six—perhaps, in north Wales, there would not be a need for it on the A55, but in south-east Wales, certainly around Cardiff, you would still, I think, have merit in having a strategic development plan. I am not sure about the Swansea area; it is unclear about how that would fit.

[188] **Llyr Gruffydd:** If an area does not have a strategic development plan, is there a danger that there would be something missing there, because the area would then look to the national development framework for its strategic lead, if you like? Would you envisage it coming sufficiently from that level?

[189] **Mr Powell:** I would make the point that I think that one of the big problems with the LDP system at present is that every time you enter an LDP examination, the first days are taken up with arguing over housing numbers. That is a total waste of resources and a total waste of time. It does not help the system one iota, especially bearing in mind that, to a certain extent, theoretically, some of the authorities will have been asked to collaborate beforehand to sort that out, in south-east Wales in particular. They have not done so; it has not worked. Therefore, you do need some form of regional planning. Whether it is called strategic plans or not is immaterial. You need some level whereby the numbers and those issues are all resolved beforehand, so that, when you come down to producing LDPs, the first argument is not about numbers—straight away, you know what your numbers are—and you can talk about sites and delivering sites. I think that there is a question mark; if you are going to have only three SDPs and there is a gap, what happens in those gap areas? Certainly, I think that this is an issue that should be devolved down from that position.

[190] **Mr Roberts:** I was just going to comment that we are assuming that the national development framework is sufficiently land-use led, that it has teeth, that it addresses quanta of development and that it effectively means more to the planning system than its predecessor, the Wales spatial plan. I think that, on that basis, there would not be a vacuum in areas that do not have a strategic development plan. What we are assuming is that, for the areas that are referred to, it just makes more sense to co-ordinate transport, economic development policy and land-use planning, particularly housing provision, across a greater area than individual unitary authorities.

[191] **Llyr Gruffydd:** Okay. Thank you. On the strategic planning panels, it has been raised a few times in written evidence and verbally that there are concerns about democratic accountability within that process, obviously, with a third of the members of those panels being unelected. Would you have a view around that? Should they be full, voting members, or should it be more similar to Scotland where they are co-opted in a sort of advisory sense

without voting rights?

[192] **Mr Powell:** I personally do not think that it matters whether they are elected or not. What matters is whether they understand the subject and are practising. Do they understand the issues as they stand, and do they understand where the decisions they make will lead in the longer term part of it? That is the most important thing. If they happen to be elected and happen to be professionals, or have good experience of the practicalities of planning, that is fine. If they are unelected and have no idea, or are just there because they happen to be elected, then that is not going to help the system much at all.

[193] **Llyr Gruffydd:** In terms of democratic accountability, surely there must be strong lines of communication with communities.

[194] **Mr Powell:** I think that one assumes that there has to be democratic accountability whether you are elected or not.

[195] **Llyr Gruffydd:** If you are unelected, how are you democratically accountable?

[196] **Mr Powell:** Well, in that case, maybe the boards should think twice as to whether those people should be on the boards.

[197] **Ms Willmott:** We would take a slightly different line on that, in that we would prefer the democratic accountability on there and prefer the Scottish model of co-opting professional members. One of the important things, of course, which does not appear to be reflected in the Bill, is to have the economic, environmental and social measures balance. It does not stipulate whether—. At the moment, it looks like it could be all economic, all environmental or all social, depending on that side of it. If this is pursued and it is a third membership, we think that the appointments process should no longer be through—

[198] **Llyr Gruffydd:** The public appointments process.

[199] **Ms Willmott:** Yes. Thank you. So, on that process.

[200] **Alun Ffred Jones:** I call Jeff Cuthbert on this.

[201] **Jeff Cuthbert:** On the earlier point, you referred to the relationship with other Bills coming through at the same time, particularly the wellbeing of future generations Bill, which will place sustainable development at the heart of all public organisations in Wales. Certainly, that will impact on the planning process—and I am not saying that sustainable development is not taken account of now, but it will have to be, and in a tangible way that will be assessable. Clearly, the FG Bill's duties, if the timetable is kept to, will not come into force until April 2016; so, there is some time for clarification yet to come. However, at this point, do you see any potential contradictions, difficulties or problems with the Bill as it is planned in terms of the future of planning applications?

[202] **Ms Willmott:** No, I do not, because all the sustainable development principles of planning are actually carried through planning policy. In particular, 'Planning Policy Wales' is very strong on sustainable development and has been for many years, actually. So, that is already in place and operating now. Of course, how we operate can be affected. We can be stronger, and there is a lot of work, obviously, taking place with that. You have the front-runners for the future generations Bill already operating. So, we can all do more in terms of our everyday practice and how we take things forward, but in terms of planning, policy is already in place that can support that.

[203] **Jeff Cuthbert:** So, you are reasonably comfortable with these two Bills meshing

together.

10:30

[204] **Ms Willmott:** Except for perhaps that link with wellbeing plans and local development plans. I think that that could be a stronger tie-in.

[205] **Jeff Cuthbert:** Right, so those are practical problems to be overcome.

[206] **Ms Willmott:** Yes.

[207] **Jeff Cuthbert:** Okay. Thank you.

[208] **Russell George:** With regard to SDPs, some areas will not have an SDP. However, there is provision in the Bill for Welsh Ministers to instruct local planning authorities to work together to form a joint local development plan. So, does that then negate the need for there to be an SDP, if there is that provision? How do you see that link and the difference between the two?

[209] **Ms Willmott:** Strategic development plans would not, as I understand it, go into as much detail as local development plans would. So, they would not be talking about specific sites, unless perhaps you are talking about regional strategically important employment sites. So, most of what is included in a local development plan would not be in strategic development plans in terms of detail, other than the numbers, which Lyn referred to. Every local development plan goes through that number-crunching. So, particularly in south-east Wales, where this is particularly needed, you have this debate about numbers on housing and employment every time and there is little direct work between the different authorities. There is good voluntary work, actually, that goes on at an officer level, but it is this debate with the LDPs that becomes very complicated each time. However, the joint planning boards that are being proposed are for that local level as opposed to the strategic level, so it is slightly different.

[210] **Mr Powell:** I think that there is a distinction that could be made between the purpose of SDPs and the purpose of local development plans. I see them as two different animals. There is a desperate need for strategic planning and there is a desperate need for some sort of regional approach and a regional allocation of numbers, for housing, employment or whatever—transportation in particular, because obviously the boundaries are too small and transportation goes right across all of them. LDPs are a different level. LDPs are where, as I see it anyway, one sees the actual allocations. So, the SDP might say that Cardiff, for instance, needs to find 45,000 extra dwellings. The LDP will state where those are actually to be built. That is different. If you have gaps, how is that gap going to be filled in the strategic context as compared with the local context? That is the issue that I think is unclear and needs to be clarified.

[211] **Russell George:** I suppose that, where there is a gap, if there is no strategic development plan, what happens in that area where there is not a plan might be addressed to some extent by a local development plan.

[212] **Mr Powell:** I would have thought that there was a need for a strategic context for all of the areas. Whether it comes in the form of a formal SDP or not is not the issue, but you have to have a strategic context against which to determine how LDPs go forward if they are going to be more meaningful, forgetting about all of these arguments about numbers.

[213] **Russell George:** You also mentioned that transport, potentially, would be included in a strategic development plan. However, my understanding is that transport would not be

included in an SDP. Do you think that it should be?

[214] **Mr Powell:** Absolutely. I cannot see how it can possibly be a strategic plan if it does not look at transport.

[215] **Mr Roberts:** I think that I would make the comment that the land use planning implications of the regional transport proposals, economic development strategy and other infrastructure improvements—. The strategic development plan has to draw all of those planks together so that it is a coherent land use and sustainable development plan for the foreseeable future.

[216] **Antoinette Sandbach:** However, we know that, for example, in north Wales it is only the A55 corridor that may be covered by that strategic development plan. So, where then do local authorities go? You suggested that you wanted the national development framework to be stronger than the current Wales spatial plan. How do you see that being achieved in the planning Bill?

[217] **Mr Roberts:** How do I see it being achieved? It would be through the content of the plan—that it is, as I mentioned, land use-led. I think that the Wales spatial plan, while groundbreaking in itself, has had limited impact on development occurring on the ground. It is a very high profile and broad-brush plan, and I would be looking for the national development framework to be a lot more relevant, if you like, to development that occurs on the ground.

[218] **Antoinette Sandbach:** How would you ensure that that was integrated with other national plans, and how would you like to see that integrated? Would that be through secondary legislation? Would the statutory purpose of planning on the face of the Bill mean that it was integrated, if there was a statutory purpose for planning? How do you see that being done, rather than it being a high-level document, a bit like the Wales spatial planning, that sits on a shelf and does not have any impact on the ground?

[219] **Mr Powell:** When you are looking at a proposal, be it large or be it small, you are trying to set the context for that in policy terms, and you have policies at a national level, sometimes even at an international level, at a regional level and a local level. It is my view that all those policy references should be relevant. The unfortunate thing with the spatial plan, with respect, and I agree with what Mark said, is that the first version of the spatial plan, frankly, was a waste of time in terms of daily use and in terms of its relevance to planning. It was a very nice introduction to Wales, if you were interested in tourism and in the economy of Wales. It did nothing in terms of determining how planning applications should be determined. After revision, that has become better, but very rarely is the Wales spatial plan of any importance in terms of making decisions, and that is the issue. It is about trying to ensure that whatever comes out of this very complicated system that we have had, that we have grown into and that, I hope, we are coming out of, is relevance. So, if you make reference to the Wales spatial plan, it is a particular reference; it is not just a passing reference for the sake of it.

[220] **Ms Willmott:** May I jump to the defence of the Wales spatial plan? I agree with my colleagues—

[221] **Alun Ffred Jones:** You are a brave woman.

[222] **Ms Willmott:** The Wales spatial plan took a bold step forward, as Mark said, by trying to knit together national plans and looking at them at a spatial level—a geographical, physical level. It did not go far enough, which is where I agree that, on a daily basis, in terms of looking at proposals for development, it did not help, but it did take this bold approach of

trying to knit together what you do in transport, economy or health, for example, which have a spatial influence. We need to find a different word to 'spatial', so that people can understand it outside—

[223] **Antoinette Sandbach:** What I am trying to get to is what level of detail is going to be appropriate for the NDF, particularly in areas that will not have strategic development plans.

[224] **Ms Willmott:** What the NDF needs to do is knit together those national plans that have a land-use implication. That includes the transport plan, but not necessarily the Wales infrastructure investment plan, although that is very important, but it is more about how you fund the priorities of Government in the NDF, starting with an evidence base. The RTPI has done work on a map for England and also a map for Wales, on a smaller scale, looking at all the spatial evidence that is out there and how it knits together; your education policies, where you have your strategic health provisions et cetera, where the road and rail infrastructure and energy infrastructure are and how they all physically knit together. That is what is needed through the NDF, without going into too much detail, which would then be picked up at the SDP and LDP levels.

[225] One point that I just wanted to clarify on the SDP is that I think that it is important that you would not necessarily need that at all levels. So, if you think of the Ceredigion and Powys area, we do not think that you would need it there, because it is where there are areas that are complex—as in, where there are lots of travel movements for various uses. People live, work and play in all sorts of different areas; they do not respect the local authority boundaries in that sense. So, when you are talking about larger geographic units, perhaps more rural areas, you have less of that movement and interplay, so it becomes less of an issue, but when you are talking about smaller, more populated areas, it is more of an issue.

[226] **Antoinette Sandbach:** In terms of the statutory purpose, you indicated that you would like a statutory purpose for planning for the Bill—

[227] **Ms Willmott:** Not us.

[228] **Antoinette Sandbach:** What is your view on that, because I think that that has been one of the recommendations by the IAG?

[229] **Ms Willmott:** I think that you need to be careful not to tie down policy in the Bill, because policy changes and we move on. If you think about what is in the future generations Bill, for example, things have moved on in the last 10 years in our understanding of sustainable development. So, it is important not to lock things down too much. There could be a statutory purpose, and I can understand that, but if it is worded along the terms of sustainable development and then you leave it for something like 'Planning Policy Wales' to define it, that is more easily adaptable and updatable. I think that that could work. So, that would be sustainable development in its fullest sense, as we understand it.

[230] **Mr Powell:** As long as it is fairly clear. I do not know whether the message has got across, but those who have been practising for a long time feel that it has got far too complicated. Most of what I do these days is to do with NSIPs—nationally significant infrastructure projects—and they are all determined at Westminster, by and large by the Secretary of State, and, obviously, we have the national policy statements that are the equivalent of what would be the NDF. Those policy statements are very clear. They are very helpful, pertinent and to the point. You can look at a proposal and assess it against the counter view as to whether you think it is appropriate or not. Planning in Wales—and not just planning; outside planning, too—seems to have lost that ability to be clear. There are too many opportunities, there are too many policy documents and there are too many opportunities for people who have different views on things. That is not clear, and the whole

system has become very unclear and very bureaucratic. It needs to be clarified in that way so that it is clear-cut. We know full well that, when it comes to NSIPs, as long as it is in accordance with the NPS, there is a reasonable chance that it is going to be granted consent. Now, applicants, or potential applicants, in the planning system below that level need to have that same sense of assurance as well, and that is what we are not getting. Maybe, to a large extent, by reducing the number of local authorities, and by reducing the number of LDPs, hopefully, but certainly by producing strategic planning at a regional level, that will begin to bring that clarity back in and make the system what it used to be, 10 or 15 years ago: simpler.

[231] **Julie Morgan:** I will move on to two new areas. I wondered what your views were on the withdrawal of the design and access statements—that is, the proposal to withdraw them.

[232] **Ms Willmott:** It is a sad day, along with the Wales spatial plan—no. [*Laughter.*] We in the RTPi support design and access statements. We do think that, perhaps, the way in which the regulations have been written has meant that, both for applicants and for local planning authorities, they have turned into a tick-box exercise, and perhaps they need to be used less on very small developments, but they are an important tool for communicating what the design proposals are and how they have been arrived at. We do think that they are very valuable for that. We have heard from local authority members, as in the elected members, that they find them important and useful tools in drilling down, and, also, third parties find them very useful in understanding applications. However, perhaps the way in which the regulations are currently written means it is too much of a tick-box exercise and they lack value because of that.

[233] **Mr Powell:** Especially where every application, virtually, seems to come under DAS. If it was only for big applications, key proposals, big buildings and big projects, where there are obviously a lot of design alternatives and options available, then I think it is fine and it works quite well. However, to do it for everyday stuff just takes an inordinate time. When you look at the DAS—

[234] **Julie Morgan:** Is not design and access just as important for everyday stuff?

[235] **Mr Powell:** Well, if you look at the quality of the design and access statements that have been coming in over the last few years, you will see that they vary tremendously—absolutely tremendously. Sometimes they are as simple as a few pages of photographs. Sometimes they are very long, complicated documents. I accept what you say; obviously, design is important in every context. However, you do not have the range of options, and the magnitude of change—the magnitude of impact—is not as great on some projects as it is on others. I think that it would be much better to concentrate on the big ones in that sense.

[236] **Julie Morgan:** Right, so you are saying that they should be retained, but particularly for bigger projects.

[237] **Ms Willmott:** Yes, certainly not for the small householder.

[238] **Alun Ffred Jones:** Jeff, do you want to come in on this?

[239] **Jeff Cuthbert:** Yes, just for clarity. I think that you said ‘the quality of applications’, as opposed to their size. I can understand that it would be a much more detailed application for a large project, but that is not an issue of quality. So, who is submitting these design and access plans, and why is there a problem with quality?

[240] **Mr Powell:** Well, they are submitted by all sorts of people who are agents for applicants, but it seems to be that different authorities have different views as to what is an

acceptable quality, and some authorities, even within the authorities themselves, will accept a very low-quality DAS for one scheme and expect a very high-quality DAS for another. I do not know why, but that is the way the system seems to work. However, it does seem that, to a certain extent, it is a bit of a box-ticking exercise, as Roisin has alluded to. It is a bit of a necessary evil, and it should not be that; if it is going to be worthwhile, it should have more meaning than that, but that is the way it has gone.

[241] **Mr Roberts:** Is also worth noting that the research that the Welsh Government commissioned did find benefits in design and access statements, particularly on complex or sensitive sites and schemes. So, as we are saying, I think it is just looking at where they are required, focusing on those scenarios with more complicated sites or the larger schemes, rather than having a catch-all policy for all developments.

[242] **Julie Morgan:** The Minister proposed, I think, that they should form part of the building regulations. Have you any view on that?

[243] **Ms Willmott:** There are some issues that can be picked up, I think, through building regulations, but your overall approach to the design of the scheme and how it fits within the context will be difficult to deal with in building regulations. Some of the access aspects could be dealt with in building regulations, but not the overall—

10:45

[244] **Alun Ffred Jones:** Jenny Rathbone, on this point.

[245] **Jenny Rathbone:** On this, yes. Whether it is done by building regulations or within the planning legislation, should a standard be set for obligations to provide 3D visuals where the community is likely to want to see what it is going to look like? The community at large is not going to be familiar with how to read an architect's drawing, but a virtual electronic model or something you can touch enables people to see what it is going to look like if it goes ahead.

[246] **Mr Powell:** At an appropriate scale, yes, certainly, but not at every scale. Planning has become the province of the rich. You cannot get involved in planning process approvals unless you have a lot of time and money available, and I am not certain that that was the purpose of the planning system originally. These days, even if you want to make an application for one house, it will cost you a lot of money to do so. You are producing things like design and access statements often in the context of where there is no necessity for it. If it is needed, if it is on a scale that is important and if it is going to have a big impact on the local community, then fine, but how you draw the line then—. Maybe the reorganisation of local government and having larger authorities, perhaps with better resources, may mean that they can make the decision as to whether you need more design and access information, because they can do that anyway. You have authorities asking you for design information irrespective of a DAS. That happens as part of the planning process.

[247] **Jenny Rathbone:** The planning authority then might have a vested interest in x or y. I understand that we are not talking about a small garage here, but if it is something that could have a significant impact on the wellbeing of the neighbours and the community at large, surely it should have accessible design and access.

[248] **Mr Powell:** It is absolutely important that the applicant demonstrates how that proposal will impact on a neighbour; whether that has to be in the case of a DAS or not is another matter, because that is part of the normal planning process.

[249] **Jenny Rathbone:** Yes, but I am thinking much more in terms of something that has a

slightly larger impact than just on the immediate neighbour. People need to be able to see what it is going to look like, and there does not seem to be any regulations about who should be providing 3D models.

[250] **Mr Powell:** That is assuming that 3D models would help. One has to give reasonable credit to local authorities; if they are well-resourced and well-managed, they will have people within those authorities who will know what information is needed to demonstrate the impact of that proposal on the locality. You do not necessarily need a DAS to do that; that could be done as part of the process.

[251] **Alun Ffred Jones:** Okay, I think we have aired that. Julie, we will come on to your second point.

[252] **Julie Morgan:** To go on to town and village greens, I do not think that the RTPI gave a view in its written response. Do you have any view?

[253] **Ms Willmott:** We do support the proposals. We do not have any specific evidence, but it becomes quite complex and this is where there are perhaps two areas of legislation that do not work when streamlined together. It is alleged that town and village green applications are used to slow down and block development. There is planning policy in place that looks at open space, so that should be taken into account with developments and the whole planning process, rather than using this very long-winded legal process, as opposed to the planning judgments on a project. So, we would support it based on that.

[254] **Julie Morgan:** Do you have any evidence of their being used in this way?

[255] **Ms Willmott:** No, only that it is an alleged area; it is quoted quite a lot as being a problem.

[256] **Julie Morgan:** We are having this evidence presented to us all the time without any actual evidence.

[257] **Ms Willmott:** That is partly why we did not put it in our written evidence because we did not have any direct examples. In England, we understand that legislation that has done a similar thing has worked. That is why we did not put it in our written evidence because we did not have any specific examples to support it.

[258] **Julie Morgan:** Right. Do you have any views about the Minister's possible proposal that an application for a village green could be put in up to the point of the actual planning decision?

[259] **Ms Willmott:** When the application is made, is it, for the decision?

[260] **Mr Powell:** As I say, it is very difficult to pinpoint evidence, but certainly there seems to have been a body of advice given to people who potentially want to make these applications, to leave it until a planning decision is made, and then come in with a village green application afterwards and that will thwart the system. To a certain extent, they have been right; that has happened. I think the view that we have taken, and we have made the point in our response, is, for one, we are more than happy to accept that village green issues are relevant issues in a planning decision, but once a site has actually achieved the status of being allocated a planning permission, then the village green approach should not then be capable of thwarting that thereafter.

[261] **Julie Morgan:** So you would support what the Minister is saying, that before the actual decision is made, the application could be lodged.

[262] **Mr Powell:** That is what we have said, yes.

[263] **Julie Morgan:** Would you accept that actually proving that a village green is a village green or a town green is very difficult and very complex and requires a huge effort by a local community to prove that people have used it over 20 years? I have been closely involved, as have other Members, in these applications for village greens. I do not feel very happy really about you saying that they are just advised to come in and say that it is a village green after the decision has been made as another means of blocking the process.

[264] **Mr Powell:** It goes back to what I have said all along—

[265] **Julie Morgan:** Do they then become village greens?

[266] **Mr Powell:** No—

[267] **Julie Morgan:** Is the evidence that they then become village greens?

[268] **Mr Powell:** No. It is for people promoting village green proposals to demonstrate and provide the evidence to back that. If they are successful, they win, and there have been examples obviously where they have succeeded. What we are saying, I think, is that there is a time and a place for that, and the time for that is not after the planning decision has been made. We could be involved in a proposal, take it to appeal, take it to an inquiry and it may cost our clients hundreds of thousands of pounds, and then to suddenly be thwarted at the end of all of that by suddenly somebody coming in, who deliberately decided to do so at that stage, because it is the way that the system works, and then try to thwart it on the back of a village green application, in our view, is not acceptable. It certainly is not good for the economy of Wales in terms of promoting development and bringing things forward. As I made the point earlier on, planning has become a very expensive business now and people do not go into it lightly. They do not spend hundreds of thousands, even millions, on putting proposals together, and 18 months getting there, to get a decision and suddenly find that a village green application is coming in. That does not help at all.

[269] **Aled Ffred Jones:** Is it on this issue, Llyr?

[270] **Llyr Gruffydd:** On this issue, of course, if that village green application is successful, then it suggests that they were right to do so.

[271] **Mr Powell:** Absolutely. That is why I was saying that if they want to make the village green application, do not make it after the application has been determined in planning terms; make it in advance of that.

[272] **Llyr Gruffydd:** There has been a suggestion by the Open Spaces Society that part of the LDP process should be around identifying those potential sites. Do you have any view on that?

[273] **Ms Willmott:** That is the point that I was trying to make about planning policy and that that is really where it should be, not through the village green issue, but looking at what open space there is in an area, what is needed, and where are the best places for it and how it is built into development. So, it could be justified in a design and access statement, for example. Taking it through that, I think, is a much better and positive way of working forward.

[274] **Alun Ffred Jones:** William Powell is next.

[275] **William Powell:** Good morning, all. I would like to move the focus to the

recommendation in the Bill that applicants should have the opportunity to bring an application direct to Welsh Ministers in the event of a local planning authority failing. I would very much welcome your views on that, and also any suggestions that you would have on behalf of those that you represent in terms of the kinds of amendments that could be usefully brought forward to the Bill to incentivise improvement in planning authorities, and whether you think that this is the appropriate balance of carrot and stick.

[276] **Mr Powell:** As I touched on it at the start, I will make the point and obviously pass it over. There is an assumption in there, frankly, that the Welsh Government will make a better decision than the local planning authorities, and I think that that is unfair to the local authorities. We do not represent local authorities at all. Some authorities certainly do a good job. Most of them do a good job at times, but the problem is that there are probably too many of them and they are not well enough resourced to do the job properly. We are quite content with applications being referred or transferred to Welsh Government to make the decision, provided that the same standards and the same requirements then apply to the Welsh Government as they do to local government. So, it would have to meet the same deadlines in terms of statutory deadlines for determination. You are after the same range of expertise and the same qualities as before. So, I do not think that it is an either/or situation. If Welsh Government is going to take on this role, so be it, that is fine, but as I see it, there is no evidence yet that it is going to be increasing its skills base and its ability to meet deadlines. That is the problem. There is nothing at all, historically, that demonstrates to us that, when an application enters this arena, through the Welsh Government, it gets speeded up.

[277] **William Powell:** Also, of course, there is nowhere to go in terms of appeal, if the Welsh Government is the body that determines.

[278] **Mr Powell:** No. Quite.

[279] **Mr Roberts:** Just on that point on resourcing, I know that the explanatory memorandum looked at the anticipated number of cases where this would be likely to come up and the cost implications. As Lyn is saying, I think that you can quantify that or estimate it. It is important to look at the expertise and skills that supplement those resources, so that you are providing a realistic and more efficient option for investors and developers who want to make that decision and come to Wales. I think that it is a key part of the Bill and, as you mentioned, the independent advisory group was quite clear, I thought, in terms of looking at a mix of penalties and incentives. I think that this is one of those hidden incentives, if you like, that local authorities are obviously going to be motivated to perform efficiently because they do not want to lose the opportunity to determine some of the larger schemes or developments of national importance. So, I think that that is a key part that we support certainly, but the caveat is that it has to be backed up by adequate resources, skills and expertise to deliver a more efficient alternative.

[280] **Alun Ffred Jones:** In terms of developments of national significance, the WLGA's view is that a new process is not needed, given the likely small number of applications and the existing call-in process. What is your take on this? Are you in favour of the proposals?

[281] **Ms Willmott:** Yes, we do support these. As we understand it, these are small in number, but they tend to be the big ugly ones that a lot of local communities do not want, so it is very difficult for the local planning authorities to make a decision on that. Often it is about the larger energy projects and the waste schemes—the things that we all need and that have to go somewhere, but the question is, 'Where?' In some ways, it would be easier and better to make the decision at a higher level and not at a very local level, obviously based on planning material considerations et cetera—not just for political reasons, but on sound land-use reasons. In practice, what generally happens is that the local planning authority, at the moment, will refuse these applications and then decisions are made by the Planning

Inspectorate in any case. So, it just takes out that step of having the appeal process in there, that they are determined at a higher level. So, that is why we support it.

[282] **Mr Powell:** Also, just to make this point, even if you introduce it, it will not include the bigger projects anyway. I have just submitted a consent order for a 500 MW power station down in Milford Haven. That would not be covered by this anyway because it is bigger in energy generation, so even then you are not picking them all up. I understand that there are statutory reasons why that would be the case, but nevertheless that is the reality of it. So, probably, the bigger projects will be still outside your remit.

[283] **Alun Ffred Jones:** Should they be within our remit?

[284] **Mr Powell:** I think that they should be, yes.

[285] **Ms Willmott:** Yes, we would support that as well.

[286] **Antoinette Sandbach:** On the developments of national significance or DNS schemes, do you think that they should be subject to the same processes and timescales as the nationally significant infrastructure project schemes?

[287] **Mr Powell:** I have got experience of NSIP schemes, so I will say, yes, definitely. The one good thing about the NSIP schemes is that once the process starts, it is quick and efficient and it meets timescales, when the other schemes do not. However, the problem is that, of course, it also hides the fact that it probably takes three years to put an NSIP application together to start with. I dare say that the statistics, when they come out, will not show that. There is a hell of a lot of pressure on the determining authorities—presumably it would be the Planning Inspectorate in any case—to make sure that they meet all of the timescales. Then, of course, there is pressure on Welsh Ministers, the First Minister, or whoever would make the decision, to perform and issue decisions within the prescribed period, which always seems to happen with NSIPs.

11:00

[288] **Antoinette Sandbach:** Okay, and in terms of the development consent order regime, there is a suggestion that there should be a development consent order regime for developments of national significance. Do you think that that is preferable to a planning permission regime?

[289] **Mr Powell:** Well, I think that it then depends on how effective the national development framework is, and whether that is the main policy reference or not. For NSIPs, you have the national policy statement, and that is the main policy reference. Although local authorities are then required to produce their local impact reports, which effectively are their planning committee reports, at the end of the day, you know that that is a part of the process and a part of the evidence process, but it is not the be-all and end-all. The DCO process is a good process, provided that you can afford to live with it. It is a very expensive process, even for the application that I have just completed, which is only a small project in NSIP terms, but the consultation report is still 900 pages long. Now, I cannot see any sense in that. That seems to be going back to the old bureaucratic system, but that is the way the system is set up. It is a good system. It is very effective. What it does for applicants is that it gives them certainty. They know that they are going to have to go through a certain hoop, but they know that they are going to get a decision within a certain prescribed period. That is what they are after, and that, very often, is what is critical in making investment decisions.

[290] **Antoinette Sandbach:** We have heard that in our energy inquiry. We have heard about the importance of quick decisions for investment decisions. Could I move on to

development management appeals?

[291] **Alun Ffred Jones:** Russell, were you on that point?

[292] **Russell George:** Yes, on that point. With regard to NSIP and DNS applications, what Natural Resources Wales said in its evidence is that applicants or developers with two very similar applications could effectively decide which route they wanted to go down, with regard to whether to present an NSIP application or a DNS application. What are the implications of that?

[293] **Mr Powell:** That has already happened, has it not? I think that 50 MW is the on-shore limit at present. So, it is no coincidence that a lot of the applications have been at 49 MW, because the applicant decided that it was probably better to take it through the local system. Others have gone beyond that because they thought that it was better to go the other way. So, I guess that you are always going to have that option, whatever the level is.

[294] **Russell George:** But an applicant cannot direct an application through both processes. That cannot happen.

[295] **Mr Powell:** No, not as far as I know.

[296] **Ms Willmott:** Not unless they review their project.

[297] **Mr Powell:** Frankly, why would anybody want to go through two applications?

[298] **Russell George:** Quite.

[299] **Alun Ffred Jones:** Okay, Antoinette.

[300] **Antoinette Sandbach:** What amendments to the Bill would be needed to allow germane changes to be made to a scheme after an appeal notice has been served?

[301] **Mr Roberts:** I think that our position is that we accept that, to make the appeal system more efficient, more transparent and more open, there is a need to avoid excessive or subsequent amendments that disadvantage certain parties. Equally, there are instances where matters arise that are capable of being addressed by minor revisions, and the inspector should have the flexibility to accept those with discretion. In terms of the amendments that are required to the Bill, our comments are purely that: as long as we can have that degree of flexibility, we are satisfied.

[302] **Antoinette Sandbach:** Well, we are not going to know that unless we either amend the Bill to allow that degree of flexibility to be in there, or it comes in in some other way.

[303] **Mr Powell:** Going back to the development consent order system, one of the problems with the system as it was originally interpreted, but maybe not as it is now implemented, was that once an application got into the examination stage—the same sort of stage—you could not make any changes. That was far too restrictive because, a lot of the issues that arise and are discussed, the answers to those come up during the examination process, whether it is an inquiry process or whether it is an examination. Therefore, to deny the applicant the opportunity of making those changes seems to me to be fundamentally wrong, especially as, very often, it is only at that late stage that the community really gets alerted. So, the community may come in with a very good suggestion, which the applicant is quite happy to accommodate, but if the system does not allow that to be accommodated, it is pointless. As Mark said, there has to be flexibility there. The issue then is: at what point does the flexibility get removed from the inspectors and the inspectorate's decision? Also, will

inspectors make consistent decisions? Therefore, the rules have to be clear again.

[304] Mr Roberts: It is also worth making the point that, when you take the suite of reforms that you are considering—pre-application consultation, meaningful engagement with statutory consultees—all together, that should eliminate it and make it a much more rare occurrence, because we should have anticipated an awful lot of these issues at a much earlier stage through the process. So, we accept that, but, inevitably, in our experience as practitioners, these matters arise. It cannot be right that, faced with a relatively simple change to a scheme that would resolve objections, we have to go back to the process again. That cannot be right.

[305] **Alun Ffred Jones:** Are there any other questions that are pressing? Yes, I see that Russell has one.

[306] **Russell George:** Do you think that there should be a fixed timetable for NDFs?

[307] **Mr Powell:** Do you mean in terms of the life of an NDF—

[308] **Russell George:** Yes—

[309] **Mr Powell:** —or for the preparation of it?

[310] **Russell George:** Should there be a regular, fixed term? A five-year term or—

[311] **Mr Powell:** I will speak for myself, but I think that there should be a fixed time for everything. When you should do things by should be fixed, as should the length of it—again, it is all about certainty. As I say, I do not think that investors are necessarily looking for quick decisions. They are looking for certain decisions. They want to know that, if they decide to invest and they go down a certain route, they are going to get a decision within a certain period of time. That is what they are after, because they advise their boards and make decisions on the back of that process. Therefore, yes, if an NDF has a five-year life, that is fine, as long as we know. The only issue then is what happens when that five-year life expires. What is its status then? So, there has to be clear guidance also if it does expire, for whatever reason. It should not do, but I dare say, and our history of local government to date with LDPs is that they can go—. We are sitting in Cardiff, which is a prime example of where there was a failure to have a development plan in place.

[312] **Russell George:** So, you think that a local development plan should have a fixed term as well.

[313] **Mr Powell:** Yes, as long as it is clear that if it does not have a fixed time, what the implications or penalties are thereafter and what you refer to then.

[314] **Russell George:** Should each of those—SDPs as well—have a fixed term?

[315] **Mr Powell:** Yes.

[316] **Russell George:** So, should there be a linkage between them all, because they will all have to align with each other?

[317] **Mr Powell:** Yes, there should be.

[318] **Russell George:** Is that possible?

[319] **Mr Powell:** Well—. [*Laughter.*] It depends on how much you want to change the

system by, but there should be, yes. It is common sense, because it comes back again to clarity. It is all about clarity, and the system has become too unclear at present.

[320] **Russell George:** So, they all should be linked, all LDPs should have a fixed timetable, SDPs and—

[321] **Alun Ffred Jones:** Right, I am going to bring this session to a close. I am going to give you one opportunity, very briefly, to say, if you wanted to improve this Bill, what you would propose.

[322] **Mr Roberts:** For myself, I am very supportive of the key reforms and measures in the Bill. We would like to see more scrutiny in terms of resource implications of a lot of the changes that are mentioned. We have read the explanatory memorandum, but I think that there needs to be more assurance that the reforms that you are structurally making to the system in Wales are backed up by sufficient resource capacity and expertise to make a difference to development happening on the ground.

[323] **Ms Willmott:** I would like to see more read across between the different Bills and for them to be supporting each other more strongly, particularly wellbeing plans and local development plans, in terms of what that then means for delivery on the ground.

[324] **Mr Powell:** Yes, I certainly welcome it. I think that it is long overdue; it needs to happen. Make it as clear and as quick as you can and, in particular, the only thing that I do have a concern about, and I think that we also said this from the WPCF point of view, is that there are too many options in there for collaboration. I prefer the word ‘mandatory’. If you feel that something is right and needs to be done, make it mandatory, do not make it an option that people can pull out of it if they do not like it at the end of the day.

[325] **Alun Ffred Jones:** I think that we have got the message. [*Laughter.*] Diolch yn fawr iawn. Thank you very much to the three of you. We will now take a short break and reconvene in 10 minutes.

*Gohiriwyd y cyfarfod rhwng 11:08 ac 11:18.
Meeting adjourned between 11:08 and 11:18.*

Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 8 Planning (Wales) Bill: Stage 1—Evidence Session 8

[326] **Alun Ffred Jones:** Fe wnawn ailagor y pwyllgor. A gaf eich croesawu chi i gyd yma i'r sesiwn dystiolaeth hon? Hon yw'r sesiwn olaf y bore yma ar y Bil cynllunio. Rydym yn ddiolchgar iawn i chi i gyd am ddod atom ni. Gofynnaf i chi gyflwyno eich hunain i ni a dweud pwy yr ydych chi'n ei gynrychioli, ac wedyn fe ofynnaf i'r Aelodau i ofyn cwestiynau. Pwy sydd am ddechrau? Fe wnawn ddechrau ar y chwith.

Alun Ffred Jones: We will reopen the committee. May I welcome you all here this morning to this evidence session? This is the final session this morning on the Planning (Wales) Bill. We are very grateful to you all for coming here today. I would like you to introduce yourselves and tell us who you represent, and then I will ask Members to ask questions. Who is going to start? Let us start on the left.

[327] **Ms Ellis:** Bore da, diolch yn fawr. Good morning and thank you very much, indeed. I am Morag Ellis and I am here representing the Planning and Environment Bar Association. We are very grateful for the invitation, I—

[328] **Alun Ffred Jones:** I will stop you there. I will come back to you afterwards, I just want, for the record—

[329] **Ms Ellis:** Simply to introduce ourselves. I am sorry.

[330] **Mr Williams:** Bore da, Gadeirydd. **Mr Williams:** Good morning, Chair. My Fy enw i yw Huw Williams. Rwy'n name is Huw Williams. I am representing the cynrychioli Cymdeithas y Cyfreithwyr ac Law Society and I am a partner in Geldards rwy'n bartner yng nghwmni cyfreithwyr law firm. Geldards.

[331] **Mr Morgan:** Bore da. I am Tim Morgan. I am a committee member of the planning and environmental law committee and formerly a planning inspector.

[332] **Dr Davies:** Bore da. Good morning, my name is Haydn Davies. I am the joint convener of the Welsh working party of the UK Environmental Law Association.

[333] **Dr Jenkins:** Good morning. I am Dr Victoria Jenkins. I am also here representing UKELA.

[334] **Alun Ffred Jones:** Lovely. You are all welcome and the panel is eager to take you on. [*Laughter.*] Joyce Watson is first.

[335] **Joyce Watson:** I am not eager to take you on, I am eager to hear what you have to say. I want to ask a very simple question in the first place. Do you think that there is need for a planning Bill and that it will deliver a planning system that has a positive outlook and enables development?

[336] **Alun Ffred Jones:** There are lots of you, so you will have to just jump in. Huw Williams, do you—

[337] **Mr Williams:** Shall I start, because I have been on this journey for maybe longer than some of my colleagues, because I was a member of the independent advisory group that published a report that may have had some impact on the proposals in front of you?

[338] The current position in which we find ourselves—and this was the view of the IAG—is that, conceptually speaking, the planning system that we inherited from the first Labour Government in 1947 is quite sound, but it was under considerable pressure and there were a number of features in the way that it was operating in Wales that needed to be adapted to suit Welsh circumstances. If I can take them in terms of the hierarchy of the system, I think that there was a view that the Wales spatial plan ultimately had not succeeded in delivering an overall planning vision for land use in Wales, in spite of its initial intentions. There was clear evidence of a problem in certain areas, due to difficulties with the local planning authorities in taking what we call the 'larger than local' strategic view of planning issues; housing being a particular bone of contention.

[339] Coming down to the level of the local planning authorities, we identified a number of issues that were barriers to the efficient operation of the system. Some of these were quite detailed on technical legal issues about the efficiency of the system. There were other things such as the methods of operating of planning committees and the delegation arrangements, where it was felt that there was a wide variation between how authorities in Wales approached matters. So, I think that the Bill package as a whole will introduce a system that acknowledges Wales's planning needs at a national level. It will also introduce a system that is much more consistent in its operation: if you go through the front door of a planning department in Wales, if you are an applicant or one of their advisers, you will know what to

expect and it will not vary significantly between authorities. I think the system will be better adapted to cope with local government reorganisation, which is coming in whatever shape—I am not sure—but some of the changes there—

[340] **Alun Ffred Jones:** Neither are we. [*Laughter.*]

[341] **Mr Williams:** The final thing to mention is that we also identified—and it is in the Bill—a need to have a certain category of major planning applications that were dealt with by the Welsh Government actually acting as the planning authority. Some people have criticised that, but, as I point out to them, if you look historically at the development of the planning system, the Minister for planning has always been a planning authority, and things such as the new towns, for example, were developed by planning permissions given by the Minister for planning in the national interest. So, as I said, the Bill is consistent with how the planning system has developed, but it will now adapt the system to Welsh circumstances.

[342] **Alun Ffred Jones:** Are there any other brief comments or general points, or are you happy with that introduction? Morag, do not touch the button on the microphone; it will turn on automatically.

[343] **Ms Ellis:** Thank you very much indeed. I completely agree with everything that Huw Williams has said. I am serving at the moment on the interim group for the planning and advisory improvement service as well. Certainly, putting that hat on for a second, I would very strongly echo what Huw has been saying about the desirability of greater consistency across the board. We are expecting to report in February. Certainly, I think that the Bill provides a very good framework for some of the issues that we have been grappling with as we have been taking evidence while doing that work for the Planning Advisory and Improvement Service.

[344] **Joyce Watson:** The next question that I have is whether you believe that a third-party right of appeal, in clearly defined circumstances, should be included in the Bill.

[345] **Dr Jenkins:** UKELA's view is that third-party right of appeal would be a good idea. We actually believe that it is very important that we have participation in environmental decision making as is clearly set out in the Aarhus convention, and a third-party right of appeal would be significant in that respect.

[346] **Alun Ffred Jones:** Are there any other views?

[347] **Mr Williams:** I would simply say—being conscious that we have limited time—that the independent advisory group went into this in some detail. We actually had a specific session on it. We had members of the planning bar representing both sides of the argument, and the points and the conclusion that we came to was not to support a third-party right of appeal because we thought that many of the problems were actually issues with other parts of the planning system, when you analysed them. However, it is discussed in the IAG report and I would simply refer you to that discussion in the IAG report in terms of the conclusions that we came to.

[348] **Ms Ellis:** May I just add something on that as well, very briefly? The point is made about the Aarhus Convention and access to justice. Rather as Huw has just indicated, my association has split views on this and we provided people to come to debate the two views. However, just for the information of the Senedd on this there have been quite profound recent changes in the access to judicial review in planning and environmental cases, because the judges have been concerned about Aarhus convention compliance, and there are now new costs procedures, and there is now the new planning court, which is on a remit to make planning cases and environmental cases more efficiently handled. Certainly, there is greater

access than was perhaps the case a few years ago to proportionate funding for bringing judicial reviews as challenges to planning permissions, which is the default if you do not have a third-party right of appeal.

[349] **Alun Ffred Jones:** Are there any other views? Have you finished, Joyce?

[350] **Joyce Watson:** There is one more question from me. I would like to ask the Planning and Environment Bar Association to expand on its ‘serious concerns’ about proportionality and human rights interference with property rights and other rights relating to the right to a hearing.

[351] **Ms Ellis:** Thank you very much. Yes. We made connected points about this, that, certainly in terms of the national infrastructure framework, which, in principle, we think is a very good idea, at the moment the Bill simply requires the Ministers to have regard to what is said in the National Assembly debate about that. That is obviously quite a low threshold as to what actually goes into that document. That document is clearly going to be fairly site-specific, because the Bill includes provisions for blight notices to be served on the basis of what is included within it. So, there are quite site-specific allocations, if you like, being made at that very, very high level with the only scrutiny, effectively, being through debate in the Assembly and then a duty on the part of the Government to have regard to that, but not necessarily to follow what is said. So, that is the context for it. Then, the major development proposals, the national applications, are then really seen as coming through under that plan.

11:30

[352] There is a real concern about the expectation, which is what the accompanying material has indicated, that, for representations and objections to specific proposals, the presumption would be that they are dealt with by written representations. PEBA is very concerned that, effectively in the first place, there is, overall, something of a democratic deficit, certainly in relation to proposals that might have a very profound impact on people’s property rights and their right to family life and so on and not being unduly disturbed. There are concerns also—and the other speaker has mentioned this—about the Aarhus convention, which also, of course, links with human rights. There is a concern that a really major proposal could go through affecting somebody’s home and family life very profoundly and they would never have had the right to a hearing at any stage. There is a real concern about that in terms of human rights and Aarhus compatibility.

[353] **Dr Davies:** We in UKELA share those concerns as well. Particularly, section 45 of the Bill introduces a new section 323A into the Bill. That one in particular, if you are looking for a specific example, seems to us to make no provision to protect the basic rights of individuals who may be concerned. Similarly, provisions relating to minimum time limits for written representations are very vague and are, in our view, in danger of interfering unacceptably with people’s property rights.

[354] **Alun Ffred Jones:** Could I just ask, since there are five of you, I am not going to ask the five you to answer every question, so please indicate by any means—any legal means [*Laughter.*—if you want to comment?

[355] **Mr Williams:** I just want to pick up on two points in relation to this and arising from the Law Society’s submission. I think that a lot will depend in terms of the national planning framework and the procedure that the National Assembly itself decides to adopt in relation to the examination of the framework. We have made the point that we think that the 60 days that is allocated in the Bill seems very short for what we would regard as being proper scrutiny. Certainly, when we discussed this in the advisory group, I think we envisaged that the National Assembly would itself have some sort of either peer review or proper examination of

the plan proposals, probably a closer scrutiny than it might give to many other matters, in order to accomplish exactly this concern, or rather to meet exactly the concern that Morag has identified.

[356] Briefly, the second point is that the procedural handling of major infrastructure developments has undergone considerable change. The major infrastructure development proposals in England, determined under the Planning Act 2008, and also the largest energy-related schemes that are non-devolved now in Wales, are conducted through this very heavily written procedure, with limited oral sessions. If any of you have been down to Swansea to see the tidal lagoon proceedings in progress there, you will have seen how different it is to a traditional planning inquiry. It is very efficient. It is very heavily technologically dependent, and I would say that, if you are going to have the Planning Inspectorate in front of you during the course of your examination, that you take the opportunity to ask it about how this system operates and what sort of feedback it is getting on it.

[357] However, Morag is absolutely right that some of these provisions, certainly the DCOs, can have compulsory purchase provisions in them. You would not be able to have them directly within the Welsh system, but, nevertheless, these things, if they are site-specific, obviously touch on people's property rights. There has to be a careful balance struck.

[358] **Joyce Watson:** You say that 60 days is too short. What do you think is about right?

[359] **Mr Williams:** Well, if I had to give a figure off the top of my head, I would say that we would be talking about three months, so probably nearer to 90 to 100 days. What I would envisage, if you asked me to construct the system, is that you would effectively have somebody who would otherwise be qualified to sit as a planning inspector acting as your adviser, guiding the committee through its scrutiny of the plan, and that you would set time aside for some significant and in-depth analysis of the proposals and produce an extensive written report to which the Government should be invited to respond and be examined on. While you might still have regard to the conclusions of the committee provision, clearly with that weight of consideration having gone before it, the Government would have to have very good, and ultimately reviewable, reasons for not going with what the National Assembly had determined.

[360] **Llyr Gruffydd:** I would like to explore a little bit the relationship between the national development framework, the strategic planning level and, of course, the local development plans. I am just interested to hear what sort of level of detail you will be looking for in the national development framework, because I am conscious that UKELA has said that it regrets the loss of that sort of spatial element that comes with the spatial plan. Albeit, it may have some deficiencies, but I would be interested to hear where you would want to see the NDF being pitched.

[361] **Dr Jenkins:** We obviously recognise that there were problems with the Wales spatial plan. We are not suggesting that we maintain that. Our point is that, if you lose that sort of perspective, you perhaps lose the ability to look at Wales as a whole and its economic, social and environmental considerations. This NDF, if it does what it appears it is going to do, which is focus very much on infrastructure—economic infrastructure—is going to lose that perspective, and we are particularly concerned about how the process of creating the NDF is going to relate to processes for natural resource management. In terms of environmental protection, our key point really is that we have sustainability appraisal of the NDF but that it is not clear to us how it is going to relate to what we have in the future generations Bill in terms of wellbeing strategy or how it is going to relate to what we have coming up in the environment Bill. We think that it is very important that these three Bills will work together.

[362] **Ms Ellis:** From some of the supporting material I read, I had understood that it was

envisaged that the NDF might be sort of taking on a role rather like the role that was taken on by TAN 8. I think that I remember giving evidence to you and others in connection with a review of TAN 8, and one of the preoccupying concerns during that review arose out of points that had been taken in various public inquiries about the initial work, the underlying work, that was done. Certainly, at the stage when the TAN 8 work was done, the landmap system was only in its infancy and historic landscape considerations were not taken into account at all. Those points, if you like, have unravelled to some extent through later public inquiries, and I know that there have been threats of legal challenge, which I do not think have materialised.

[363] However, there has been, in certain quarters, a feeling of dissatisfaction with the level of spatial work that went into it, and it does connect back in a sense to the last question about scrutiny of the plan. If I may, I would like to make another point, which is really connected with both questions, and it is this: if you have a system where there is even the possibility that the writers of technical reports might be cross-examined or closely questioned by somebody of senior planning inspector status, as Huw Williams has been saying, even if some of it is then dealt with in writing, the fact that there is that possibility—and in the experience of all my members this is a point that frequently comes up when working with expert teams—and the knowledge that there may well be close questioning at some point has a very strengthening effect on the quality of what is actually put into writing. It may be interesting to hear what Tim Morgan from the Planning Inspectorate thinks about that, but I think that I have heard other planning inspectors recognising that same point. It does seem to me that there are connections, really, between the two questions that you both asked.

[364] **Alun Ffred Jones:** Mr Morgan, do you wish to comment?

[365] **Mr Morgan:** Indeed, I agree with Morag. The ability of a planning inspector to question that evidence does certainly improve the quality of the evidence. They know that it is going to be rigorously examined, so I think it is rigorously prepared.

[366] **Llyr Gruffydd:** Cascading down to the strategic development plans, once again, I notice in your evidence that you feel that it is an unnecessary tier. There are areas that are proposed not to have these plans as well, of course, if they are not in those particular areas that have been referred to. Would they be at a loss in any way, do you think? All parts of Wales would face strategic issues that would need to be addressed at some point within their planning regimes.

[367] **Dr Jenkins:** I think that our point on that is that we are not saying that the city regions approach is not a good idea. Obviously, we are already working towards that approach in terms of economic development. Our point was whether we needed specifically to incorporate that within the land use planning system, because we are creating yet another layer of bureaucracy, if you like, within the planning system. Wales is a small country, and we question whether you actually need that or whether a national strategic perspective is sufficient to achieve what we want to achieve.

[368] **Llyr Gruffydd:** I presume that local government reorganisation and the likelihood of larger local planning authorities, which would be more strategic in any case, would probably strengthen that argument.

[369] **Dr Jenkins:** That was our point: perhaps this is a bit pre-emptive in light of those proposals.

[370] **Mr Williams:** It is right to say that this proposal for the strategic plans had its origin going back before the current agenda in relation to local government reorganisation and the Williams commission proposals came to the fore. The reasons for the idea of the strategic

plans is evidence based in terms of the difficulties that have been encountered in the existing local development plan system in the local authorities addressing the problems that go to a wider regional perspective. The most notorious example is the fact that you still have the capital city of Wales in a statutory plan that dates from the early 1990s. That is the only document with any legal effect regulating planning in the capital city, and it is because the capital city is planned on very restricted boundaries, but of course its influence is regional. You can replicate that. While this is an option that is available throughout Wales, clearly we had in mind Swansea bay region, the capital city and its hinterland, and the north Wales coastal strip as being the areas where you had rational planning allocations being, to an extent, constrained by the boundary considerations of the local planning authorities.

[371] The other thing I would say, and this is a personal thought that I have had since, is that the system is inherently flexible in the sense that there is the ability to decide on a case-by-case basis the strategic issues in a particular part of Wales. Thinking of other things that have been the subject of representations to this committee, for example, I think that you could use the strategic planning model, for example, to address issues relating to planning and the Welsh language across those parts of Wales where the language is spoken by the majority of the population. You could leave the rest of the system much as it is, but you have the flexibility, as I see it, to bring in these strategic level debates where there is a larger than local issue, and you are not constrained by a fixed menu of the strategic issues. You could adapt them to the specific issues of that region.

[372] **Alun Ffred Jones:** Quite a few people want to come in. Dr Jenkins, did you—

11:45

[373] **Dr Jenkins:** I just wanted to add something. On that point about strategic level issues, our other important point would be about how natural resource planning will be incorporated within these strategic plans. We do not believe that sustainability appraisal, strategic environmental assessment and habitat regulation assessment are going to achieve what we would like to see in terms of a positive approach, not just for the protection but also for the enhancement of natural resources.

[374] To go back to our evidence on the wellbeing legislation, we do not believe that this term ‘environmental resilience’ is sufficient, because that focuses us on a negative approach to what we need to do to protect what we have, not what we need to do to improve upon what we have.

[375] **Alun Ffred Jones:** Jeff, you wanted to come in on this.

[376] **Jeff Cuthbert:** It is a good point for me to come in on. I do not quite agree with your view on a resilient Wales, but never mind. I want to build on something and explore a little deeper a point that you made earlier. This Bill is coming in in the context of other Bills that are coming in as well, such as the heritage Bill, the environment Bill, the public health Bill and the Well-being of Future Generations (Wales) Bill. There is plenty of time, of course, for more discussion and amendments before we have the final package of any of those Bills, but at this stage do you see any likelihood that the purpose of this Bill could, undoubtedly inadvertently, be contradicted by the current way that the other Bills are drafted and considered, or do you think that, in general, they are going to be complementary?

[377] **Dr Davies:** We have profound concerns about that. The three criteria that UKELA uses in assessing the strength and workability of legislation relate to the transparency, integration and coherence of it. In terms of integration, having gone through all the papers associated with this Bill since our previous appearance here relating to the wellbeing Bill, the degree of integration across the Bills is, I would say, scant, to be honest. We have profound

concerns that there are going to be almost built-in clashes between some of the organisations under each of the Bills; for instance, public services boards under the wellbeing Act, as it will become, and joint planning boards and strategic planning panels in this Bill. How are the decisions of these separate bodies going to be co-ordinated? At the moment, that is very vague, and that does give us great concern.

[378] **Jeff Cuthbert:** If I may, on that point, that is a practical problem. Do you see that as an issue of principle or as something that needs to be resolved and can be resolved within what is being suggested?

[379] **Dr Davies:** I think that it is a point of principle, at base. On this idea of having sustainable development, for instance, as the central organising principle of public life in Wales, the debate has to start there and that is a point of principle. It is not always clear to us how that principle has been built in to the text of this Bill and, indeed, the environment Bill.

[380] **Dr Jenkins:** I would also add that I think that there is a fundamental distinction between planning for future generations—or, as we might say, sustainable development—and the idea of positive land use planning. I think that there is quite a distinction there. We are not entirely sure what ‘positive land use planning’ means. We would have preferred to have seen, at the very start of the Bill, a statutory purpose for planning in terms of future generations’ wellbeing.

[381] **Jeff Cuthbert:** So, is it a question of making sure that the issue of sustainable development, which you rightly say is at the heart of the FG Bill, is made crystal clear in terms of this Bill?

[382] **Dr Jenkins:** That is what we would like to see.

[383] **Dr Davies:** We were disappointed, for instance, that the recommendation from the independent advisory group to put that statutory purpose in the Bill, which contains the words ‘sustainable development’, was not taken up. As it currently stands, the Bill contains the phrase ‘sustainable development’ once, and then only in a reference to another piece of legislation. It does not contain anything about the wellbeing of future generations at any stage. If this is truly part of an integrated system, you would expect some form of reference to those terms, I think.

[384] **Alun Ffred Jones:** Jenny Rathbone, is your question on this issue?

[385] **Jenny Rathbone:** Yes. Thank you for pointing out that we need to clarify that ‘positive land use planning’ does indeed mean ‘sustainable development’, because a future Government might have a completely different view of that. I just want to probe further whether or not an area like Cardiff, which is an area that I represent, could do without an SDP. Whichever way the local government cake is divided up in terms of future planning authorities, it is unlikely that the whole of the Cardiff travel-to-work area would be in one planning authority, ergo there will be a need for some form of planning authority to decide on the conflicting land use in the area. Are you arguing, therefore, that that can all be done at the national level? I appreciate your point about four tiers of planning.

[386] **Dr Jenkins:** I think that, as environmentalists, our key point is that decision making should be as close to the community as possible. So, if we have a very centralist approach, we think that that would go against what we consider to be a positive approach for the environment. So, we are introducing, in this Bill, a national level of planning and, at the same time, what is effectively a regional level of planning, and although we recognise that there are going to be issues that will have to be dealt with over and above the local authority level, we do not know whether strategic planning is the correct way forward to achieve that.

[387] **Jenny Rathbone:** How else would you do it? By having a joint committee of—

[388] **Dr Jenkins:** I think that our first point is that perhaps we are pre-empting what is going to happen in terms of local government reorganisation and that that might actually deal with the problem, as it were. If not, then it would be a case of collaboration and working together in that respect.

[389] **Mr Williams:** May I just pick up on a number of points from that exchange? The independent advisory group did have a debate about the purpose of planning and we did come up with this formulation that is in the report about the purpose of planning being effectively sustainable land-use planning. It is not entirely clear as to why that has not been followed in the scheme of the legislation. I can understand that if you had related legislation, like the future generations Bill, that, as it were, fed in to the operation of the planning system, you would have an integrated and interacting suite of legislation where this would be the effect of it. Nevertheless, our thinking was that, at the moment, you have an obligation in the planning system that local development plans have to be prepared with regard to sustainable development. So, all we were effectively proposing was that SD becomes the overarching purpose of the planning system and for making development management decisions as well. Also, it provided, we thought, a useful fall-back, so that, if you do not have any development plan assistance, or you have an out-of-date provision, you have this underlying, overarching purpose to the system, which is to achieve sustainable land use. So, that was the first point.

[390] On the debate about strategic plans, I think that there is one point that we should not forget, which is that what is envisaged is that where you have the strategic level plan, it will enable the local development plan to be on a much more ‘light-touch’ basis. So, effectively, the local development plans under the strategic plans will be slimmer documents, because they will obviously be building on the strategic plans. So, we are not envisaging three tiers of hulking great plans; there will be a sifting, as it were, of content between the different tiers now.

[391] The final point to make is that, in England, there is now a very broad statutory duty between local planning authorities to co-operate in the preparation of their equivalents of local development plans, and it is not working. Morag may have had experience of this, but I currently have developers challenging local authorities, saying, ‘You’ve got to stop your plan because these three plans of the adjoining districts all ought to be allowed to catch up with yours; otherwise you’re not fulfilling your duty to co-operate’, So, it is proving to be a bit of a field day for the lawyers in terms of—

[392] **Alun Ffred Jones:** Which is a good thing, obviously. [*Laughter.*]

[393] **Mr Williams:** Well, you know, we do like to earn a crust, yes.

[394] **Ms Ellis:** There are several points that I would like to pick up on there. First of all, on this question about this duty to pursue the objective of achieving sustainable development, as I understand the Bill, the intention is to graft it on to existing legislation—1990 and 2004 legislation. I must confess that I had understood that that would then automatically carry over that duty, which relates to plan preparation, into all of this. That is a technical matter, which obviously your officers can check. However, there is a bigger point here, which I think began to emerge in the discussions with the UKELA representatives. Sustainable development, of course, is not a terribly clear phrase, and Welsh policy, I think, is much clearer and has led the way in this. England has sort of tried to play catch-up. However, it has always made the point that it does have these four elements to it, which are to some extent always going to be tension. It seems to me that the way of squaring the circle, if you like, between those four objectives is to have really good-quality planning going on at a level that is meaningful

enough and detailed enough to enable those four strands to be looked at. I do agree that that implies a certain level of spatial examination and that you can have a broad direction—you clearly have national infrastructure looked at on that plane, as it were—but I really do see the scope for having seriously robust plans at a lower level.

[395] With regard to the strategic and/or local, I slightly find myself sitting on the fence on that, but putting my planning advisory and improvement service hat on for a minute, there is a real resources question. I take the point that this is a practical issue, but I would very much like the Senedd to consider this: if you introduce a new tier of strategic planning, you have to look around for people with enough experience and breadth of vision to be able to do strategic planning well; otherwise, there is no point in having it. I think that there are resources implications there, and what you do not want to do is to strip all the people of broad vision out of local planning. It is very important, if you are going to have a tiered system, to ensure that you are spreading out the quality of brains, if you like, between those different parts of the system. There is a risk with fragmentation, and introducing a new layer, that perhaps the resources are too thin to go around properly.

[396] **Alun Ffred Jones:** I think that we have had a good run at this. I will come to you now, Julie, but did you want to pick up on a different point, Russell?

[397] **Russell George:** It is a new point on development management.

[398] **Alun Ffred Jones:** A new point, okay.

[399] **Russell George:** We had a witness in the last session, who told us—and this is my emphasis—that effectively democracy gets in the way of development. Dr Jenkins gave perhaps a slightly different view a few moments ago as well. We have had evidence of both on that. Perhaps one or two of you could pick up on that: is there a democratic deficit in the proposed Bill, as it is?

[400] **Ms Ellis:** Shall I take the lead on that? We have actually used that phrase in our PEBA representations with regard to the national development framework and, obviously, that whole issue about the level of scrutiny that it should undergo. At the moment, we feel that that is not sufficiently acute, and we then have allied concerns about the handling of major planning applications that come to the Ministers below that, where, again, the presumption throughout is that matters are dealt with in writing. We do have concerns—legal ones about Aarhus and human rights, but also wider concerns about democracy. Those two things are connected but are not necessarily the same.

12:00

[401] **Russell George:** So, how can they be addressed?

[402] **Ms Ellis:** How can they be addressed? In broadly the way that I think Huw Williams was suggesting. For the national development framework to be credible and robust, there needs to be some sort of guided or assisted examination in which people ask the tough and meaningful questions and make sure that they get answers to the tough and meaningful questions.

[403] **Alun Ffred Jones:** It is not as easy as it sounds.

[404] **Ms Ellis:** It is not as easy as it sounds, no. There are different models around that do that. The bar would suggest that one very good model, which has served the country well from time to time over the years, is to have some sort of scrutiny committee, assisted by one or more expert advocate. They might be solicitors, or they might be barristers, but they are

people who are used to framing questions in such a way as to ensure that you get answers. It is not quite as easy as it sounds to do that. That would be one model. Another might be the examination model led by an inspector. We are very much seeing that coming through in development plan work now and, if I can say this while sparing Tim's blushes, sometimes, it works very well, and sometimes it works a lot less well. Really, the key to how well it works is how controlling, for want of a better word, the inspector is going to be of the discussion. If the inspector effectively just lets everybody chip in around the table in an unfocused way, the quality of the output is not terribly good. If the inspector really leads by asking the difficult questions and making sure that people focus on them, it is a lot more effective.

[405] **Alun Ffred Jones:** Does anybody else want to respond to the question?

[406] **Dr Jenkins:** Yes, I would just like to say that I think it is a myth, which has been proven wrong, that democracy stands in the way of development, and that participation is actually the problem in delaying development. As environmentalists, we strongly believe in the need for participation in the process. We need to have provisions, not just for scrutiny by the Assembly, but for public participation in the national development framework, which has not worked very well under the Planning Act 2008 so far. We need to have pre-application consultation on these developments and on major development. I noted that the memorandum says that it is likely that pre-application consultation will be introduced for those two types of development. However, that is not on the face of the Bill, and we would strongly advocate ensuring that we have pre-application consultation on both types of development.

[407] **Alun Ffred Jones:** Can I bring in Antoinette? I will come back to you, Russell.

[408] **Antoinette Sandbach:** You are clearly arguing for the need for a pre-application service and associated national fees, basically. I wonder whether the others could comment on that.

[409] **Mr Williams:** Yes. The IAG advocated the introduction of a pre-application advice service. My understanding is that the model that is proposed is that there will be a certain level of free advice required of planning authorities, and then the existing discretionary charging system will be available for further advice. I think that there is a debate to be had—and there is a consultation paper out—in terms of the level of application at which the requirement for pre-application advice as a requirement should be imposed. I think that the current major development definition is being proposed as the working development, but I think that there are certain types of development that would not meet that threshold that might nevertheless be ones where people would expect to be consulted by an applicant beforehand. Wind turbine applications at the smaller end are an example. I must declare a personal interest, having recently been involved, in a personal capacity in being a client of my own firm in dealing with a proposal. Nevertheless, seeing how the publicity requirements work at that level on something that is quite a big change for a particular area of the country, and how they are dealt with, I think, does raise issues. However, I think that pre-application is definitely the way to go. It is a way of resolving and anticipating issues.

[410] If I can use the opportunity to go back to the democratic deficit point, one of the things that the independent advisory group looked at, which has not really emerged in the subsequent discussion, was around the question of the way planning committees operate. I certainly support the Government's views in terms of having, effectively, a national approach to the way that planning committees operate, but one of the things that we suggested was that if you have a well-trained, interested planning committee, it can begin to potentially have a role in some pre-application discussions. It can also be innovative in the way in which it conducts planning committee meetings, in terms of conducting them on more of a hearing type basis—asking questions and getting the developer to respond and the public can hear what the answers are. Obviously, it would have to be for applications of weight.

[411] I think that there is a job of work to be done there and that is exactly the sort of thing that we envisage the advisory and improvement service maybe taking on in the fullness of time. However, I think that there is potential there around the way that the democratic element examines these applications. It has a lot of potential.

[412] **Antoinette Sandbach:** I understand that, but you are calling for consistency in the process and yet at the same time arguing that planning authorities can take different and innovative approaches, which may not bring that level of consistency into the process.

[413] **Mr Williams:** The level of consistency that is being advocated is that, broadly speaking, planning committees are approximately the same size, they follow a similar training agenda, the distribution of decision making between the planning committees and the officers is standardised, and the committees operate to a national protocol. That is the extent of it.

[414] **Antoinette Sandbach:** I understand that, but we have heard evidence that, if, for example, delegated decision making is standardised to the same size, in some local planning authorities, you might get only eight decisions that actually go to a planning committee, whereas in others, because of the differences, for example, between rural and urban authorities—. There are concerns then that that democratic element is being lost.

[415] **Mr Williams:** Yes. I am conscious that there is a consultation paper on this in terms of the options and I am aware of this issue. One of the national parks, I think, might end up with no planning applications.

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

[417] **Mr Williams:** I think that there are ways of addressing that. At the risk of getting very detailed, it is perhaps worth mentioning that one of the options that the consultation paper does not explore—and I think that this is quite relevant, certainly in rural areas—is that one of the grounds for having a planning application taken out of delegation and put to the committee is that the local town or community council objects to the application and, therefore, that is a trigger for it to—. The authority that I am thinking of is Pembrokeshire Coast National Park Authority. That is one of the triggers there to an application coming before the committee. I think it works quite well and it also addresses some of the concerns about the way that national park planning operates in terms of being sensitive to the local voice.

[418] **Alun Ffred Jones:** Time is defeating us. I want two questions, so Julie Morgan first, please.

[419] **Julie Morgan:** I wanted to ask about town and village greens. I know that some evidence has been submitted and the Minister has made a suggestion that he might consider an amendment that will allow registration up until the point when planning permission is actually granted. I wanted to know what your views are on that.

[420] **Dr Jenkins:** Our position is that while we recognise that there may be a problem that people are putting in these applications deliberately to thwart development, we believe that it is very important that we protect green spaces in local communities, particularly in urban communities. It is human nature that you only think to legally protect something when it is under threat. So, to take away the capacity to do that would seem to be quite draconian. So, we would welcome an amendment in that respect.

[421] **Alun Ffred Jones:** Mr Williams is obviously desperate to come in here. [*Laughter.*]

[422] **Mr Williams:** Oh dear, was it that obvious?

[423] **Julie Morgan:** Yes.

[424] **Mr Williams:** The reform proposal is obviously to bring Wales in line with the system that is already operating in England. It addresses a well-known—. It is a problem of town and village green applications coming forward at a late stage in the life of a planning proposal. Echoing the chairman's earlier comment, I have to tell you that a town and village green application, as far as lawyers are concerned, especially if you are acting for the developer, is a good gig because if you have a developer who has invested potentially hundreds of thousands of pounds in getting to where he has got, and at a late stage a TVG application comes in, he really has no alternative but to throw everything at it and deal with it. It is a cost-free, penalty-free—. It is a free go for the people who are applying to have these things registered. They just get their evidence sheets in. In it goes. The authority has to deal with it, and the applicant for the planning permission has to deal with it. There is a non-statutory public inquiry procedure that has been sanctioned now by the Supreme Court. The complexity of that means that a relatively small body of specialist lawyers, many of them Queen's counsel, and other senior members of the bar, are appointed as inspectors. The role of the registration authority members is very limited. If you have a report from—. I do not know if Morag does this as an inspector—.

[425] **Ms Ellis:** I normally act as advocate. I have lots of experience of it.

[426] **Mr Williams:** Yes. You know, you have a QC's report; you basically have to go with what they recommend. I think that the current proposal strikes the right balance in the sense that once a proposal enters the planning system it becomes the province of the planning system to deal with it and not the commons registration system. Historically, there is a problem because commons registration and common land law clearly have roots that predate the planning system by centuries. They subsequently became part of the nineteenth century move to reserve open spaces. The boundary between commons law and the planning system has never been clearly analysed and has caused these problems, and—

[427] **Alun Ffred Jones:** I have to stop you there.

[428] **Julie Morgan:** I have a few points that I want to take up with you.

[429] **Alun Ffred Jones:** Yes, you can do.

[430] **Mr Williams:** I beg your pardon.

[431] **Julie Morgan:** You do not accept the point at all that Dr Victoria Jenkins made, that it is often at a very late stage that groups do recognise that this is a village green.

[432] **Mr Williams:** We have had commons registration in force for nearly 50 years, since the Commons Registration Act 1965. Thanks, in large measure, to the activities of the Open Spaces Society, I think that the availability of this route of protecting open spaces on the basis of long use is very well-known. Any group or anyone who basically has the phone number or the web address of the Open Spaces Society will find out how to go about this. I do not really accept that.

[433] **Julie Morgan:** You also said that it is a sort of open goal for the people. When observing the amount of work and effort that had to go into actually getting designation as a village green, I was stunned at the amount of work that the group had to do in terms of bringing people back from other parts to say that they had played on this area for so many years. I am really surprised that you say that it is an open goal.

[434] **Mr Williams:** I am not saying that it is an open goal. I am saying that it is a free go. Once you have your bundle of forms, where people say, 'I've walked the dog here for 20 years, and my grandfather did it before me', sort of thing, the registration authority and the applicants have to deal with it. They have to produce the evidence.

[435] **Alun Ffred Jones:** I think that we have the gist of this argument. Obviously you have the scars on your back—

[436] **Mr Williams:** I have read the Open Spaces Society's submission, and I would be happy to suggest to my committee that we put in a written response to that, if the committee thinks it would assist.

12:15

[437] **Alun Ffred Jones:** I call Morag Ellis to give a final word on this issue, before I ask Bill Powell to come in.

[438] **Ms Ellis:** I do not disagree with anything that Huw has said about that, but specifically to answer your question about the Minister's proposal, I am absolutely certain that that proposal would simply delay the determination of planning applications, because planning committees would be lobbied to say, 'There's an outstanding TVG application here'. It takes some time, because another of the things is that a very lax timetable applies to these things, even now that there are some rules. It is all very sleepy really. All that that is going to do is continually put off the taking of the planning decision, which, it seems to me, is directly contrary to the culture change that the Government is looking to bring about through this Bill. There is some evidence of that, because there is something in England called community asset listing, which is a bit like town and village greens 'lite'. Community asset listing is now regarded, in many quarters in England, as a material planning consideration, and, again, it intervenes in the planning process in that way. I am sure that that would be the result of the Minister's proposal here.

[439] **William Powell:** Earlier on, Mr Williams, you referred to certain strategies that could form part of the Bill as proposed to protect the Welsh language. I wonder whether the wider panel has any views on the calls by the Welsh Local Government Association, a number of local authority leaders in Wales, the Welsh Language Commissioner and, unsurprisingly, Cymdeithas yr Iaith Gymraeg for there to be greater protection for the Welsh language, and for it to be a material planning consideration built into the Bill.

[440] **Alun Ffred Jones:** Who wants to take this?

[441] **Mr Williams:** Shall I have a go? The Law Society submission has touched on this, and I have to say that the Law Society does not have a settled view. In our submission we have really posed three questions, which I suggest could be used as a guide when you have other witnesses before you.

[442] The first part is that a fundamental tenet of the planning system as it has developed is that it identifies what are the material considerations and then it strikes the balance, which is what is called the planning balance. The weight to be given to the considerations is a matter for the decision maker in the light of policy. If you were to introduce, which, as I understand, is being proposed by some of the people who have made submissions, that the consideration of the Welsh language should effectively become a material consideration, and one might even say the material consideration, of any planning decision, then you are going to move away from this balancing approach. So, it is whether that is what you would want to do.

[443] The second thing I suggest is that if Welsh does have an enhanced status on the face of the Bill, and in the way that planning policy currently deals with the Welsh language as a consideration in planning decisions, then are we satisfied that planning as a discipline actually has the tools to produce objective evidence, and therefore evidence that can be interrogated, for the potential effect of development proposals on the Welsh language in a particular area? I do not know the answer to that, but I would have thought that it is a fundamental question to ask in terms of proceeding any further.

[444] The third thing is really to strike a note of caution—and this is with one eye to the Welsh Language Society's submission—is that one has to be acutely conscious of the considerations of both the Human Rights Act 1998 and also the fundamental pillars of the European treaties for the freedom of movement of persons and capital in particular. That needs to be carefully considered. That is, as it were, the official Law Society line.

[445] **Ms Ellis:** Very quickly, I embark on this with due humility as a non-Welsh speaker. I know that the Welsh Government had some advice from one of the QCs on its panel on this question a few years ago, because I know, in the manner that lawyers do, we sometimes discuss difficult points with one another, and he did discuss this point with me. However, that might be something that your legal advisers could look out for you on this point. I therefore thought about this quite a lot as a legal question. My conclusion—I do not know what my colleague's conclusion was—was along these lines: as a potential material consideration in the handling of planning applications, I do not see how it could be included, because it is a basic, fundamental principle of the planning system as we have it that, save for very special circumstances, the identity of the applicant for planning permission is immaterial. Everyone is equal before the planning committee, and that is a very good principle that should only be departed from in very narrow circumstances.

[446] There is then a related point, it seems to me, about the enforcement of this. You can begin to imagine what the problems are, both in terms of potentially having hidden people behind nominal applicants, enforcing how you carry on in the later life of a house, and so on. There are all of those issues. However, where it seems to me that it could perhaps have a real input would be at the development planning stage, and you could be looking, for example, creatively between your development planning and your school planning, and looking at your Welsh-medium planning and looking at how you make community infrastructure levy contributions to the different forms of provision in particular areas, and so forth. It seems to me that it can become a legitimate consideration at that forward planning stage.

[447] **Dr Davies:** Just supporting that, I think that this comes back to the earlier principle about sustainable development being the central organising principle. In the minds of many commentators, there is a cultural power to sustainable development as well. So, building it in at that strategic level, as Morag suggests, would perhaps address this issue.

[448] **William Powell:** I am grateful; thank you.

[449] **Russell George:** Dr Davies and Dr Jenkins, in your evidence, you suggested that there were concerns with the planning committee and its members and suggested amendments. We sidestepped the issue earlier, so I wanted to give you an opportunity to talk to what those amendments should be.

[450] **Dr Davies:** To some extent, since we made that submission, of course, the structure, numbers and members and so on of committees have been subject to consultation. It is out to consultation at present. To some extent, that does address some of the concerns we had. I am not necessarily suggesting that we approve of what the consultation document suggests, but at least that issue, which did not appear to have been considered at all, is now under consideration. So, to some extent, our point rests there.

[451] **Russell George:** Is that the same for you, Dr Jenkins?

[452] **Dr Jenkins:** Yes.

[453] **Russell George:** That is fine, in that case.

[454] **Alun Ffred Jones:** Diolch yn fawr iawn. Thank you very much for a very interesting session. We are very grateful to you for coming in. You will receive a copy of the transcript of the evidence so that you can check it for accuracy.

[455] Dyna ddiwedd y cyfarfod. That brings the meeting to a close.

*Daeth y cyfarfod i ben am 12:23.
The meeting ended at 12:23.*